You Decide

9.6 Nicholas Y. wrote on a glass window of a projection booth at an AMC theater with a Sharpie marker. After his arrest, appellant admitted to police that he had written "RTK" on the window. Police saw "approximately 30 incidents" in red magic marker throughout the theater, including the one on the glass. Appellant said the initials stood for "The Right to Crime."

At the close of the prosecution's case, appellant's counsel argued that no defacing of or damage to property had been proved, stating: "It's a piece of glass with a marker on it. You take a rag and wipe it off. End of case. It's ridiculous." The prosecutor countered that appellant trespassed and left fresh marks on the window, thus defacing the window with graffiti. The court found that appellant violated Penal Code Section 594, subdivision (a), a misdemeanor.

Penal Code Section 594 provides, in relevant part:

(a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own . . . is guilty of vandalism:

(1) Defaces with graffiti or other inscribed material.

(2) Damages.

(3) Destroys. . . .

(4) (A) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), vandalism is punishable by imprisonment in a county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000) or by both that fine and imprisonment. . . .

(e) As used in this section the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

Should Nicholas Y. be held guilty of vandalizing property belonging to the AMC theater? See *People v. Nicholas Y.*, 102 Cal. Rptr.2d 511 (Cal. Ct. App. 2000).

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