

SUPREME COURT, STATE OF COLORADO 2 East Fourteenth Avenue Denver, Colorado 80203	DATE FILED May 7, 2026 11:00 PM
THE PEOPLE OF THE STATE OF COLORADO Plaintiff-Appellee/Cross-Appellant, v. EDWARD BENJAMIN RUIZ Defendant-Appellant/Cross-Appellee.	
Transfer from the Colorado Court of Appeals, 2025CA2199 Appeal from the District Court, El Paso County, 2025CR420, Div. 22, Hon. William Bain, District Court Judge	▲ COURT USE ONLY ▲ Case No.: 25SA342
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PEOPLE’S OPENING BRIEF	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

It contains 4,285 words.

The brief complies with the standard of review requirement set forth in C.A.R. 28(a)(7)(A).

For each issue raised by the appellant, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

/s/ Tanya A. Karimi

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
STATEMENT OF THE ISSUE	1
Did the district court err in finding unconstitutional the “reasonably should have known” language in section 18-4-409(2), CRS 2025, the first-degree motor vehicle theft statute?	1
STATEMENT OF THE CASE	1
I. Nature of the Case	1
II. Course of Proceedings	1
STATEMENT OF THE FACTS	2
SUMMARY OF ARGUMENT	6
ARGUMENT	7
I. Standard of Review and Preservation	7
II. Legislative Background	8
III. Legal Principles	9
A. Constitutionality Review.	9
B. Vagueness.	10
IV. The “reasonably should have known” language in the MVT statute is constitutional.	11
A. The “reasonably should have known” language in the MVT statute is widely accepted as constitutional and applies to identifiable conduct.	11
B. The District Court erred by failing to recognize that the “reasonably should have known” language in the MVT statute applied to subjective conduct.	16
CONCLUSION	21

TABLE OF AUTHORITIES

Cases

<i>City of Greenwood Vill. V. Petitioners for Proposed City of Centennial</i> , 3 P.3d 427 (Colo. 2000)	10
<i>Gorman v. People</i> , 19 P.3d 662 (Colo.2000).....	8
<i>Lee v. Smith</i> , 772 P.2d 82 (Colo. 1989)	12
<i>People v. Baer</i> , 973 P.2d 1225 (Colo. 1999)	11
<i>People v. Ellison</i> , 14 P.3d 1034 (Colo. 2000).....	18
<i>People v. Graves</i> , 2016 CO 15, ¶ 9, 368 P.3d 317, 322	10
<i>People v. Gross</i> , 830 P.2d 933 (Colo. 1992)	11
<i>People v. Hickman</i> , 988 P.2d 628 (Colo. 1999)	10, 11
<i>People v. Johnson</i> , 193 Colo. 199, 564 P.2d 116 (1977)	3, 16, 17, 20
<i>People v. Linwood</i> , 105 Cal. App. 4 th 59, 129 Cal. Rptr. 2d 73 (2003).....	13
<i>People v. Manzo</i> , 144 P.3d 551 (Colo. 2006)	8
<i>People v. Moreno</i> , 2022 CO 15, 506 P.3d 849	7, 10
<i>People v. Prante</i> , 177 Colo. 243, 493 P.2d 1083 (1972).....	11
<i>People v. West</i> , 724 P.2d 623 (Colo. 1986)	10, 12
quoting <i>People v. Becker</i> , 759 P.2d 26 (Colo. 1988)	11
<i>Reyna-Abarca v. People</i> , 2017 CO 15, 390 P.3d 816.....	8
<i>Thomas v. People</i> , 2021 CO 84, 500 P.3d 1095	8
<i>Whiteaker v. People</i> , 2024 CO 25, 547 P.3d 1122	8

Statutes

§ 18-1.3-401 (13)(a)(II), C.R.S. 2025.....	14
§ 18-12-111(1), C.R.S. 2025.....	14
§ 18-12-114(2)(a), C.R.S. 2025	14
§ 18-13-122(c), C.R.S. 2025.....	15
§ 18-18-412.7(1), C.R.S. 2025.....	14
§ 18-3.5-106(1), C.R.S. 2025.....	14
§ 18-3-202(1)((e.5), C.R.S. 2025.....	14
§ 18-3-202(1)(e), C.R.S. 2025	14
§ 18-3-202(1)(f), C.R.S. 2025.....	14
§ 18-3-203(1)(f.5)(I), C.R.S. 2025.....	14
§ 18-3-203(1)(h), C.R.S. 2025.....	14
§ 18-3-204(1)(b), C.R.S. 2025.....	14

§ 18-4-409(2), C.R.S. 2025.....	2, 12, 15, 19
§ 18-5-903(1), C.R.S. 2025.....	13
§ 18-6-401(c)(II), C.R.S. 2025.....	15
§ 18-6-401(c)(III), C.R.S. 2025	15
§ 18-9-116.5(1), C.R.S. 2025.....	13
§ 18-9-313(2.7), C.R.S. 2025.....	15
§ 18-9-313.5(2)(a), C.R.S.2025	15
18-18-428(1)(a), C.R.S. 2025	15

Other Authorities

Black’s Law Dictionary, Bryan A. Garner, 12 th Edition	20
Hearing on S.B. 23-097 before the House Judiciary Committee, 75th General Assembly, Second Regular Session (Apr. 27, 2023).....	9
Senate Bill 23-097 (Introduced Jan. 30, 2023)	9
Senate Bill 23-097 (Signed Act, June 2, 2023)	9

STATEMENT OF THE ISSUE

Did the district court err in finding unconstitutional the “reasonably should have known” language in section 18-4-409(2), CRS 2025, the first-degree motor vehicle theft statute?

STATEMENT OF THE CASE

I. Nature of the Case

This is a criminal case in which Defendant-Appellee, Ruiz, was charged by complaint and information with one count: motor vehicle theft in the first degree, a class 3 felony, under section 18-4-409(2), (6)(a), C.R.S. 2025 (“the MVT statute”). During trial, the district court found the “reasonably should have known” language in the MVT statute unconstitutional and struck the language from the jury instructions. The district court left the “knew...without authorization” language in the jury instruction, and the jury found Ruiz guilty of motor vehicle theft under the modified instruction. The district court entered the judgment of conviction, R. TR (10/1/25), p 20:10–11, and sentenced Ruiz to a ten-year prison sentence. R. TR (10/1/25), p 21:20–21.

II. Course of Proceedings

Ruiz appealed his conviction and sentence to the Court of Appeals. *See* 2025CA2199. The People, pursuant to their duty under section 16-12-102(1),

C.R.S. 2025, filed a cross-appeal in the Court of Appeals, appealing the district court's order declaring section 18-4-409(2) unconstitutional. The Court of Appeals referred the cross-appeal to this Court to decide jurisdiction under section 13-4-110(1)(a), C.R.S. 2025. This Court accepted jurisdiction under section 13-4-102(1)(b), C.R.S. 2025 (the supreme court, not the court of appeals, has jurisdiction over cases in which a statute has been declared unconstitutional).

STATEMENT OF THE FACTS

Law Enforcement arrested Ruiz after surveilling a reported stolen vehicle and observing Ruize drive the stolen vehicle and attempt to tamper with the license plate. R. CF, p 9–10. The People charged Ruiz with one count of first-degree motor vehicle theft under section 18-4-409(2), C.R.S. 2025, R. CF, p 11–12. That statute states,

A person commits motor vehicle theft in the first degree if the person knowingly obtains, exercises control over, receives, or retains the motor vehicle of another person; and the person **knows or reasonably should have known** that the act was without authorization or was by threat or deception; and the person has two prior convictions or adjudications of charges separately brought and tried for an offense involving motor vehicle theft or unauthorized use of a motor vehicle in this state, a municipality, another state, the United States, or any territory subject to the jurisdiction of the United States.

§ 18-4-409(2), C.R.S. 2025 (emphasis added).

Ruiz pleaded not guilty and set the case for trial. Before trial, he filed a motion to dismiss the count, arguing the “reasonably should have known” language in the statute, violates Due Process “as it risks conviction of the unwitting.” R. CF, p 84–88. The motion relied heavily on *People v. Johnson*, 193 Colo. 199, 564 P.2d 116 (Colo. 1977) where this Court struck a portion of the theft by receiving statute—“having reasonable cause to believe” that the article had been stolen—as unconstitutional. *Id.* The People filed a Response, arguing the “reasonably should have known” language has been found constitutional in case law both preceding and succeeding *Johnson*, and cited to numerous statutes presently including the “reasonably should have known” language. R. CF, p 91–98.

On April 16, the district court heard argument on the motion to dismiss – constitutional due process claim. R. TR (4/16/25), p 20:3 to 23:23. The district court focused on Justice Erickson’s concurrence in *Johnson* and concluded it needed more time to analyze *Johnson* and Erickson’s concurrence; the district court took the motion under advisement. R. CF, p 21:13 to 23:23. In response, the People supplemented their initial Response, providing additional authority in support of the “reasonably should have known” language as well as on the legislature’s ability to, consistent with due process, employ a standard of objective reasonableness with respect to the conduct element of a crime. R. CF, p 134–146.

On April 30, at the pre-trial readiness conference, the district court re-addressed the constitutional due process claim. R. TR (4/30/25), p 7:6 to 18:8. The district court addressed the case law submitted in the People’s Supplemental Response, and concluded that it could add words to the MVT statute and “make the statute or interpret the statute to keep it as Constitutional, by putting [in] the language...knew or reasonably should have known based on circumstances the defendant was aware of.” R. TR (4/30/25), p 11:1–4, 17:21–23, 18:8–11.

On the morning of trial, the district court discussed revising this ruling. R. TR (6/16/25), p 5:8–21. Deciding against adding language to make the statute constitutional, it, instead, proposed excising the “reasonably should have known” language and leaving the instruction to read “knew that the act was without authorization.” R. TR (6/16/25), p 5:8 to 8:6. The People objected to excising the “reasonably should have known” language, R. TR (6/16/25), p 5:22 to 6:122. The district court delayed a final decision and took the matter under advisement while the trial proceeded. R. TR (6/16/25), p 8:5, 278:9–17; R. TR (6/17/25), 133:24 to 134:1. Meanwhile, Ruiz filed a proposed jury instruction that excised the “reasonably should have known” language. R. CF, p 292.

On June 18, during a mid-trial jury instruction conference, the district court issued its final ruling on the matter. R. TR (6/18/25), p 4:3 to 12:18. The district

court acknowledged it cannot add words to a statute to make a statute constitutional. R. TR (6/18/25), p 9:5–11. It found that it could strike words to render a statute constitutional. R. TR (6/18/25), p 9:11–12. The court then reasoned that under MVT statute, “the element of what a defendant knew, or as the Legislature put it, reasonably should have known, is a constitutionally required element.” R. TR (6/18/25), p 9:17–19. It reasoned, following the analysis of Justice Erickson’s concurrence in *Johnson*, that this circumstance separated the statute from other statutes using “reasonably should have known” language that had been found constitutional. R. TR (6/18/25), p 9:19 to 10:15. The court ultimately concluded “I feel compelled by the law to find beyond a reasonable doubt that the should have known language of the statute is unconstitutional. So the mens rea for this is going to be knowingly.” R. TR (6/18/25), p 15–18.

The jury was instructed that an element of the crime was that the defendant “knew that the act [knowingly exercising control over the motor vehicle of another] was without authorization.” R. CF, p 316. The “reasonably should have known” language was not in the instruction. *Id.*

The trial continued and the jury returned a guilty verdict on the sole motor vehicle theft count. R. CF, p 302.

SUMMARY OF ARGUMENT

The first-degree motor vehicle theft statute, section 18-4-409(2), (“MVT statute”) was enacted to penalize vehicle thefts based on a perpetrator’s actions not the value of the stolen vehicle. The crime requires that a person knowingly obtain, exercise control over, receive, or retain the motor vehicle of another person; and the person knows or reasonably should have known that the act was without authorization or was by threat or deception. The district court found the “reasonably should have known” language in the statute unconstitutional beyond a reasonable doubt.

The district court erred in making this finding because statutes are presumed constitutional, and the “reasonably should have known” language has been found constitutional in other statutes and is used in many statutes. The language applies to conduct—retaining the vehicle was without authorization or was by threat or deception—and is not vague. Further, the district court erred in comparing the “reasonably should have known” language to “reasonable cause to believe” language that was contained in a different statute and was found unconstitutional. The difference in meaning between “belief” and “knowing” means that a reasonable cause to believe is inherently more vague than the term reasonably should have known. And the chief concern with “reasonable cause to believe”

language is that such language generally lacks application to the subjective knowledge of a defendant. But the “reasonably should have known” language in the MVT statute applies to a defendant’s subjective knowledge regarding authorization to retain a vehicle and any threat or deception in retaining a vehicle. The district court’s concerns about the unconstitutionality of the statute were misplaced and it erred in finding the “reasonably should have known” language unconstitutional.

ARGUMENT

I. Standard of Review and Preservation

This Court reviews a district court’s order regarding a statute’s constitutionality de novo. *People v. Moreno*, 2022 CO 15, ¶ 9, 506 P.3d 849, 852.

The People preserved this issue by filing responses to Ruiz’s motion to dismiss. R. CF, p 91–98, 134–146. The People also objected to the district court’s stated inclinations to find the MVT statute unconstitutional and argued their objections orally. R. TR (6/16/25), p 5:22 to 6:7, 6:14–22; R. TR (6/18/25), p 4:7 to 5:10.

The district court’s ruling in this matter occurred over several days. The court first addressed the motion on April 16, 2025, R. TR (4/16/25), p 12:1 to 24:3. The court next addressed the issue on April 30, 2025. R. TR (4/30/25), p 7:6 to

18:11. The court then addressed the issue the morning of trial, R. TR (6/16/25), p 5:8 to 8:5, and made its final ruling and order finding unconstitutionality during a jury instruction conference on June 18, 2025. R. TR (6/18/25), p 9:12 to 12:18.

II. Legislative Background

“‘The power to define criminal conduct and to establish the legal components of criminal liability is vested in the General Assembly.’” *People v. Manzo*, 144 P.3d 551, 554 (Colo. 2006) (quoting *Gorman v. People*, 19 P.3d 662, 665 (Colo.2000)); *see also Whiteaker v. People*, 2024 CO 25, ¶ 26, 547 P.3d 1122, 1128 (“First, our North Star in this setting: The legislature defines offenses and prescribes punishments.”). “[T]he legislature—and the legislature alone—has the power ‘to define criminal offenses and to prescribe the punishments to be imposed on those found guilty of them.’” *Thomas v. People*, 2021 CO 84, ¶ 22, 500 P.3d 1095, 1101 (quoting *Reyna-Abarca v. People*, 2017 CO 15, ¶ 49, 390 P.3d 816, 824).

In January of 2023, Colorado legislators sponsored a senate bill, Senate Bill 23-097, changing the the offense “aggravated motor vehicle theft” to “motor vehicle theft.” The purpose of the bill was to change the framework for penalties for vehicle thefts, moving from a system based on the value of the vehicle stolen to a system based on the acts constituting the theft. *See* Senate Bill 23-097

(Introduced Jan. 30, 2023). The bill was in response to the dramatic rise in car thefts after felony theft penalties were reduced in 2014. See Hearing on S.B. 23-097 before the House Judiciary Committee, 75th General Assembly, Second Regular Session (Apr. 27, 2023). Witnesses testified that Colorado had become first in the nation for auto thefts, with the cities of Denver, Aurora, Westminster and Pueblo raking in in the top ten nationally. *Id.* The intent of the bill was to change the penalties for vehicle thefts from a value-based system to a system that recognized, regardless the value of the automobile, the deprivation of use affects citizens at every income level. *Id.*

From its first introduction to its final enactment, the new crime of first-degree motor vehicle theft included the language “the person knows or *reasonably should have known* that the act was without authorization or was by threat or deception.” (emphasis added). See Senate Bill 23-097 (Introduced Jan. 30, 2023); Senate Bill 23-097 (Signed Act, June 2, 2023). The history of this bill shows no contentions over the inclusion of the language “reasonably should have known.”

III. Legal Principles.

A. Constitutionality Review.

Statutes are presumptively constitutional, and “declaring a statute unconstitutional is one of the gravest duties impressed upon the courts.” *People v.*

Graves, 2016 CO 15, ¶ 9, 368 P.3d 317, 322 (quoting *City of Greenwood Vill. V. Petitioners for Proposed City of Centennial*, 3 P.3d 427, 440 (Colo. 2000)). “A litigant challenging the validity of a statute must prove the statute is unconstitutional beyond a reasonable doubt.” *Moreno*, 2022 CO 15, ¶ 9, 506 P.3d 849, 852.

“If a challenged statute lends itself to alternative constructions, at least one of which comports with constitutional standards, the constitutional construction must be adopted.” *People v. West*, 724 P.2d 623, 626 (Colo. 1986).

B. Vagueness.

Ruiz’s due process challenge to the MVT statute is a void for vagueness challenge. R. CF, p 84–87. “Vague laws are unconstitutional because they offend due process.” *People v. Hickman*, 988 P.2d 628, 643 (Colo. 1999). “A vague law offends due process because it fails to give fair notice of the conduct prohibited and does not supply adequate standards to prevent arbitrary and discriminatory enforcement.” *Id.* “A law is void for vagueness if its prohibitions are not clearly defined and it may be reasonably susceptible to more than one interpretation by a person of common intelligence.” *Id.*

“The essential inquiry in addressing a void for vagueness challenge is whether the statute ‘forbids or requires the doing of an act in terms so vague that

persons of ordinary intelligence must necessarily guess as to its meaning and differ as to its application.” *People v. Gross*, 830 P.2d 933, 937 (Colo. 1992) (quoting *People v. Becker*, 759 P.2d 26, 31 (Colo. 1988)).

This Court may sustain a facial vagueness challenge only “where the enactment is ‘impermissibly vague in all of its application.’” *Hickman*, 988 P.2d at 643 (quoting *People v. Baer*, 973 P.2d 1225, 1233 (Colo. 1999)).

IV. The “reasonably should have known” language in the MVT statute is constitutional.

A. The “reasonably should have known” language in the MVT statute is widely accepted as constitutional and applies to identifiable conduct.

The “knows or reasonably should have known” language standard is presumed constitutional and has long been accepted as constitutional in defining crimes. In *People v. Prante*, 177 Colo. 243, 493 P.2d 1083, 1085 (1972), this Court found constitutional language in the second degree assault on a peace officer statute requiring that a defendant “knew or reasonably should have known” that the person assaulted was a peace officer. *Id.* at 1085–86. In doing so, this Court held that “the fact that a penal statute is framed in a way such as to require a jury to determine a question of reasonableness does not make it too vague to afford a practical guide to acceptable behavior.” *Id.* at 1085. 674 P.2d 354

A standard of objective reasonableness does not render a statute impermissibly vague. “The legislature, consistent with due process of law, may employ a standard of objective reasonableness with respect to the conduct element of a crime.” *West*, 724 P.2d at 228 n. 3. The term “reasonably should have known” has been upheld as constitutional because it employs a standard of objective reasonableness and because its use in statutes applies to a particular element of conduct. For example, in *Lee v. Smith*, 772 P.2d 82, 86 (Colo. 1989), this Court found the definition of drug paraphernalia, which included the language “reasonably should know” was not impermissibly vague because the language applied a standard of objective reasonableness to determination of whether drugs were involved: “This subsection allows the [factfinder] in deciding whether the item involved is drug paraphernalia to consider the objective characteristics of both the item sold and the transaction.” *Id.* In *Prante*, the “reasonably should have known” language applied to knowledge that the victim of an offender’s conduct was a peace officer.

Here, in the MVT statute, the “knows or reasonably should have known” language, this objective standard of reasonableness, applies to whether a defendant’s act of exercising control over a vehicle “was without authorization or was by threat or deception.” § 18-4-409(2), C.R.S. 2025. The objective standard of

reasonableness applies to the conduct of having authorization or of threatening or deceiving. This construction of an objective standard and application to conduct informs a person of the scope of the criminal conduct the statute addresses. It is not vague.

The language “reasonably should have known” addresses instances in which a person consciously avoids conclusions from the facts he knows; in other words, it addresses willful blindness or deliberate ignorance. Inclusion of “reasonably should have known” language does not obviate a knowledge requirement; it allows for constructive knowledge. *See People v. Linwood*, 105 Cal. App. 4th 59, 66, 129 Cal. Rptr. 2d 73, 77 (2003) (addressing language of “reasonably should have known” in the California rape statute).

Many statutes include “reasonably should have known” language.

- Vehicular Eluding, § 18-9-116.5(1), C.R.S. 2025 (“knows or reasonably should know that he or she is being pursued by said police officer”)
- Criminal Possession of a Financial Device, § 18-5-903(1), C.R.S. 2025 (“person has in his or her possession or under his or her control any financial device that the person knows, or reasonably should know, to be lost, stolen, or delivered under mistake...”)

- Assault Crimes wherein the offender “knows or reasonably should know” the status of the victim, i.e. pregnant, medical service provider, firefighter, peace officer, detention facility worker. *See* § 18-1.3-401 (13)(a)(II), C.R.S. 2025; § 18-3-202(1)(e), C.R.S. 2025; § 18-3-202(1)((e.5), C.R.S. 2025, § 18-3-202(1)(f), C.R.S. 2025; § 18-3-203(1)(f.5)(I), C.R.S. 2025; § 18-3-203(1)(h), C.R.S. 2025; § 18-3-204(1)(b), C.R.S. 2025.
- Unlawful Storage of a Firearm, § 18-12-114(2)(a), C.R.S. 2025 (“knows or reasonably should know that a juvenile can gain access to the firearm...”)
- Unlawful Purchase of a Firearm, § 18-12-111(1), C.R.S. 2025 (“knowingly purchases or otherwise obtains a firearm on behalf of...a person who the transferor knows or reasonably should know is ineligible to possess a firearm”).
- Sale or Distribution of Materials to Manufacture Controlled Substances, § 18-18-412.7(1), C.R.S. (“knows or reasonably should know or believes that a person intends to use the chemicals...to illegally manufacture a controlled substance.”).
- Unlawful Termination of a Pregnancy, § 18-3.5-106(1), C.R.S. 2025 (“knew or reasonably should have know that the woman was pregnant”)

- Child Abuse wherein the offender “knows or reasonably should know” another person is engaged in certain drug manufacturing. *See* § 18-6-401(c)(II), C.R.S. 2025; § 18-6-401(c)(III), C.R.S. 2025
- Unlawfully Making Available on the Internet Personal Information wherein the offender “knows or reasonably should know” of an imminent and serious threat. *See* § 18-9-313(2.7), C.R.S.; § 18-9-313.5(2)(a), C.R.S.
- Paraphernalia Possession wherein the offender “knows or reasonably should know” that the drug paraphernalia could be used in circumstances in violation of the laws of Colorado. *See* § 18-13-122(c), C.R.S. 2025; 18-18-428(1)(a), C.R.S. 2025.

The use of “reasonably should know” in these statutes illustrates how an objective standard of reasonableness is used to determine constructive knowledge of a fact. In the MVT statute the same “reasonably should have known” language applies to constructive knowledge of the fact of whether a defendant has authorization to exercise control over a vehicle or has acted by threat or deception. § 18-4-409(2), C.R.S. 2025.

Use of the term “reasonably should have known” in the MVT statute does not result in restricting an act in terms so vague that a person of ordinary intelligence has to guess to its meaning. *See Gross*, 830 P.2d at 937. It is an

objective standard of reasonableness that applies to conduct of having authorization or acting by threat or deception, and it allows a factfinder to determine if a defendant had constructive knowledge regarding his authorization to use a vehicle or regarding threats and deception. A vagueness challenge succeeds only where a statute is impermissibly vague in all of its application, *see Hickman*, 988 P.2d at 643. The “reasonably should have known” language in the MVT statute applies to easily discernable conduct and is not vague in its application. The heavy burden of proving the MVT statute is unconstitutional beyond a reasonable doubt cannot be met. *See Moreno*, 2022 CO 15, ¶ 9.

B. The District Court erred by failing to recognize that the “reasonably should have known” language in the MVT statute applied to subjective conduct.

In *People v. Johnson*, 193 Colo. 199, 564 P.2d 116 (1977) a defendant was convicted of theft by receiving where the statute read “A person commits theft by receiving when he receives, retains, loans money by pawn or pledge on, or disposes of anything of value of another knowing or believing *or having reasonable cause to believe* that said thing of value has been stolen and intends to deprive the lawful owner permanently of the use or benefit of the thing of value.” *Johnson*, 564 P.2d at 117 (emphasis added). This Court held that the portion of the statute defining the mental state as including “having reasonable cause to believe”

was unconstitutional. *Id.*, 564 P.2d at 117–118. The *Johnson* court was troubled that the language “having reasonable cause to believe” did not enable there to be a knowledge or belief by the defendant that the goods were stolen and left room for a jury to find what a reasonably prudent man would do, not what the charged defendant subjectively knew or did. *Id.*, 118.

The district court wrestled with reconciling *Johnson* with cases that find “reasonably should have known” language constitutional. It looked to Justice Erickson’s concurrence in *Johnson*. R. TR (4/16/25), p 21:13 to 23:18; R. TR (6/18/25), 10:7–14. The concurrence addresses the difference between *Johnson*’s holding and the holding in *Prante* that approved language in an assault on a police officer statute which required the defendant knew or reasonably should have known that the person assaulted was a peace officer. *Johnson*, at 118–119. Justice Erickson concluded that “[t]he principle which emerges from these cases is that use of a ‘reasonableness’ standard in a criminal statute is not overly vague when confined to elements which are not constitutionally required.” *Id.* The theft by receiving statute applied the “reasonable cause to believe standard” to the only mental state element in the statute, and therefore “the permissible range of employing a ‘reasonableness’ test” could not apply. *Id.*

The district court also looked at *People v. Ellison*, 14 P.3d 1034 (Colo. 2000). R. TR (4/30/25), p 10:7–24. In *Ellison*, this court upheld as constitutional language defining knowledge (for purposes of the driving under restraint statute) as “actual knowledge of any restraint from whatever source or knowledge of circumstances sufficient to cause a reasonable person to be aware that such person’s license or privilege to drive was under restraint.” *Ellison*, at 1035. The Court found that the language requiring actual knowledge of circumstances combined both a subjective and an objective component, and use of the objective reasonable person standard was permissible in this situation. *Id.* at 1037. The *Ellison* decision also addressed its distinction from *Johnson*: “in *Johnson*, a defendant could be convicted solely on the basis of actions that violate the objective reasonable person standard—he need not be aware of the specific facts that would lead a reasonable person to believe that the property was stolen.” *Id.*

The district court first latched on to the distinction in *Ellison*, ordering “under the circumstances” language be inserted into the MVT theft statute to render the subjective element present and the statute constitutional. R. TR (4/30/25), p 17:21–23. After finding that adding language would be improper, the district court took the option of excising the objective standard language altogether. R. TR (6/18/25), p 12:15–18.

The district court erred in concluding that the “reasonably should have known” language in the MVT statute failed to include a subjective element. The statute states that “a person commits motor vehicle theft in the first degree if the person knowingly obtains, exercises control over, receives, or retains the motor vehicle of another person.” § 18-4-409(2), C.R.S. 2025. A mental state of knowingly applies to the act of obtaining or exercising control over a vehicle. Then the statute adds “and the person knows or reasonably should have known that the act was without authorization or was by threat or deception.” *Id.* The language “knows or reasonably should have known” applies to the circumstances of whether the receipt of the vehicle was without authorization or was by threat or deception. The distinction identified in Erickson’s concurrence and in *Ellison* – the absence of subjective knowledge of facts by the defendant – doesn’t apply to the MVT statute. Circumstances requiring subjective knowledge by a defendant are included in the statute: whether the act of retaining a vehicle was without authorization or was by threat or deception. The district court failed to recognize that the distinction addressed in Erickson’s concurrence and in *Ellison* was addressed with the MVT statute.

The other difference between *Johnson* and the MVT statute, that the district court failed to recognize is that the language in *Johnson* differs from the language

in the MVT statute. In *Johnson*, the theft by receiving statute at issue defined the mental state of the crime as “having reasonable cause to believe that said thing of value has been stolen.” *Johnson*, at 117. “Reasonable cause to believe” is not the same language as “reasonably should have known.” Belief differs from knowing. Belief is “a state of mind that regards the existence or truth of something as likely or relatively certain; conviction about the truth of something.” Black’s Law Dictionary, Bryan A. Garner, 12th Edition. Knowing is “having or showing awareness or understanding; well-informed.” *Id.* While the terms are similar, “belief” is broader, straying from an awareness of facts to being relatively certain or convinced about the truth. A “reasonable cause to believe” is broader language and is not grounded in an awareness of circumstances. The district court erred in treating a “reasonable cause to believe” the same as “reasonably should have known.”

CONCLUSION

For the reasons stated above, the district court's order finding the "should have known" language in the MVT statute unconstitutional should be reversed.

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been mailed by United States Postal Service mail or delivered (as indicated) to:

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