

NORTH DAKOTA SUPREME COURT

State v. Martin

793 N.W.2d 188 (N.D. 2011) · Decided January 12, 2011

SUMMARY

The North Dakota Supreme Court held that N.D.C.C. § 42-01-07 lists remedies available against a public nuisance but does not limit the State to pursuing only one remedy. Accordingly, the State could pursue both a civil nuisance action and a criminal prosecution against the same individual for the same nuisance, and the court affirmed the denial of Martin’s motion to dismiss.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Kapsner, Justice; Gerald W. Vande Walle, C.J.; Mary Muehlen Maring, J.; Daniel J. Crothers, J.; Dale V. Sandstrom, J.
JURISDICTION	North Dakota
DECIDED	January 12, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Martin conditionally pleaded guilty to maintaining a public nuisance after the district court denied his motion to dismiss. He appealed while reserving the right to challenge that denial.
STANDARD OF REVIEW	Statutory interpretation is a question of law reviewed fully on appeal.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Carl Joseph Martin v. State of North Dakota

TOPICS

- statutory interpretation
- absurdity doctrine
- criminal procedure
- remedies
- legislative intent

PRACTICE AREAS

- criminal law
- statutory interpretation
- public nuisance
- remedies

QUESTIONS PRESENTED

1. Whether N.D.C.C. § 42-01-07 makes the listed remedies for a public nuisance mutually exclusive, thereby prohibiting the State from pursuing both a criminal prosecution and a civil nuisance action

against the same individual for the same nuisance.

HOLDINGS

1. N.D.C.C. § 42-01-07 lists remedies available against a public nuisance but does not limit the State to pursuing only one of those remedies against the same individual for the same nuisance. The State therefore may pursue both criminal and civil nuisance remedies.

KEY QUOTATIONS

“We conclude N.D.C.C. § 42-01-07 is a list of remedies available against a public nuisance and does not limit the remedies that may be sought against the same individual for the same nuisance to only one of the listed remedies.” (¶ 13)

FACTUAL BACKGROUND

Martin was charged with maintaining a public nuisance based on allegations that his residence contained filth, debris, trash, and junk, and that he allowed young people to consume alcohol and illegal drugs there. The State also alleged that activity at the residence disturbed the neighborhood. On the same day it filed the criminal charge, the State brought a civil nuisance action seeking an injunction, which the district court issued.

PROCEDURAL HISTORY

The State charged Martin with maintaining a public nuisance and, on the same day, filed a civil nuisance action seeking an injunction. The district court issued an injunction, denied Martin's motion to dismiss the criminal case based on the simultaneous civil action, and accepted Martin's conditional guilty plea. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Sauby v. City of Fargo, 2008 ND 60, ¶ 8, 747 N.W.2d 65
- Simon v. Simon, 2006 ND 29, ¶ 12, 709 N.W.2d 4
- Industrial Contractors, Inc. v. Workforce Safety & Insurance, 2009 ND 157, ¶¶ 11-12, 772 N.W.2d 582
- Christl v. Swanson, 2000 ND 74, ¶ 12, 609 N.W.2d 70
- Sloven v. Olson, 98 N.W.2d 115, 121 (N.D. 1959)
- State ex rel. Stenehjem v. FreeEats.com, Inc., 2006 ND 84, ¶ 14, 712 N.W.2d 828
- De Sylva v. Ballentine, 351 U.S. 570, 573, 76 S. Ct. 974, 100 L. Ed. 1415 (1956)
- Haugenoe v. Workforce Safety & Insurance, 2008 ND 78, ¶ 8, 748 N.W.2d 378
- Morton County Social Services Board v. Cramer, 2010 ND 58, ¶ 16, 780 N.W.2d 688
- Stenehjem ex rel. State v. Crosslands, Inc., 2010 ND 91, ¶ 14, 782 N.W.2d 632
- Wolt v. Wolt, 2010 ND 33, ¶ 9, 778 N.W.2d 802

