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No. A-10-0232

State of Minnesota
In Court of Appeals

Scott J. Peterson,

Respondent,

vs.

2004 Ford Crown Victoria
VIN 2FAHP74WX4X158445,

Appellant.

APPELLANT'S REPLY BRIEF

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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REPLY ARGUMENT

I. THE DISTRICT COURT CANNOT USE THE MINNESOTA RULES OF CIVIL PROCEDURE TO CORRECT A PLEADING IN THE ABSENCE OF SUBJECT MATTER JURISDICTION.

The Respondent has failed to establish that subject matter jurisdiction was established in this case for two reasons. First, the Respondent argues the mandatory jurisdictional requirements outlined in the applicable statute should be severed, but provides no legal basis for the argument. Second, the District Court cannot use the Minnesota Rules of Civil Procedure to correct a pleading in the absence of subject matter jurisdiction.

a. The Respondent provides no legal support for the argument that only service and time requirements of Minn. Stat. § 609.5314, subd. 3 are mandatory, while the captioning and other requirements are not.

Despite efforts to limit the scope of cases cited in Ramsey County's brief and distort the County's arguments, the Respondent failed to establish that he properly requested a judicial determination of forfeiture.

Contrary to the Respondent's assertions, it is not undisputed that Ramsey County was properly and timely served. Resp. Br. 7, 10. Ramsey County's position in this dispute is, and always has been, that the Respondent's Complaint was not properly and timely served because the Complaint itself was fatally flawed due to the Respondent's failure to name the appropriate defendant as required by statute. Moreover, the Respondent erroneously claims that Ramsey County cited cases interpreting Minn. Stat. § 609.5314 solely to reference timely service requirements. Resp. Br. 10-11. The cases collectively stand for the proposition that statute is unambiguous, that it must be strictly

construed, and that all of the requirements outlined in Section 609.5314, subd. 3 must be followed by a complainant before the District Court can exercise subject matter jurisdiction over a request for judicial determination of forfeiture. *See Bolanos v. 1992 Acura*, No. A05-172, 2005 WL 2208093 (Minn. Ct. App. Sept. 13, 2005); *Sing v. 1997 Cadillac*, No. A05-2320, 2006 WL 2474071 (Minn. Ct. App., Aug. 29, 2006); *Garde v. One 1992 Ford Explorer XLT*, 662 N.W.2d 165 (Minn. Ct. App. 2003). The Respondent identifies no authority[1] that supports his suggestion that some of the mandatory jurisdictional requirements in Section 609.5314, subd. 3, such as timely service, may be severed from other mandatory jurisdictional requirements, such as naming the seized property as defendant and stating with specificity the complainant's interest in the seized property. The statute itself unambiguously mandates compliance with all of the requirements in subdivision 3. One of those requirements is that the Complaint must be captioned in the name of the seized property as defendant. Minn. Stat. § 609.5314, subd. 3(b).

Since the Respondent failed to name his seized vehicle as the defendant in his request for a judicial determination of forfeiture, the District Court lacked subject matter jurisdiction and should have dismissed this matter.

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[1] The Respondent cites *Sing v. 1997 Cadillac* to incorrectly state "[t]he District Court has subject matter jurisdiction over a matter that is properly served with process upon the correct party under the Minnesota Rules of Civil Procedure when the caption of the summons and complaint contains a misnomer." Resp. Br. 11. There is no language supporting this statement anywhere in the *Sing* opinion.

b. Because the District Court lacked subject matter jurisdiction, its order attempting to correct the Respondent's fatally flawed pleading was void *ab initio*.

In his brief, Respondent continues to rely on various provisions of the Minnesota Rules of Civil Procedure to support the erroneous assertion that the District Court properly exercised subject matter jurisdiction over this matter. However, the District Court cannot use the procedural rules to create subject matter jurisdiction.

For the first time, the Respondent references to Rule 81.01(c) of the Minnesota Rules of Civil Procedure for the proposition that the mandatory pleading requirements outlined in Minn. Stat. § 609.5314, subd. 3 are superseded by the Rules of Civil Procedure. Resp. Br. 11. The Respondent's constant reliance on various procedural rules essentially puts the cart before the horse in that his arguments fail to give any regard to the principle that a judgment issued by a court in the absence of subject matter jurisdiction is void *ab initio*. *See, e.g., Kulinski v. Medtronic Bio-Medicus, Inc.*, 577 N.W.2d 499, 502 (Minn. 1998). Thus, the District Court cannot use the Rules of Civil Procedure to correct a pleading deficiency that deprives it of subject matter jurisdiction. All of the Respondent's references to the Minnesota Rules of Civil Procedure are not relevant to the threshold question of whether subject matter jurisdiction exists in the first place. It should also be noted that Rule 81.01(c) does not apply to all statutes. *See* Minn. R. Civ. P. 81.01(a); *Peterson v. Peterson*, 242 N.W.2d 88, 93 n. 3 (Minn. 1976) (list of statutes to which Rule 81.01(a) applies is not exclusive). Because the statute specifically states the procedure for requesting a judicial determination of forfeiture, the remedies available in such a proceeding, and how any duly rendered monetary award is supposed

to be paid to a claimant by government entities[2], this Court should apply the specific language of Section 609.5314, subd. 3, and not the general provisions of the Minnesota Rules of Civil Procedure.

In addition, the misnomer cases cited by the Respondent do not apply to this matter because none of them address an *in rem* action governed by a statute, such as Section 609.5314, subd. 3, that unequivocally states that failure to appropriately caption a complaint results in the in ability to maintain a cause of action. *See Haugland v. Maplewood Lounge & Bottleshop*, 666 N.W.2d 6898 (Minn. 2003) (Civil Damages Act does not state a penalty for failure to follow strict pleading requirements); *Hovelson v. U.S. Swim & Fitness, Inc.*, 450 N.W.2d 137 (Minn. Ct. App. 1990) (misnomer related to a commonly used alias). Moreover, the *Wells Fargo* case cited by the Appellant is completely irrelevant to this case. *Wells Fargo Bank of Minnesota v. Stephens*, No. C4-02-608, 2002 WL 31057015 (Minn. Ct. App. Sept. 17, 2002). There was no misnomer issue in the *Wells Fargo* case. *Id.* Respondent cites that case for the proposition that an *in rem* action does not always have to be brought in the name of the property sought. Resp. Br. 15. Ramsey County has only made the assertion that an *in rem* action

[2] Contrary to Respondent's suggestion that Section 609.5314's reference to apportioning an award of fees and sanctions pursuant to the percentages outlined in 609.5315, subd. 5 is outside of the record, it is consistent with Ramsey County's position that the District Court repeatedly failed to follow relevant statutes governing judicial determinations of forfeiture and that the County Attorney's Office should not be held liable for the conduct of the Roseville Police Department. The County raised the point to illustrate why it is important to follow the precise language of Section 609.5314. App. Br. 21-23. Throughout the proceedings, Ramsey County's theory has been that the statute is unambiguous and must be strictly construed.

requesting judicial determination of forfeiture pursuant to Section 609.5314, subd. 3 must be captioned in a manner that names the seized property as the defendant.

Because subject matter jurisdiction must first be established in order for the District Court to issue a valid order correcting any pleadings, the Respondent's repeated references to the Minnesota Rules of Civil Procedure are not relevant to an interpretation of the requirements imposed by Section 609.5314, subd. 3.

II. THE DISTRICT COURT ABUSED ITS DISCRETION IN SANCTIONING THE COUNTY ATTORNEY'S OFFICE BECAUSE THERE IS NO BASIS FOR THE RESPONDENT'S CONTINUED SUGGESTION THAT THE RAMSEY COUNTY ATTORNEY'S OFFICE FAILED TO COMPLY WITH ITS LEGAL OBLIGATIONS.

The Respondent continues to argue that the Ramsey County Attorney's Office acted unlawfully, but does not point to any unlawful action taken by the Ramsey County Attorney's Office that warrants the sanctions imposed by the District Court. Resp. Br. 18. The Respondent only takes issue with the actions of the Roseville Police Department. Resp. Br. 26. The failure of both the Respondent and the District Court to recognize that the Roseville Policy Department and the Ramsey County Attorney's Office are separate entities ignores reality and is grounds for reversing the District Court's order for sanctions based on an abuse of discretion .[3]

[3] At numerous points in his brief, the Respondent asserts that Ramsey County is raising new argument and issues on appeal. These blanket statements ignore the record and distract the parties from the relevant issues. Ramsey County has argued on numerous instances that sanctions are not appropriate and that the County Attorney's Office should not be held accountable for the conduct of the Roseville Police Department. *See, e.g.,* Tr. 9:9-10; Appellant's App. 20-21, 48-49, 57. The arguments presented in the Appellant's Brief are natural extensions of issues properly before this Court.

The Respondent's lengthy analysis of the jurisdictional issues presented in *Strange v. 1997 Jeep Cherokee* is entirely irrelevant as it relates to his request for sanctions. Resp. Br. 20-23. The question of whether the Court has jurisdiction to hear a demand for judicial determination of forfeiture exists separately from an inquiry related to a motion for sanctions. As far as the Respondent's request for sanctions is concerned, the relevant portion of the *Strange* opinion states "[i]n the future, if a county desires to abandon an administrative forfeiture, the county attorney must order release of the vehicle." 597 N.W.2d 355, 358 (Minn. Ct. App. 1999). In this case, the Ramsey County Attorney's Office complied with its presently defined legal obligation when it ordered the release of the vehicle. Appellant's Add. 7, ¶ 2. The alleged "maneuvering" referenced by the Respondent simply cannot be attributed to the Ramsey County Attorney's Office. Resp. Br. 23.

Additionally, the Respondent misstates relevant case law related to sanctions awarded in forfeiture proceedings. Resp. Br. 23-24; *Wolf Motor Company, Inc. v. One 2000 Ford F 350*, 658 N.W.2d 900 (Minn. Ct. App. 2003). In *Wolf*, the District Court awarded sanctions because law enforcement sought forfeiture of a vehicle that was actually owned by a car dealership, not the driver who took possession of the truck subject to his ability to obtain financing and was later caught with methamphetamine in the vehicle. *Id.* at 904. The holding in *Wolf* simply does not support the Respondent's broad assertion that a party that holds onto a vehicle which is not subject to forfeiture should be sanctioned. Resp. Br. 24.

Because the Respondent has failed to show that the Ramsey County Attorney's Office acted manifestly unreasonably in light of the law as it is currently defined, there is no basis for the sanctions levied on the Ramsey County Attorney.

CONCLUSION

For the foregoing and previously stated reasons, the District Court's December 22, 2009, decision to deny Ramsey County's motion for dismissal and exercise jurisdiction over this case should be reversed. In the alternative, Ramsey County requests this Court to issue an order reversing the sanctions levied on the Ramsey County Attorney's Office and to reapportion any appropriate award to the Respondent in a manner consistent with Minn. Stat. § 609.5314, subd. 3(d).

Respectfully submitted,

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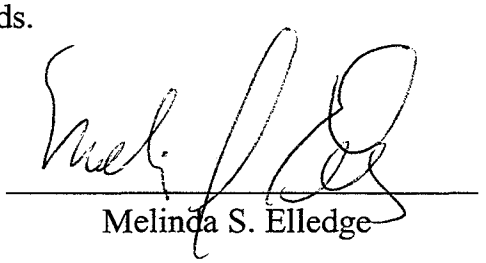
CERTIFICATE OF COMPLIANCE

I hereby certify that Appellant's Reply Brief complies with the word count limitation of Minn. R. Civ. App. P. 132.01, subd. 3(b). I further certify that, in preparation of this Brief, I used Microsoft Word 2007, and that this word processing program has been applied specifically to include all text, including headings, footnotes, and quotations in the following word count. All text is 13-point Times New Roman. I further certify that the Brief contains 1,901 words.



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