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ONE MINUTE BRIEF

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NUMBER: 2020-10 **DATE:** 03-26-20 **BY:** Devallis Rutledge **TOPIC:** Receiving Stolen Vehicles

ISSUE: Is the offense of receiving a stolen vehicle valued at \$950 or less a Proposition 47 misdemeanor, or a felony “wobbler?”

When Proposition 47 made most theft offenses of property valued at \$950 or less misdemeanors, it also amended PC § 496(a), now making the buying, receiving, concealing, selling or withholding of known-stolen property valued at \$950 or less a misdemeanor. The California Supreme Court has held that this reduction also applies to theft-based convictions under VC § 10851. *People v. Page* (2017) 3 Cal.5th 1175, 1187.

PC § 496d separately makes buying, receiving, concealing, selling or withholding **vehicles** (or certain trailers or motorized construction equipment or vessels) a felony “wobbler.” Two appellate decisions previously ruled that although Proposition 47 did not specifically address this section, its misdemeanor reduction provisions should also apply to § 496d, making this crime a misdemeanor for low-value vehicles. *People v. Williams* (2018) 23 Cal.App.5th 641; *People v. Wehr* (2019) 41 Cal.App.5th 123. **These two decisions and their rationale have now been disapproved by the California Supreme Court.**

- Ernest Orozco pled guilty to a felony violation of PC § 496d, and later sought a reduction to misdemeanor under Proposition 47's provisions related to § 496(a). A unanimous California Supreme Court pointed out that the \$950 limit could not always fit the crime of receiving stolen vehicles, because stolen vehicles are often dismantled and their parts sold for more money than the vehicle itself might have been worth on the open market. And the court held that the clear language of the proposition supported neither Orozco's contention nor the rulings in *Williams* and *Wehr*:

*“Proposition 47 amended section 496(a) to require receipt of stolen property worth \$950 or less to be punished as a misdemeanor. **It did not add a similar provision to section 496d. Section 496d remains the same as it was prior to the enactment of Proposition 47.** It makes no reference to a value threshold below which receipt of a stolen vehicle must be punished as a misdemeanor. ...*

*“We hold that Proposition 47’s amendment to section 496(a) did not affect convictions for receiving stolen property [vehicles, trailers, etc.] under section 496d. ... We disapprove *People v. Wehr* and *People v. Williams* to the extent they are inconsistent with this opinion.”*

People v. Orozco (2020) ___ Cal.5th ___, S249495, Slip opn. at 5, 13, 11.

(Emphasis added; citations omitted.)

BOTTOM LINE: The crime of receiving a stolen vehicle under PC § 496d was not affected by Proposition 47, so it remains a felony “wobbler” offense, regardless of the value of the vehicle.

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.