Cjohnson appellate brief

**MISSOURI COURT OF APPEALS**

 **EASTERN DISTRICT**

**No 11-34579**

SAM KANT

 Appellant/Plaintiff

v.

BILMART

 Respondents/Defendants.

ON APPEAL TO THE COURT OF APPEALS OF

THE ST. CHARLES COUNTY CIRCUIT COURTS

HONARABLE JUDGE MABELLINE

 BRIEF OF APPELLANT SAM KANT

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**Cases**

New York Jurisprudence, Second Edition NYJUR CRIMSUB § 977

**Statutes**

570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion

**STATEMENT OF JURISDICTION**

Appellant was convicted following a jury trial in the Circuit Court of St. Charles County of stealing by deceit, Section 570.030.[[1]](#footnote-1) The Honorable Jude Maybelline convicted Sam Kant of petit larceny.

# QUESTIONS PRESENTED

 Does Missouri Statue 570.030 PROVIDE FOR A DISMISSAL BASED ON CASE V.A.M.S. §§ 560.110, 560.155, 560.240

# STATEMENT OF THE FACTS

Sam Kant, stands convicted of shoplifting/petit larceny (as dictated by your state statutes) from Bilmart, a national department store. At his wife’s request, Mr. Kant went to Bilmart on Wednesday,July 11, 2014, and purchased a case of six 4 oz. cans of Hoover’s Baked Beans with Bacon. Upon returning home, his wife chastised him for once again failing to purchase what she had requested. Apparently, Mrs. Kant can’t stand the taste of Hoover’s Beans, but is very fond of the Handell’s brand, and was planning to serve them to her book club when she hosted them for lunch the following afternoon. Mrs. Kant ordered her husband to return to Bilmart to exchange the Hoover’s beans for Handell’s Beans.
Upon arrival at the store early the next morning, Mr. Kant found that the line for customer service was extremely long due to Bilmart’s annual sponsorship of a major community food drive. In an effort to save time, and thinking the line might be shorter upon his return, Mr. Kant placed the case of Hoover’s beans into a shopping cart, made his way through the store to the bean shelf, and then added the Handell’s beans to the cart. However, upon his return, the line had not diminished and it was obvious that Sam would be waiting a considerable amount of time to formalize the exchange. Fearing the wrath of his wife should he not return in time for lunch, Sam placed the case of Hoover’s beans inside a cart filled with what appeared to be merchandise returns in need of re-stocking. With the desired Handell’s beans in the shopping cart, Mr. Kant then proceeded to the store’s exit. As he neared the doors, Mr. Kant was approached and detained by store security, who witnessed Sam’s actions, and police were called to the store. Apparently, the cart into which Sam had placed the Hoover’s Beans did not contain returned items to be shelved, but rather, donations to the Bilmart Community Food Drive. Officers Kopp and Slickman questioned Mr. Kant and then cited him for Shoplifting.

Trial was held in St Charles County Circuit Courts on September 14, 2014, Honorable Judge Judy presiding. Judge Judy ruled that the Sam Kant is guilt of stealing violation of Missouri Statue

# ARGUMENT

We can show since Mr. Kant purchased the Hoover beans and not go in the store with intent to steal and deprive Bilmart of its case of Hoovers’s beans.

Mr. Kant intention that day was to exchange the Hoover beans that he previously purchased from Bilmart for Handel's beans-- what Kant actually did was to donate the beans to a charitable food drive.

Arguably, by placing the beans into the community food drive cart does not permanently deprived Bilmart of its case of Hoover's beans. This has established that he was in fact trying to exchange the beans that had the same price and he thought was an exchange items shopping cart, we can say no theft can be made. In re V.A.M.S. §§ 560.110, 560.155, 560.240 And, since Kant believed that the cart was filled with store returns, he not only had no intententions to permanently deprive Bilmart of the beans he was trying to exchange.

# CONCLUSION

In the state of Missouri Statue 570.030. Stealing--penalties A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion, Therefore, based on our legal theory provided, Mr Kant is not guilty of petit larceny and his conviction should be overturned.

# RELIEF

Wherefore, Petitioner request that The Court Of Appeals Of The St. Charles County Circuit Courts drop the charge and conviction by the St Charles County Circuit Court of Petit Larceny against Sam Kant

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Appellate Brief Assignment

1. Statutory citations are to RSMo 2000. [↑](#footnote-ref-1)