

Number A07-2023

STATE OF MINNESOTA

IN COURT OF APPEALS

David Lee Haase
Respondent

-vs-

2007 Chevrolet Tahoe
Appellant.

RESPONDENT'S BRIEF

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TABLE OF AUTHORITIES

Minn. Stat. sec. 169A.63

LEGAL ISSUES

Did the trial court err in applying an innocent owner defense to a forfeiture matter under Minn. Stat. sec. 169A.63?

STATEMENT OF FACTS

Respondent's wife pled guilty to Second Degree refusal.

Because she was a co-owner with her husband, the police seized the vehicle and provided notice of their intent to forfeit it. The husband then sought formal judicial review and the Court, reading the plain language of the statute, and paying careful attention to the parts that permit forfeitures for household members and the parts that do not, decided it would comply with it and gave the car back to the husband whom, it found, had done nothing wrong.

ARGUMENT

A straightforward reading of the Forfeiture statute (Minn. Stat. sec. 169A.63 Subd. 1(h),) requires that this court affirm the district court.

The parties are agreed that the issue in this matter is question of statutory interpretation. The parties also agree that in an unpublished opinion this court has already interpreted the precise issue at question here. See A-21

from appellant's brief's appendix.

The issue in this case is what to do with the provision of the statute that declares that each owner's interest in the vehicle is not subject to apportionment, which is to say, not subject to division. The state urges that because the vehicle is the indivisible property of the wife and the husband, and because the wife offended the law, the state has the right to take the whole vehicle because the vehicle cannot be divided. The district court, however, following the unpublished opinion of this Court in Jorgenson (See A-21) found the husband was an innocent owner that because the husband has an indivisible interest in the vehicle and he did not violate the law or have knowledge his wife did, to forfeit the car would be to defeat his interest in the car.

The problem here is that the statute establishes a peculiar metaphysical postulate: the car has one owner with two identities: husband and wife. That is the only way to read the plain language of the statute: each owner has an indivisible interest. To forfeit the vehicle would be a de facto division of the husband's interest from that of the wife: if the county were to take it, the husband would not have it. Because the interests of both parties are indivisible, the county cannot take the vehicle unless the other owner had knowledge of its illegal use.

While appellant reiterates that public policy of the statute is to separate offenders from their vehicles, it is also the stated policy to protect the innocent from forfeiture when such innocent did not know of the illegal use of the vehicle. See Minn. Stat. 169A.63 subd.7(d). The procedure here gave appellant an opportunity to prove that the other owner knew of the illegal use and it failed to prove such knowledge. Had they proven the required knowledge, they would have had the vehicle.

It would appear that appellant's real position is that anytime a vehicle is subjected to forfeiture and there is a co-owner, they have an absolute right to the vehicle and that this court should just ignore the specific provisions of the statute that permit an innocent owner defense (such as here) and specifically deny (or at least severely impair) such a defense and impute knowledge where a household member has a certain number of prior convictions. See Minn. Stat. sec. 169A.63, subd. 7(d).

CONCLUSION

For the foregoing reasons, appellant requests the trial court be affirmed

Dated December 24th, 2007

Respectfully submitted,

A handwritten signature in black ink, appearing to be "S. Grigsby", written over a horizontal line.

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