

ADA ELLIOTT - AUTO BURGLARY

"Burglary consists of the unauthorized entry of any vehicle . . . with the intent to commit any felony or theft therein.
NMSA 1978, Section 30-16-3.

What "therein" really means

Defendant (Albuquerque's famous killer cop) unsuccessfully tried to steal a car. The ignition-switch area was broken out when he was surprised by the victim and killed him. Among other charges, he was convicted of aggravated auto burglary.

Defendant argued that the state failed to prove he intended to commit a felony or theft "therein." He argued that "therein" meant "in the car" and referred only to property within the vehicle and not the vehicle itself.

Supreme Court disagreed. It felt "therein" meant "in that place." A burglary need not be completed solely within the fixed limits of a particular vehicle. Rather, it is only required that the INTENT for burglary (including the intent to steal the car itself) occur "in that place" or "therein."

It's a difficult concept, perhaps, but the defendant (Matt Griffin) has life plus fifty years to figure it out.
State v. Griffin (1993).

Auto Burglary versus other charges

Defendant opened unlocked door of automobile and tried to start car by jamming screwdriver into ignition. Court of Appeals affirmed conviction for auto burglary.

Auto burglary is more appropriate than attempted unlawful taking of a motor vehicle, Section 66-3-504, or tampering with a vehicle, Section 66-3-506(B), since burglary requires an unauthorized entry and the other two offenses do not.
State v. Hernandez (1993).

