

SUPREME COURT OF NORTH DAKOTA

State v. Gratton

2020 ND 41 (2020) · No. 20190167 · Decided February 12, 2020

SUMMARY

The North Dakota Supreme Court reversed the dismissal of a class C felony theft charge against Nicholas Warren Gratton for lack of probable cause. The court held that a marital or ownership interest in property does not necessarily prevent prosecution for theft when another person also has an interest that the defendant was not privileged to infringe. It further held that the district court improperly resolved conflicting evidence at the preliminary hearing rather than drawing reasonable inferences in favor of the prosecution.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Lisa Fair McEvers, Justice; Lisa Fair McEvers; Gerald W. VandeWalle; Daniel J. Crothers; Jerod E. Tufte; Jon J. Jensen, Chief Justice
JURISDICTION	North Dakota
DECIDED	February 12, 2020
DOCKET	20190167
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed an order of the Pembina County District Court dismissing a class C felony theft-of-property count for lack of probable cause following a preliminary hearing.
STANDARD OF REVIEW	The Supreme Court reviews the district court's factual findings concerning probable cause under the clearly stated standard that findings are not reversed if, resolving conflicts in favor of affirmance, sufficient supporting evidence exists and the decision is not contrary to the manifest weight of the evidence. Whether the facts found constitute probable cause is a question of law fully reviewable on appeal. At a preliminary hearing, the district court's authority to weigh evidence and assess credibility is limited; conflicting testimony generally presents a jury question, and reasonable inferences must be drawn in favor of the prosecution.

PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential
PARTIES	State of North Dakota v. Nicholas Warren Gratton

TOPICS

criminal procedure probable cause preliminary hearing statutory interpretation appellate procedure

PRACTICE AREAS

criminal law criminal procedure appellate practice property offenses

QUESTIONS PRESENTED

1. Whether the district court's dismissal of the theft count was appealable under N.D.C.C. § 29-28-07(1).
2. Whether the evidence at the preliminary hearing established probable cause to believe Gratton committed theft of property.
3. Whether a defendant's alleged marital-property interest in a vehicle precludes prosecution for theft under N.D.C.C. § 12.1-23-02(1).
4. Whether the district court improperly resolved conflicting evidence and credibility issues against the State at the preliminary hearing.

HOLDINGS

1. An order dismissing a criminal complaint, information, indictment, or count is equivalent to an order quashing an information or indictment and is appealable by the State under N.D.C.C. § 29-28-07(1).
2. At a preliminary hearing, the State satisfies probable cause by producing sufficient evidence to warrant a person of reasonable caution in believing that an offense was committed and that the accused is probably guilty; proof beyond a reasonable doubt is not required.
3. When testimony merely conflicts, the conflict presents a question of fact for the jury; a preliminary-hearing judge may assess credibility as a matter of law only when testimony is implausible or incredible and must draw reasonable inferences favorable to the prosecution.
4. A defendant may be prosecuted for theft even if the defendant has a marital-property interest in the vehicle, because property of another includes property in which another person has an interest that the actor is not privileged to infringe without consent.

KEY QUOTATIONS

“The State is not required to prove with absolute certainty or beyond a reasonable doubt that a crime occurred, but rather need only produce sufficient evidence to satisfy the court that a crime has been committed and that the accused is probably guilty.” (¶ 9)

“That a judge in a preliminary hearing has jurisdiction to consider the credibility of witnesses only when, as a matter of law, the testimony is implausible or incredible. When there is a mere conflict in the testimony, a question of fact exists for the jury, and the judge must draw the inference favorable to the prosecution.” (¶ 10)

“The vehicle was property of Brandi Gratton, and even if Nicholas Gratton had a marital property interest in the vehicle, that interest does not prevent him from being prosecuted under N.D.C.C. § 12.1-23-02(1).” (¶ 17)

FACTUAL BACKGROUND

Nicholas Gratton and Brandi Gratton were married and experiencing marital difficulties. On December 24, 2018, after entering the marital home, Gratton took a 2017 Yukon registered solely to Brandi and drove away in it; Brandi told a deputy that Gratton was not authorized to use the vehicle and that she would report it stolen. Gratton testified that he and Brandi still lived together in substance, that he routinely had access to the vehicles, and that he took the Yukon because he could not find the keys to the other vehicle.

PROCEDURAL HISTORY

Nicholas Gratton was charged with several offenses, including theft of property. After a preliminary hearing at which a deputy and Gratton testified, the district court dismissed the theft count, concluding the evidence did not establish probable cause because Gratton claimed an interest in the marital vehicle. The State appealed, and the North Dakota Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court's dismissal of count 3 is reversed, and the case is remanded for further proceedings.

CASES CITED

- State v. Gwyther, 1999 ND 15, ¶ 11, 589 N.W.2d 575
- State v. Blunt, 2008 ND 135, ¶¶ 14-17, 751 N.W.2d 692
- State v. Turbeville, 2017 ND 139, ¶¶ 6, 12, 895 N.W.2d 758
- Healy v. Healy, 397 N.W.2d 71, 73 (N.D. 1986)
- State v. Perreault, 2002 ND 14, ¶ 12, 638 N.W.2d 541
- State v. Serr, 1998 ND 66, ¶ 10, 575 N.W.2d 896
- State v. Morrissey, 295 N.W.2d 307, 311 (N.D. 1980)
- Hunter v. Dist. Court, 543 P.2d 1265, 1268 (Colo. 1975)
- State v. Conrad, 2017 ND 79, ¶¶ 2, 8-9, 18, 892 N.W.2d 200
- State v. Cox, 325 N.W.2d 181, 183 (N.D. 1982)
- Estate of Albrecht, 2020 ND 27, ¶¶ 16, 18
- McKechnie v. Berg, 2003 ND 136, ¶ 14, 667 N.W.2d 628