

EXPLAINER

O.J.'s Vegas Defense

Can you legally steal your own property?

By Harlan J. Protass

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Las Vegas police charged O.J. Simpson with [10 felonies and one misdemeanor](#) (PDF) in connection with an alleged armed robbery in a room at the Palace Station Hotel & Casino last Thursday evening. Simpson says he was only engaged in a "sting operation" to retrieve sports memorabilia that belonged to him. He claimed that he had the right to self-help because the items were wrongfully taken from him. Yesterday, Yale Galanter, Simpson's defense lawyer, previewed his legal strategy, saying that you "[can't rob something that is yours](#)." Would Simpson really have the right to steal back something that was stolen from him?

Maybe, but it depends on Nevada law. Simpson's claim that he had the right to take back his own property is a defense to theft and robbery charges under the common law developed over the years by the courts. This "[claim of right](#)" defense provides that you can't be found to have the intent necessary to steal if you have a good faith belief that the property you take belongs to you, even if that belief is mistaken. Simply put, without intent there can be no crime.

It's unclear, however, whether this common-law tradition applies in the state of Nevada. Its law doesn't appear to spell out whether claim of right is available to those charged with crimes. But local lawmakers seem to have incorporated it into their [burglary](#) statute. That crime is defined as the theft under specific circumstances of personal goods or property "owned by another person." If the memorabilia that Simpson took did, in fact, belong to him, he may well have a solid defense, since he would not have taken anything owned by another person. Having done so while in the possession of a deadly weapon, however, may complicate the matter.

But the claim of right defense won't necessarily get Simpson off the hook. In addition to burglary, he's also charged with [robbery](#), which Nevada law classifies as a crime against a person, as opposed to a crime against property (like burglary). Robbery focuses on the act of physically taking property from the "person of another," so a claim of right to the property isn't likely to apply. Even if it does, it surely won't work as a defense to the litany of other serious crimes Simpson has been charged with, including first-degree kidnapping with use of a deadly weapon and assault with a deadly weapon.

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