Federal Judge Kicks Class Action Brought by Shoplifters

By Michael Soon Fah, J.D. Candidate 2019 | March 9, 2019

A federal judge in the Northern District of California dismissed a class action lawsuit against Walmart and several other retailers in February. The class representatives were three individuals who shoplifted from Walmart stores in Georgia, Texas, and Florida. They alleged that the retailers engaged in a racketeering conspiracy by forcing them to either enroll in restorative justice classes or face prosecution.

Each of the retailers partnered with Corrective Education Company (CEC), a Utah-based firm. The shoplifters claimed that the retailers routinely took suspected shoplifters to a back room to threaten them with arrest and prosecution. Suspected shoplifters were allegedly forced to both provide a signed admission of guilt and pay up to $500 to enroll in a CEC class. CEC would reportedly award the retailer a portion of the enrollment fee.

The court initially found that it lacked personal jurisdiction over Walmart and most of the other retailers. The shoplifters therefore turned to a provision in the federal racketeering statute that gives courts personal jurisdiction over any defendant who participates in a "single nationwide conspiracy." However, they could not demonstrate the existence of a nationwide conspiracy without proof that any of the retailers knew the other defendants were partnered with CEC.

Ultimately, the shoplifters chose not to sue CEC. But, CEC has seen its fair share of legal trouble. In 2017, a California Superior Court convicted CEC of extortion under California law. San Francisco City Attorney Dennis Herrera praised the decision and added that "we should all be concerned about privatizing our justice system." CEC told KTVU that it was "dismayed" by the ruling and felt sorry for future shoplifters who could face "a lifelong scarlet letter because of one bad choice."