

SUPREME COURT OF PENNSYLVANIA

In re DUA Diamonds, Inc. and Jasmeen Kaur

170 A.3d 999 (Pa. 2017) · No. No. 85 EM 2017 · Decided August 22, 2017

SUMMARY

Justice Wecht filed a dissenting statement in the Pennsylvania Supreme Court's denial of an emergency application by DUA Diamonds, Inc. and Jasmeen Kaur. The dissent would have lifted the automatic supersedeas and reinstated a trial court order requiring the Commonwealth to return jewelry determined to be unrelated to criminal activity, subject to conditions preserving evidence. The statement addresses return of property, alleged overbroad seizure, irreparable harm, and the standards for extraordinary appellate relief.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Wecht; Justice Donohue
JURISDICTION	Pennsylvania
DECIDED	August 22, 2017
DOCKET	No. 85 EM 2017
DISPOSITION	writ_denied
PROCEDURAL POSTURE	The Commonwealth appealed the trial court's partial grant of DUA Diamonds and Jasmeen Kaur's petition for return of property. The appeal automatically stayed the trial court's order under Pennsylvania Rule of Appellate Procedure 1736. After the trial court lifted the stay, the Superior Court reinstated the supersedeas by per curiam order. The applicants sought emergency relief and extraordinary jurisdiction in the Supreme Court of Pennsylvania; the Court denied relief, and Justice Wecht dissented.
STANDARD OF REVIEW	The dissent stated that factual findings and credibility determinations by the trial court are owed substantial deference on appeal. It also applied the four-factor standard governing a stay or supersedeas: likelihood of success on the merits, irreparable injury, harm to other interested parties, and the public interest.
PRECEDENTIAL VALUE	nonprecedential dissenting statement

PARTIES

Commonwealth of Pennsylvania v. DUA Diamonds, Inc., Jasmeen Kaur

TOPICS

appellate procedure

writ of certiorari

search and seizure

warrant requirement

due process

PRACTICE AREAS

criminal procedure

appellate procedure

search and seizure

constitutional law

remedies

QUESTIONS PRESENTED

1. Whether the Supreme Court should exercise extraordinary jurisdiction to review the Superior Court's order reinstating the automatic supersedeas.
2. Whether the applicants demonstrated a sufficient likelihood of success, irreparable harm, lack of substantial harm to the Commonwealth, and a favorable public interest so as to warrant lifting the supersedeas.
3. Whether the Commonwealth could retain indefinitely property determined by the trial court to be lawfully owned and unconnected to any crime.
4. Whether the seizure and continued retention of the applicants' entire inventory impermissibly exceeded the search warrant's probable-cause and particularity limitations.

KEY QUOTATIONS

"Our Constitutions do not allow for items to be seized first and probable cause to be established second."
([85 EM 2017] - 7)

"This is a basic, bedrock principle of our law." ([85 EM 2017] - 8)

"Because Applicant has established its likelihood of success on the merits, the severe and irreparable harm that it faces, the lack of harm to the Commonwealth, and the public interests that its requested relief would serve, I would grant Applicant's Emergency Application and would reinstate the trial court's order lifting the automatic supersedeas." ([85 EM 2017] - 9)

FACTUAL BACKGROUND

Police officers executed a search warrant at the applicants' jewelry stores and seized the entire inventory, although the warrant authorized seizure only of jewelry identifiable as connected to ongoing burglary investigations. The trial court found that approximately 2 percent of the roughly 50,000 seized items were connected to a crime and that approximately 95 percent of the inventory had been purchased legitimately from wholesalers. The trial court ordered the return of property unconnected to criminal activity, allowed the Commonwealth to retain crime-related evidence, and imposed recordkeeping and photographing conditions on future sales. The Commonwealth nevertheless retained the inventory during its appeal, leaving the applicants unable to operate their business and exposing them to substantial financial harm.

PROCEDURAL HISTORY

Police seized approximately 50,000 items from the applicants' jewelry stores pursuant to a warrant authorizing seizure of jewelry identifiable as connected to burglary investigations. The Philadelphia County Court of Common Pleas ordered the return of property not connected to criminal activity while permitting the Commonwealth to retain evidence-linked items and imposing conditions on any later sale. The Commonwealth appealed, the Superior Court reinstated the automatic supersedeas, and the applicants sought emergency relief in the Pennsylvania Supreme Court. The majority denied the application; the dissent would have granted it and reinstated the trial court's order lifting the supersedeas.

DISPOSITION

writ_denied

CASES CITED

- Pa. Pub. Util. Comm'n v. Process Gas Consumers Grp., 467 A.2d 805 (Pa. 1983)
- Barron v. Commonwealth, 74 A.3d 250 (Pa. Super. 2013)
- Petition of Koenig, 663 A.2d 725 (Pa. Super. 1995)
- Payton v. New York, 445 U.S. 573, 608 (1980)
- Stanford v. Texas, 379 U.S. 476, 485 (1965)
- Marron v. United States, 275 U.S. 192, 196 (1927)