

Appellate Case No. A07-2023

STATE OF MINNESOTA
COURT OF APPEALS

DAVID LEE LAASE

RESPONDENT,

vs.

2007 CHEVROLET TAHOE

APPELLANT.

APPELLANT'S BRIEF

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LEGAL ISSUE

- I. Can Respondent avail himself to the innocent owner defense if he is a co-registered owner with the criminal offender of the vehicle subject to forfeiture?

The trial court ruled in the affirmative, finding that Respondent met his burden by clear and convincing evidence.

PROCEDURAL HISTORY

- May 17, 2006 At approximately 1:38 a.m., Jean Laase is stopped by law enforcement on suspicion of driving while intoxicated.
- Jean Laase is served with the Notice of Seizure and Intent to Forfeit Vehicle.
- June 16, 2006 David Laase and Jean Laase file Demand for Judicial Determination Pursuant to Minn. Stat. § 169A.63, Subd. 9.
- July 24, 2006 Forfeiture hearing continued.
- September 28, 2006 Jean Laase pleaded guilty to and was convicted of Second Degree Driving While Impaired – Refusal to Submit to Chemical Testing.
- November 27, 2006 Forfeiture hearing continued.
- January 16, 2007 Forfeiture hearing continued.
- March 20, 2007 Forfeiture hearing. The parties agree to submit stipulated facts to the trial court within two weeks. In addition to this agreement, both parties make oral arguments to the trial court regarding the contested issues.
- April 4, 2007 Mr. Laase writes a letter to the trial court indicating that the parties are unable to agree to stipulated facts and requests a hearing.
- April 6, 2007 The trial court issues an order granting Mr. Laase's request for hearing.
- May 1, 2007 Contested forfeiture hearing. The trial court finds that Mr. Laase has met his burden and rules that the vehicle be returned to him.
- Isanti County files a Motion to Stay the Court's order of May 1, 2007 pending appeal.
- June 19, 2007 Motion hearing. The trial court hears arguments regarding Isanti County's Motion to Stay the Court's Order of May 1, 2007.

The trial court issues an order finding that David Laase showed that he did not actually or constructively know that his wife was going to use the vehicle in a manner contrary to law. The district court also finds that David Laase was an innocent owner and that the 2007 Chevrolet Tahoe should be returned to him.

- July 3, 2007 The trial court issues an order staying the court order dated May 1, 2007.
- August 9, 2007 Isanti County files a Motion for a New Trial and amended findings.
- August 27, 2007 Mr. Laase files a letter with the trial court objecting to Isanti County's Motion for a New Trial and waives his appearance and argument for such motion.
- August 28, 2007 Motion hearing. The trial court hears arguments from Isanti County regarding Isanti County's Motion for a New Trial and amended findings.
- August 29, 2007 The trial court issues an order denying Isanti County's Motion for a New Trial and amended findings.
- September 6, 2007 Notice of Filing Order is sent to the parties that an order was filed on August 29, 2007.
- October 19, 2007 Appeal filed.

STATEMENT OF THE CASE AND FACTS

On May 17, 2006, Jean Margaret Laase, herein after Respondent's wife, was operating a 2007 Chevrolet Tahoe, Minnesota license RXE541 in Isanti County, hereinafter The Vehicle. Hrg. Transcr. 11:3-5 (May 1, 2007). Respondent's wife and her husband, David Lee Laase, hereinafter Respondent, are co-registered owners of The Vehicle. Id. at 9:20-24 and Appellant's Appendix at pp. A-1-A-2. (hereinafter App. A) Motor Vehicle Registration admitted at Hearing March 20, 2007. At approximately 1:38 a.m. on May 17, 2006, Respondent's wife was stopped and subsequently arrested for suspicion of driving while impaired. Hrg. Transcr. 12-13:19-25, 1-17 (May 1, 2007) and App. A at p. A-3 Gross Misdemeanor Sentence admitted at Hearing March 20, 2007.

On September 28, 2006, Respondent's wife pleaded guilty to and was convicted of Second Degree Driving While Impaired (DWI)- Refusal to Submit to Chemical Testing. Id. She was sentenced to 180 days in jail, 150 days stayed, a \$900.00 fine, a \$72.00 surcharge and \$10.00 law library fee and four years probation. Id. The prior qualifying factor for the second degree DWI was that Respondent's wife has one prior impaired driving conviction from April 2002. Hrg. Transcr. 11-12: 24-25, 1-3 (May 1, 2007.)

This matter first came before the Honorable James E. Dehn, Judge of District Court, Isanti County, Minnesota, on March 20, 2007. Hrg. Transcr. 1:11-14 (March 20, 2007). At that time, the parties agreed to submit stipulated facts to the court within two weeks and the court would make a decision based on

counsels' arguments and the stipulated facts. Id. at 7:13-19. The parties were unable to reach an agreement as to the stipulated facts and Respondent requested a hearing. App. A. at pp. A-4-A-5 Respt. Ltr Ct. dated April 4, 2007. The trial court granted Respondent's request. App. A at pp. A-6-A-7 Findings of Fact and Order dated April 6, 2007.

This matter again came before the trial court on May 1, 2007, for a contested hearing. Hrg. Transcr. 1:11-14 (May 1, 2007). At that hearing, Respondent testified that he and his wife purchased The Vehicle together during the course of their marriage. Id. at 8:9-15;14:12. He further testified that both he and his wife have a set of keys to The Vehicle and that they share The Vehicle. Id. at 10:1-6. Respondent finally testified that his wife has free access to The Vehicle and does not have to ask permission to operate The Vehicle. Id. at 10:18-19. After hearing testimony and arguments from both parties, the trial court found Respondent met his burden and ruled that Respondent is an innocent owner. Id. at 26:5-7. Finally, the trial court ordered that The Vehicle be returned to Respondent. Id. at 26:8.

On May 1, 2007, Isanti County filed a Motion to Stay the Court's Order of May 1, 2007 pending appeal. Isanti County's Mot. Stay Cts. Order (May 1, 2007). On June 19, 2007, this matter came before the trial court for argument regarding Isanti County's Motion to Stay the Court's Order. App. A. at pp. A-8 ¶1 Findings of Fact and Order dated July 3, 2007. On July 3, 2007, the trial court issued an order staying the court order dated May 1, 2007. App. A at A-8.

On August 9, 2007, Isanti County filed a Motion for a New Trial. The County requested that the trial court amend its Findings of Fact and Order or in the alternative order a new trial. App. A at pp. A-10-A-15 Isanti County's Mot. New Trial and Memo. dated August 9, 2007. In said motion, Isanti County's basis for the request was that Isanti County objected to the trial court's findings that Respondent is an innocent owner. Id.

On August 27, 2007, Respondent filed a letter with the trial court objecting to Isanti County's Motion for a New Trial and also waived his appearance and argument for such motion. App. A. at p. A-16 Respt. Ltr Ct. dated August 27, 2007.

On August 28, 2007, the trial court heard arguments from Isanti County regarding Isanti County's Motion for a New Trial and amended findings. App. A. at p. A-17 ¶ 1 Findings of Fact and Order dated August 29, 2007. The trial court denied Isanti County's motion and issued an order the following day. Id. at pp. A-17-A-18 and Hrg. Transcr. 6:12-14 (August 29, 2007).

On October 19, 2007, this appeal was filed herein.

Standard of Review

Statutory construction is a question of law, which the appellate court reviews de novo. Wolf Motor Co., Inc. v. One 2000 Ford F 350, 658 N.W.2d 900, 902 (Minn. App. 2003) citing Brookfield Trade Ctr., Inc. v. County of Ramsey, 584 N.W.2d 390, 393 (Minn. 1998).

ARGUMENT

To find The Vehicle forfeitable, the court must find that The Vehicle was used in the commission of a designated offense. Minn. Stat. § 169A.63 Subd. 6 (2007). Appellant and Respondent agree that Respondent's wife was convicted of second degree driving while impaired, a designated offense within the meaning of the forfeiture statute. Appellant challenges only whether Respondent can avail himself to the innocent owner defense if he is a co-registered owner with the criminal offender of the vehicle subject to forfeiture. This brief will show that the trial court erred in determining that Respondent is an innocent owner and requests that the trial court's finding of such be reversed.

I. The Trial Court erred in determining that Respondent can avail himself to the innocent owner defense because the criminal offender is an owner of the vehicle.

A vehicle is presumed subject to forfeiture if “the driver is convicted of the designated offense upon which the forfeiture is based.” Minn. Stat. § 169A.63 Subd. 7(a)(1) (2007). However, a vehicle is not subject to forfeiture if “its owner can demonstrate by clear and convincing evidence that the owner did not have actual or constructive knowledge that the vehicle would be used or operated in a manner contrary to law ...” Minn. Stat. § 169A.63 Subd. 7(d) (2007). There is a rebuttable presumption that “the person registered as the owner of a motor vehicle to the records of the Department of Public Safety is the legal owner.” Minn. Stat. § 169A.63 Subd. 1(h) (2007). Ownership may not be overcome by a co-registered owner who does not know of the criminal operation of the vehicle that is subject to

forfeiture. That is, “if a motor vehicle is owned jointly by two or more people, each owner’s interest extends to the whole of the vehicle and is not subject to apportionment.” Minn. Stat. § 169A.63 Subd. 1(h) (2007).

“If the meaning of a statute is plain and unambiguous on its face, judicial construction is neither necessary nor proper.” Schug vs. Nine Thousand Nine Hundred Sixteen Dollar and Fifty Cents in U.S. Currency, 669 N.W.2d 379, 382 (Minn. App. 2003) citing Occhino v. Grover, 640 N.W.2d 357, 359 (Minn. 2002).

Regardless of Respondent’s knowledge of his wife’s intoxication, the plain language of the statute requires The Vehicle to be forfeited because Respondent’s wife is an owner of The Vehicle. A registered owner is presumed the owner of a motor vehicle and his or her ownership interest extends to the whole vehicle and “is not subject to apportionment.” Minn. Stat. § 169A.63 Subd 1(h) (2007). The statutory provision implicated in this case is plain and unambiguous on its face. Respondent’s wife is a registered owner with all of the ownership interests that extend to any registered owner, including right, title and interest to the vehicle.¹ Such ownership interest also includes responsibility for driving conduct and the consequences that may be imposed as a result. A vehicle is not subject to forfeiture if “its *owner* can demonstrate by clear and convincing evidence that the *owner* did not have actual or constructive knowledge that the vehicle would be used or operated in a manner contrary to law ...” Minn. Stat. § 169A.63 Subd.

¹ Respondent and his wife purchased The Vehicle together during the course of their marriage and there is no evidence that either party was or is the sole party responsible for the financial obligation of The Vehicle

7(d) (2007) (emphasis added). When the legislature drafted the definition of owner, it recognized that individuals may co-own vehicles, and specifically provided that ownership is not subject to apportionment. Minn. Stat. § 169A.63 Subd. 1(h) (2007). Respondent's wife was convicted of second degree DWI. Respondent's wife is also an owner of The Vehicle and her ownership interest extends to the whole of The Vehicle. Therefore, a finding of knowledge by Respondent is not necessary to forfeit The Vehicle. Based on the plain language of the statute, The Vehicle cannot be subject to apportionment and each owner's interest extends to the whole of the vehicle, including vehicle forfeiture. Accordingly, forfeiture of The Vehicle is required on the basis that Respondent's wife was, and is, the owner of The Vehicle, regardless of Respondent's knowledge.

II. The Trial Court erred in determining that Respondent can avail himself to the innocent owner defense if he is a co-registered owner with the criminal offender of the vehicle subject to forfeiture because the result of such a finding is clearly at odds with the policy of the legislation as a whole.

“Vehicle forfeiture under Minn. Stat. § 169.1217² has the remedial purpose of protecting the public from the known danger of intoxicated drivers” and “the desired end of removing intoxicated drivers from public streets and highways.” Lukkason v. 1993 Chevrolet Extended Cab Pickup, 590 N.W.2d 803, 806 (Minn. App. 1999) citing City of New Hope v. 1986 Mazda 626, 546 N.W.2d 300, 303-304 (Minn. App. 1996).

² Minn. Stat. § 169.1217 was re-codified in 2000 to Minn. Stat. § 169A.63

“A motor vehicle is not subject to forfeiture ... if its owner can demonstrate by clear and convincing evidence that the owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law.” Minn. Stat. § 169A.63 Subd. 7(d) 2007.

“If the meaning of a statute is plain and unambiguous on its face, judicial construction is neither necessary nor proper.” Schug, 669 N.W.2d at 382 citing Occhino, 640 N.W.2d at 359. “But courts are not to give effect to the plain meaning of the statute if it produces absurd results or it is clearly at odds with the policy of the legislation as a whole.” Schug, 669 N.W.2d at 382 quoting Swenson v. Waseca Mut. Ins. Co., 653 N.W.2d 794, 797 (Minn. App. 2002).

In Jorgenson vs. 1999 Jeep, VIN 1J4GW58S5XC763375 WL 771933, 2 (Minn. App. March 28, 2006),³ Respondent Wayne Jorgenson, his wife Joann Jorgenson and their son Jeremy Jorgenson, were co-registered owners of a Jeep. On January 21, 2005, while Jeremy Jorgenson was driving the Jeep, he was stopped, arrested and eventually plead guilty to second-degree driving while impaired. App. A at p. A-20. Subsequent to Jeremy’s arrest, law enforcement seized the Jeep for forfeiture. Id. Jeremy’s father and co-registered owner, Wayne Jorgenson, filed a demand for judicial determination claiming that he was an innocent owner pursuant to Minn. Stat. § 169A.63 Subd. 7(d). At the contested hearing Wayne Jorgenson testified that it was his intent to sell the vehicle and “use

³ Unpublished opinions may not be cited as precedent except as law of the case, res judicata or collateral estoppel. Minn. Stat. § 480A.08(3) (2007). Attached hereto App A at pp. A-19-A21.

the proceeds to satisfy the outstanding loan.” App. A at p. A-21. In Jorgenson, the Minnesota Court of Appeals stated that “[t]he purpose of the forfeiture statute is to separate repeat DWI offenders from their vehicles.” App. A at p. A-21 citing Schug, 669 N.W.2d at 384. The Minnesota Court of Appeals further stated that “[f]orfeiture is intended to be remedial and non-punitive ... [a]nd the legislature intended to protect an owner from forfeiture of his vehicle when he was unaware that it would be used in a manner contrary to law.” App. A at p. A-21 citing Schug, 669 N.W.2d at 384 and Minn. Stat. § 169A.63 Subd. 7(d). Finally, the Minnesota Court of Appeals found that the district court did not err by returning the vehicle to Wayne Jorgenson because “[r]eturning the vehicle protects [Wayne Jorgenson’s] interest as an innocent owner and *will not violate the public-safety purpose of the forfeiture statute because his son will not have access to the vehicle.*” App. A at p. A-21. (Emphasis added).

This case is easily distinguished from Jorgenson because the public safety purpose of the statute will not be served, and the result will be at odds with the policy of the legislation, if The Vehicle is returned to Respondent. This Court has held that “[v]ehicle forfeiture under Minn. Stat. § 169.1217⁴ has the remedial purpose of protecting the public from the known danger of intoxicated drivers.” Lukkason, 590 N.W.2d at 806 citing City of New Hope, 546 N.W.2d at 303-304. In fact, the court in Jorgenson, found that “[r]eturning the vehicle protects respondent’s interest as an innocent owner and will not violate the public-safety

⁴ Minn. Stat. § 169.1217 was re-codified in 2000 to Minn. Stat. § 169A.63.

purpose of the forfeiture statute because his son will not have access to the vehicle.” App. A at p. A-21. Unlike Jorgenson, the defendant in the criminal companion case in this matter is Respondent’s wife, not his child. A spousal relationship is distinguishable from that of a parent-child relationship in that a parent has a legal right to prevent a child access to a vehicle. Unlike Jorgenson, Respondent’s wife’s access to The Vehicle will not be restricted if The Vehicle is returned to Respondent because, as Respondent testified, he and his wife share The Vehicle, they each have their own set of keys to The Vehicle and his wife’s use of The Vehicle is not limited. The forfeiture statute has the “desired end of removing intoxicated drivers from public streets and highways.” Lukkason, 590 N.W.2d at 806 citing City of New Hope, 546 N.W.2d at 303-304. Allowing Respondent to claim he is an innocent owner would allow owners in future cases the opportunity to circumvent the forfeiture statute by co-registering their vehicles. Furthermore, finding that Respondent is an innocent owner would create incentive for Respondent’s wife to engage in dangerous driving knowing that The Vehicle would be returned to Respondent, and ultimately, to her. Finally, finding that Respondent is an innocent owner would act as a reward for criminally dangerous and harmful actions because Respondent’s wife would continue to have access to The Vehicle, even after she was convicted of second degree DWI. This application of the law would result in returning vehicles to drivers who have multiple DWI convictions, which is directly contrary to the legislative intent of protecting the public.

In the unpublished case of Foley v. One 1995 Warrior Motorboat, VIN: POUJ6550F495, Registration No. 8376 GX2005 WL 44459, 1 (Minn. App. Jan. 11, 2005),⁵ the state initiated forfeiture proceedings against a 1995 Warrior motorboat pursuant to Minn. Stat. § 169A.63 (2002). Said motorboat was co-owned by the respondent, Kristi Foley and the defendant in the underlying criminal proceeding, Timothy Ruiz. App. A at p. 22. Foley testified at the contested hearing that “since November 2002, she [had] had no contact with Ruiz and [had] obtained a restraining order against him.” App. A at p. A-23, n1. Following the contested hearing, the trial court returned the motorboat to the respondent finding that “Foley was a registered owner of the items, was solely responsible for payment of the items, and ‘did not know of Ruiz’s unlawful use or intended use of the boat in question.’” App. A at p. A-22. The state filed an appeal claiming that the trial court erred in returning the motorboat to Foley. App. A at p. A-23. The Minnesota Court of Appeals held that the legislature’s intent was served by returning the motorboat to Foley because Ruiz no longer had access to the motorboat and Foley was not punished for “actions that were beyond her knowledge and control.” App. A at p. A-23.

This case is readily distinguished from Foley because the public safety purpose of the statute will not be upheld, and the result will be directly contrary to the policy of the legislation, if The Vehicle is returned to Respondent. This Court

⁵ Unpublished opinions may not be cited as precedent except as law of the case, res judicata or collateral estoppel Minn. Stat. § 480A.08(3) (2007) Attached hereto App. A at pp. A-22-A-24

has held that “[v]ehicle forfeiture under Minn. Stat. § 169.1217⁶ has the remedial purpose of protecting the public from the known danger of intoxicated drivers” and “the desired end of removing intoxicated drivers from public streets and highways.” Lukkason, 590 N.W.2d at 806 citing City of New Hope, 546 N.W.2d at 303-304. Unlike Foley, if The Vehicle is returned to Respondent, his wife’s access to The Vehicle will not be limited because Respondent and his wife are married. In Foley, the Minnesota Court of Appeals was concerned with the public safety purpose of the statute, but determined that it would be satisfied because Ruiz would no longer have access to the vehicle. App. A at p. A-23. In fact, the Court went so far as to note that Foley had not had contact with Ruiz since November 2002 and had also obtained a restraining order since then. App. A at p. A-23, n1. In this case, returning The Vehicle to Respondent would be directly at odds with the public safety purpose of the legislation because returning The Vehicle to Respondent would be in essence, returning The Vehicle to Respondent’s wife. Respondent testified that both he and his wife have keys to The Vehicle, Respondent’s wife has free access to The Vehicle, and in fact, they share The Vehicle. If the desired end of forfeiture is removing intoxicated drivers from public streets and highways,⁷ then forfeiture of The Vehicle is required in this case to maintain the integrity of the public safety purpose of the statute.

⁶ Minn. Stat. § 169.1217 was re-codified in 2000 to Minn. Stat. § 169A.63.

⁷ Lukkason, 590 N.W.2d at 806 citing City of New Hope, 546 N.W.2d at 303-304.

III. The Trial Court erred in determining that Respondent can avail himself to the innocent owner defense if he is a co-registered owner with the criminal offender of the vehicle subject to forfeiture because the forfeited property is marital property.

There is a legal presumption that property acquired during a marriage is marital property and a spouse cannot escape his or her creditors by simply putting all of the marital property in the name of the other spouse. See Minn. Stat. § 518.008 Subd. 3 and Abrahamson v. Abrahamson, 613 N.W.2d 418, 422 (Minn. App. 2000).

“If the meaning of a statute is plain and unambiguous on its face, judicial construction is neither necessary nor proper.” Schug, 669 N.W.2d at 382 citing Occhino, 640 N.W.2d at 359. “But courts are not to give effect to the plain meaning of the statute if it produces absurd results or it is clearly at odds with the policy of the legislation as a whole.” Schug, 669 N.W.2d at 382 quoting Swenson v. Waseca Mut. Ins. Co., 653 N.W.2d 794, 797 (Minn. App. 2002).

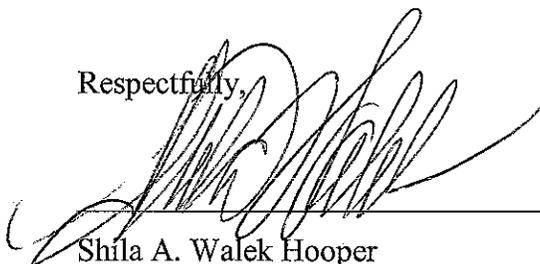
The above-noted creditor-debtor presumption would be analogous to co-registering as owners of a vehicle to avoid forfeiture of the vehicle. In the instant case, there is no dispute that The Vehicle is marital property. Both Respondent and his wife are co-registered owners and Respondent testified that The Vehicle was purchased together during the course of their marriage. Like creditors who have the right to recover property, the county has the legal right to the property interest in a vehicle forfeited pursuant to statute. Accordingly, like a spouse may not escape creditors by putting all of the marital property in the name of the other

spouse, Respondent cannot avoid forfeiture by simply co-registering The Vehicle in the name of both Respondent and his wife. Allowing Respondent to claim he is an innocent owner is contrary to legislative intent and the statute is easily circumvented if all that is required to avoid vehicle forfeiture are co-registered owners. Accordingly, The Vehicle must be subject to forfeiture to uphold the statutory intent of separating repeat DWI offenders from their vehicles. Shug, 669 N.W.2d at 384.

CONCLUSION

The Trial Court erred in determining that Respondent is an innocent owner because Respondent's wife is an owner of The Vehicle. Furthermore, such a finding is directly contrary to the legislative intent of the statute. Finally, The Vehicle is marital property. Respondent is not an innocent owner pursuant to Minn. Stat. § 169A.63 Subd. 7(d) and the trial court's finding of such should be reversed.

Respectfully,



Dated: November 26, 2007

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