

■ [Overruled in part by: 343 F.3d 919 p.924](#)

Lee neglected to apply Taylor's framework (indeed, did not cite that decision) and did not inquire whether it was significant that every street theft entails a close encounter between criminal and victim, an encounter that creates the potential not only for violence but also for injury caused by the act of taking. A purse snatching may dislocate the victim's shoulder or elbow, or lacerate her arm; a bicycle theft may injure the owner if the thief blocks his path or shoves the bike over to dislodge its rider, and so on. It was logical arguments of this kind, and not data, that won the day in Taylor and our escape cases. ... Thus Lee is out of line not only with other circuits, but also with how this circuit has analyzed related issues in later decisions such as Bryant and Franklin.

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■ [Followed by: 343 F.3d 919 p.924](#)

In order to bring harmony both within and among the circuits, we now overrule the portion of Lee dealing with the treatment of theft and hold that theft from a person is a violent felony under the Armed Career Criminal Act. The other principal holding of Lee—that classification must be based on the elements of the offense as revealed by the charging papers, rather than on the facts of the particular case—is compatible with Taylor and was adopted en banc by Shannon, 110 F.3d at 384-85. It remains good law. As an overruling opinion, this decision was circulated to all judges in regular active service. See Circuit Rule 40(e).

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Discussion



Court

7th Cir. Wis.

Date

2003

Headnotes

[HN1](#) | [HN2](#)

# Shepards New Jersey Citations Case Edito

**Tobias Bleicker**



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