SUPREME COURT OF MINNESOTA

# State of Minnesota v. Kristyn Nicole Schouweiler

887 N.W.2d 22 (Minn. 2016) · No. A15-1461 · Decided November 16, 2016

## SUMMARY

The Minnesota Supreme Court considered whether a dishonored check used to pay past-due property taxes qualified for the statutory exception for a check given for a past consideration. The court held that the exception applies to a check given for goods or services received in the past, even if some goods or services will be received in the future, and concluded that property taxes supported by previously provided government services fell within the exception. The court reversed the court of appeals and affirmed dismissal of the criminal complaint.

## CASE DETAILS

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| COURT | Supreme Court of Minnesota |
| WRITING FOR THE COURT | Chutich, J.; Gildea, C.J.; McKeig, J. |
| JURISDICTION | Minnesota |
| DECIDED | November 16, 2016 |
| DOCKET | A15-1461 |
| DISPOSITION | reversed |
| PROCEDURAL POSTURE | Schouweiler was charged with felony issuance of a dishonored check after a check for past-due property taxes was returned for insufficient funds. The district court dismissed the criminal complaint, the court of appeals reversed, and the Minnesota Supreme Court granted review. |
| STANDARD OF REVIEW | De novo review of the meaning of the statutory phrase "a check given for a past consideration." |
| PRECEDENTIAL VALUE | published precedential opinion |
| PARTIES | Kristyn Nicole Schouweiler v. State of Minnesota |

## TOPICS

statutory interpretation · plain meaning rule · criminal procedure · property tax · tax

## PRACTICE AREAS

criminal law · statutory interpretation · tax law

## QUESTIONS PRESENTED

1. Whether the phrase "a check given for a past consideration" in Minn. Stat. § 609.535, subd. 5, has its ordinary meaning or its technical contract-law meaning.
2. Whether a dishonored check issued to pay past-due property taxes qualifies as a check given for a past consideration because some government services funded by the taxes had already been provided.

## HOLDINGS

1. The statutory exception applies to any check given in payment for a good or service received in the past; the phrase has its common and ordinary meaning rather than its technical contract-law meaning.
2. A check issued for past-due property taxes qualifies as a check given for a past consideration when some government services funded by the property taxes had already been provided.

## KEY QUOTATIONS

> *"Accordingly, we hold that the exception for "a check given for a past consideration" in subdivision 5 refers to any check given in payment for a good or service that was received in the past."* (887 N.W.2d at 26)

> *"Because property taxes may be reasonably understood to support public services, and Schouweiler presumably received at least some of these services—fire and police protection or snow removal, for example —by the time she issued her check for the past year's property taxes, her check was given for a past consideration."* (887 N.W.2d at 31)

## FACTUAL BACKGROUND

In February 2015, Schouweiler issued a check for $1,969.07 to Wabasha County for past-due property taxes payable in 2014. The check was returned for insufficient funds, and Schouweiler failed to make a valid payment within five days after the county mailed notice. The charge was based on Minnesota's dishonored-check statute, but the district court concluded that the check fell within the statutory exception for a check given for a past consideration.

## PROCEDURAL HISTORY

Schouweiler issued a $1,969.07 check to the Wabasha County Auditor/Treasurer for past-due 2014 property taxes. The check was dishonored, and after Schouweiler failed to make a valid payment within five days of notice, she was charged under Minn. Stat. § 609.535, subd. 2. The district court dismissed the complaint under the statutory exception for a check given for a past consideration. The court of appeals reversed, and the supreme court reversed the court of appeals.

## DISPOSITION

reversed

## CASES CITED

- State v. Schouweiler, No. A15-1461, 2016 WL 102578, at *2-3 (Minn. Ct. App. Jan. 11, 2016)

- State v. Archambeau, 523 N.W.2d 150, 151-52 (Wis. Ct. App. 1994)
- Ekdahl v. Indep. Sch. Dist. No. 213, 851 N.W.2d 874, 876 (Minn. 2014)
- Christianson v. Henke, 831 N.W.2d 532, 536 (Minn. 2013)
- Staab v. Diocese of St. Cloud, 813 N.W.2d 68, 72 (Minn. 2012)
- State v. Rick, 835 N.W.2d 478, 484 (Minn. 2013)
- Jackson v. Mortg. Elec. Registration Sys., Inc., 770 N.W.2d 487, 496 (Minn. 2009)
- In re UnitedHealth Grp. Inc., 754 N.W.2d 544, 563 (Minn. 2008)
- Lamprey v. Lamprey, 29 Minn. 151, 155, 12 N.W. 514, 515 (1882)
- Schatz v. Interfaith Care Ctr., 811 N.W.2d 643, 651 (Minn. 2012)
- Weston v. McWilliams & Assocs., Inc., 716 N.W.2d 634, 639 (Minn. 2006)
- State v. Williams, 324 N.W.2d 154, 160 & n.4 (Minn. 1982)
- State v. Cox, 798 N.W.2d 517, 519 (Minn. 2011)
- State v. Roden, 384 N.W.2d 456, 457 (Minn. 1986)
- Wegener v. Comm'r of Revenue, 505 N.W.2d 612 (Minn. 1993)