

SUPREME COURT OF ILLINOIS

The People of the State of Illinois v. ONE 1998 GMC et al.

355 Ill. Dec. 900 (Ill. 2011) · No. No. 110236 · Decided December 30, 2011

SUMMARY

The Illinois Supreme Court considered whether Illinois vehicle-forfeiture provisions were facially unconstitutional because they did not require a prompt, postseizure probable-cause hearing. The court held that the forfeiture proceeding itself provided all process due and rejected the constitutional challenge.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Thomas; Chief Justice Kilbride; Justice Garman; Justice Karmeier; Justice Theis; Justice Freeman; Justice Burke
JURISDICTION	Illinois
DECIDED	December 30, 2011
DOCKET	No. 110236
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State directly appealed as of right from the Du Page County circuit court's judgment declaring Illinois vehicle-forfeiture provisions facially unconstitutional and dismissing the forfeiture complaints with prejudice.
STANDARD OF REVIEW	Constitutional challenges and the validity of a statute are reviewed de novo. Statutes are presumed constitutional, and a facial challenge succeeds only if no set of circumstances exists under which the statute would be valid.
PRECEDENTIAL VALUE	Published, precedential opinion of the Illinois Supreme Court
PARTIES	The People of the State of Illinois v. ONE 1998 GMC et al., George Reardon, Reardon Painting, Inc., Linda Reardon, Michael S. Adams, Jessica S. Adams, PGL CC Employees Credit Union, Robert K. Messina, Mary Jo Messina, Wells Fargo Auto Finance

TOPICS

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QUESTIONS PRESENTED

1. Whether a section 2-619(a)(9) motion was a proper procedural vehicle for challenging the constitutionality of the vehicle-forfeiture statute.
2. Whether the vehicle-forfeiture provisions of the Illinois Criminal Code were facially unconstitutional under procedural due process because they did not require a prompt postseizure probable-cause hearing.
3. Whether the particular forfeiture proceedings denied claimants due process under the Barker factors.
4. Whether the circuit court's dismissal of the forfeiture complaints with prejudice was proper.

HOLDINGS

1. A section 2-619(a)(9) motion was a proper vehicle to present the constitutional challenge because, if the statutory omission violated due process, the statute would be void and incapable of supporting the State's forfeiture claims.
2. The vehicle-forfeiture provisions were not facially unconstitutional merely because they did not require a prompt postseizure probable-cause hearing.
3. The claimants were not denied due process because the forfeiture proceedings were initiated promptly, and the delays were largely attributable to claimants' continuances and motions rather than government inaction.
4. The Constitution does not require an innocent-owner defense in vehicle-forfeiture proceedings merely because a co-owner may be culpable.

KEY QUOTATIONS

"[I]mplicit in this Court's discussion of timeliness in \$8,850 was the view that the forfeiture proceeding, without more, provides the postseizure hearing required by due process to protect [claimant's] property interest in the car." (1082)

"a long and unbroken line of cases holds that an owner's interest in property may be forfeited by reason of the use to which the property is put even though the owner did not know it was to be put to such use." (1087)

"The statute at issue in \$8,850 did not contain a requirement for a 'prompt' report of the seizure by Customs to the United States Attorney for purposes of instituting the forfeiture proceeding." (1090)

FACTUAL BACKGROUND

Illinois authorities seized a 1998 GMC, a 1996 Chevrolet, and a 2002 Chevrolet after alleged aggravated DUI or driving-while-license-revoked offenses. The State promptly filed forfeiture complaints and sent statutory notice to persons with recorded interests, who could file verified answers and contest the forfeitures. The claimants

instead sought dismissal on the ground that due process required a prompt postseizure probable-cause hearing before the vehicles could be retained pending the forfeiture proceedings; the proceedings were delayed in substantial part by claimants' continuance requests and constitutional motions.

PROCEDURAL HISTORY

The State filed three vehicle-forfeiture proceedings after police seized vehicles allegedly used in aggravated DUI or driving-while-license-revoked offenses. The circuit court consolidated the cases, granted claimants' constitutional challenges under section 2-619, declared the forfeiture provisions facially unconstitutional for failing to require a prompt postseizure probable-cause hearing, dismissed the complaints with prejudice, and denied reconsideration. The Illinois Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded for further proceedings consistent with the opinion. The court noted that the postseizure probable-cause-hearing amendment effective January 1, 2012, might apply on remand only so far as practical and only if it did not affect a vested right.

CASES CITED

- Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)
- United States v. James Daniel Good Real Property, 510 U.S. 43, 114 S. Ct. 492, 126 L. Ed. 2d 490 (1993)
- Krimstock v. Kelly, 306 F.3d 40 (2d Cir. 2002)
- United States v. Eight Thousand Eight Hundred & Fifty Dollars (\$8,850) in United States Currency, 461 U.S. 555, 103 S. Ct. 2005, 76 L. Ed. 2d 143 (1983)
- United States v. Von Neumann, 474 U.S. 242, 106 S. Ct. 610, 88 L. Ed. 2d 587 (1986)
- Barker v. Wingo, 407 U.S. 514, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972)
- People v. 1998 Ford Explorer, 399 Ill. App. 3d 99, 339 Ill. Dec. 524, 926 N.E.2d 999 (2d Dist. 2010)
- People v. 1998 Lexus GS 300, 402 Ill. App. 3d 462, 341 Ill. Dec. 372, 930 N.E.2d 582 (1st Dist. 2010)
- People v. 1996 Honda Accord, 404 Ill. App. 3d 174, 343 Ill. Dec. 928, 935 N.E.2d 1156 (2d Dist. 2010)
- Smith v. City of Chicago, 524 F.3d 834 (7th Cir. 2008)
- Alvarez v. Smith, 558 U.S. 87, 130 S. Ct. 576, 175 L. Ed. 2d 447 (2009)
- Bennis v. Michigan, 516 U.S. 442, 116 S. Ct. 994, 134 L. Ed. 2d 68 (1996)
- Van Oster v. Kansas, 272 U.S. 465, 47 S. Ct. 133, 71 L. Ed. 354 (1926)
- People v. Caballes, 221 Ill. 2d 282, 313-14, 851 N.E.2d 26 (2006)
- People ex rel. Birkett v. Konetski, 233 Ill. 2d 185, 200, 909 N.E.2d 783 (2009)
- People v. Johnson, 225 Ill. 2d 573, 584, 870 N.E.2d 415 (2007)
- People v. Boeckmann, 238 Ill. 2d 1, 6-7, 932 N.E.2d 998 (2010)

- Napleton v. Village of Hinsdale, 229 Ill. 2d 296, 305-06, 891 N.E.2d 839 (2008)
- People v. Madrigal, 241 Ill. 2d 463, 466, 948 N.E.2d 591 (2011)
- People v. 1998 Ford Explorer, 399 Ill. App. 3d 99, 104, 926 N.E.2d 999 (2d Dist. 2010)
- People v. \$1,124,905 U.S. Currency, 177 Ill. 2d 314, 340-41, 685 N.E.2d 1370 (1997)
- People v. Reed, 177 Ill. 2d 389, 393, 686 N.E.2d 584 (1997)
- City of Urbana v. Andrew N.B., 211 Ill. 2d 456, 477, 813 N.E.2d 132 (2004)
- DeSmet v. County of Rock Island, 219 Ill. 2d 497, 510, 848 N.E.2d 1030 (2006)
- United States v. Salerno, 481 U.S. 739, 751, 107 S. Ct. 2095, 95 L. Ed. 2d 697 (1987)
- Doe v. Reed, 561 U.S. 186, 130 S. Ct. 2811, 177 L. Ed. 2d 493 (2010)
- Citizens United v. Federal Election Commission, 558 U.S. 310, 130 S. Ct. 876, 175 L. Ed. 2d 753 (2010)
- Florida v. White, 526 U.S. 559, 565-66, 119 S. Ct. 1555, 143 L. Ed. 2d 748 (1999)
- Community Consolidated School District Number 210 v. Mini, 55 Ill. 2d 382, 386, 304 N.E.2d 75 (1973)
- People v. Ziobro, 242 Ill. 2d 34, 46, 949 N.E.2d 631 (2011)