



## Must a Pawn Shop Return Stolen Property to Its Owner?

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Imagine that someone breaks into your house and steals something. Let's say it's a laptop. A week later, you see the laptop in a pawn shop. You want it back, but the shop owner says that he paid \$200 for it. Must the shop owner give it back to you for free? Sell it back to you for what he paid for it? Or is he free to sell it to you on whatever terms the two of you negotiate?

This appears to be a question that is discussed quite a bit on the internet. See, for example, [here](#), [here](#), [here](#), [here](#), and [here](#). In this post, I give what I think is the correct legal answer.

**The property belongs to the owner.** The general rule is that "[a] purchaser of goods acquires only that title which the transferor had or had power to transfer." *Paulino v. Computer Renaissance*, 62 S.W.3d 648 (Mo. Ct. App. 2001). Because "[a] thief's title to stolen property is void," i.e., "is no title at all . . . all subsequent transfers of [stolen] property [are] likewise void." *Id.* Thus, when the pawnbroker bought your stolen laptop, he did not become the owner of the property. It doesn't matter whether the pawnbroker bought the property directly from the thief or from someone else who bought or received the property from the thief. No one downstream from the thief in the chain of possession becomes the owner of the property. It's still your laptop.

It doesn't matter whether the pawnbroker acted in good faith. G.S. 25-2-403 is the "good faith purchaser for value" provision of the Uniform Commercial Code, as adopted in North Carolina. It says that a person with a "voidable title" can transfer good title to a bona fide purchaser. But a "voidable" title means a title obtained by a voluntary but fraudulent transfer, like those listed in G.S. 25-2-403(1)(a) - (d), not "title" obtained by outright theft, which is "void." (The rationale for treating these differently is to encourage owners to be more careful and sniff out fraudulent deals, whereas presumably nothing can be done about theft.) *Compare Alsafi Oriental Rugs v. American Loan Co.*, 864 S.W.2d 41 (Tenn. Ct. App. 1993) (pawnbroker obtained good title to rugs when he was a bona fide purchaser of rugs from a swindler who obtained them through fraud), with *In re Two (2) Bose Speakers, Serial No. 121098*, 835 P.2d 1385 (Kan. Ct. App. 1992) (pawnbroker did not obtain title to stolen speakers, despite buying them in good faith, because thief had void, rather than voidable, title).

**What if the pawnbroker refuses to release the property?** Notwithstanding the above, the pawnbroker may be reluctant to give to you something for which he just paid \$200. Sometimes contacting law enforcement helps, as an officer may be able to facilitate a return of the property. A friend of mine had the experience of standing in a pawn shop and pointing out his property, which the officer plucked from the shelves and handed to him.

An officer may also seize the property as evidence. In that case, you may be able to ask a judge to return the property to you at the conclusion of any resulting criminal case. See G.S. 15-11.1(b) ("After final judgment, all property lawfully seized by . . . law-enforcement authorities shall be disposed of as the court . . . in its discretion orders.").

Contacting law enforcement won't always help. Some agencies appear to have a policy of not getting involved in this kind of dispute, which they view as a civil matter. Then, it may be necessary to take legal action to recover the property from the pawn shop. Some people conclude that buying their property back will cost less than suing the pawn shop and wind up addressing the matter in that way.

As far as I know, North Carolina doesn't have a specific statutory framework for bringing an action to get one's property back from a pawn shop, so you would need to file something like a general action to recover possession of personal property. This is in contrast to states like Florida, where [Fla. Stat. 539.001](#) provides that property owners may file a claim with a pawnbroker seeking the return of property. If the pawnbroker doesn't return the property, the owner may file, for free, a petition with a court. If the court orders the property returned, the pawnbroker must pay the claimant's attorney fees.

**Further reading.** The main statutory provisions about pawn shops are [G.S. 66-385 et seq.](#) I don't think that anything there bears directly on this question.

**Feedback welcome.** As always, if readers think my legal analysis is mistaken or incomplete, please post a comment or email me directly.