

Supreme Court Case No. 93710-9  
Court of Appeals No. 32962-3-III

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,  
Plaintiff/Respondent,

vs.

ANTHONY ALBERT JOSEPH,  
Defendant/Appellant.

APPEAL FROM THE KITTITAS COUNTY SUPERIOR COURT  
Honorable Scott R. Sparks, Judge

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STATE'S SUPPLEMENTAL BRIEF IN RESPONSE TO PETITION  
FOR REVIEW

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**I. IDENTITY OF RESPONDENT:**

The State of Washington appears through the Kittitas County Prosecuting Attorney's Office.

**II. STATEMENT OF RELIEF SOUGHT:**

The State respectfully requests that this Court deny the Petitioner's request that the Court of Appeals decision in *State v. Joseph*, 195 Wn.App.737 (2016), be reversed.

**III. RESPONSE TO ISSUE PRESENTED FOR REVIEW:**

The vehicle in which Mr. Joseph was located constitutes "premises" for the purposes of the criminal trespass second statute.

**IV. STATEMENT OF THE CASE/ARGUMENT:**

The parties do not dispute that Mr. Joseph was found sleeping in a vehicle without that owner's permission. What is disputed is whether that vehicle constituted "premises" as defined in RCW 9A.52.010(3), which reads as follows:

"Premises" includes any building, dwelling, structure used for commercial aquaculture, or any real property.

The State reiterates its argument in briefing submitted to this Court in its answer to Appellant’s Petition for Review; its briefing initially submitted to the Court of Appeals; and that Court’s ruling in *State v. Joseph*, 195 Wn.App. 737 (2016).

Additionally, because Appellant’s issue addresses the broader question of whether or not the victim’s vehicle constituted premises for the purposes of the criminal trespass second statutes, the State would also note that a “dwelling” is defined within RCW 9A.04.110(7) as follows:

“Dwelling” means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging. (Emphasis added).

The word “lodging” is not defined in the RCWs and so one must refer to a dictionary to glean its meaning. *Dictionary.com* defines “lodging” in part as:

(as a noun) a temporary place to stay; temporary quarters;

(as a noun) a small makeshift or crude shelter or habitation, as of boughs, poles, skins, earth, or rough boards; cabin or hut;

(as a verb) to furnish with a habitation or quarters especially temporarily; accommodate.

When Mr. Joseph was contacted, he was reclining, asleep in the victim's vehicle. RP 33, 34. According to Detective Klifford Caillier, at the time of his contact with Mr. Joseph on October 4<sup>th</sup>/5<sup>th</sup> 2014, the officer knew him to be homeless. RP 29. It is a sad fact of current times that many individuals "live" in their cars, where they are able to sleep and seek shelter, much as one would do in a dwelling or building.

It is inconceivable that the term "premises", couched as it is as an inclusive term, would not include a vehicle for which Mr. Joseph had no permission to enter, sleep within, or remain.

**V. CONCLUSION:**

For the reasons as stated above and those in the State's previous briefing, as well as the subsequent Court of Appeals ruling, the State would respectfully request that the Appellant's request for reversal of the Court of Appeals decision in this matter be denied.

Respectfully submitted this 10<sup>th</sup> day of March, 2017.

  
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