



## State v. Saykao

140 Wash.App. 1034 (2007) | Cited 0 times | Court of Appeals of Washington | September 24, 2007

### UNPUBLISHED OPINION

The dollar value of the damage caused determines whether a defendant is found guilty of first, second or third degree malicious mischief. Damage includes the reasonable cost of repairs. Here, a restaurant manager testified that she paid a glass company \$300 to repair a four by four foot hole in a window. That evidence is sufficient to show that the reasonable cost of repairs exceeded \$250. We affirm Bee Saykao's conviction of second degree malicious mischief.

### BACKGROUND

On August 7, 2005, April Richards called 911 because she heard glass breaking and saw a person climbing into a building south of downtown Seattle. When a Seattle police officer arrived at the building, a Vietnamese restaurant, he saw Bee Saykao inside. While the officer watched, Saykao climbed out of a broken window and onto a recycling bin. The officer arrested Saykao.

At trial, the restaurant's manager, Thao Nguyen, testified that all the windows were intact when she closed and locked the restaurant earlier that evening, and activated its alarm. No one was inside when she left. In the middle of the night, Nguyen learned that someone had entered the restaurant, and she found the newly broken window when she arrived the next morning. Nguyen paid \$300 to repair the window.

A jury found Saykao guilty of second degree burglary and second degree malicious mischief. Saykao contends that the evidence was insufficient to support the finding for second degree malicious mischief.

### ANALYSIS

A person is guilty of malicious mischief in the second degree if he or she knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$250. RCW 9A.48.080. Damage includes the reasonable cost of repairs to restore the injured property to its former condition. *State v. Gilbert*, 79 Wn. App. 383, 385, 902 P.2d 182 (1995).

Saykao argues that the evidence was insufficient to support a conclusion he caused more than \$250 worth of damage because the State failed to present independent evidence, such as estimates, that \$300 was a reasonable cost for the repair.



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When reviewing a challenge to the sufficiency of the evidence, we must consider the evidence in the light most favorable to the prosecution and determine whether "any rational trier of fact could have found the elements of the crime beyond a reasonable doubt." State v. Luther, 157 Wn.2d 63, 77, 134 P.3d 205 (2006) (quoting State v. Townsend, 147 Wn.2d 666, 679, 57 P.3d 255 (2002)). We assume the truth of the prosecution's evidence and all inferences that the trier of fact could reasonably draw from it. State v. King, 135 Wn. App. 662, 668, 145 P.3d 1224 (2006). We defer to the trier of fact to resolve any conflicts in testimony, to weigh the persuasiveness of evidence, and to assess the credibility of the witnesses. Id.

The officer who arrested Saykao testified that the window was close to nine feet long by four feet wide, and the hole measured approximately four by four feet. Nguyen testified Ming Glass charged her \$300 to repair the window. Nguyen found Ming Glass by looking in the phone book. She did not contact any other repair companies.

Viewing the evidence in the light most favorable to the State, a trier of fact could reasonably infer that \$300 was a reasonable cost to repair a restaurant window. Other repair estimates would support the inference, but such evidence is not necessary to permit the inference.

Affirmed.

