

SUPREME COURT OF NEW HAMPSHIRE

In re Toyota Avalon

155 N.H. 720 (2007) · Decided July 19, 2007

SUMMARY

The New Hampshire Supreme Court affirmed the forfeiture of the defendant’s Toyota Avalon under RSA 318-B:17-b after the vehicle was used in connection with drug trafficking. The court held that referral of the related criminal prosecution to federal authorities did not deprive the state court of jurisdiction, and that the forfeiture did not violate double jeopardy or the defendant’s federal plea agreement. The court also upheld the trial court’s determination that the forfeiture was not excessive in relation to the underlying offense.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Galway, J.; Broderick, C.J.; Dalianis, J.; Duggan, J.; Hicks, J.
JURISDICTION	New Hampshire
DECIDED	July 19, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Superior Court granting the State's petition for forfeiture of the defendant's Toyota Avalon under RSA 318-B:17-b.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. The trial court's forfeiture findings under RSA 318-B:17-b, IV(e), supported by the record, will not be overturned.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Dervon Benedict v. State of New Hampshire

TOPICS

- forfeiture
- statutory interpretation
- double jeopardy
- criminal procedure
- appellate procedure

PRACTICE AREAS

- civil forfeiture
- controlled substances
- statutory interpretation
- double jeopardy
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether RSA 318-B:17-b permitted the State to pursue forfeiture after referring the related criminal prosecution for federal prosecution.
2. Whether the forfeiture proceeding violated double jeopardy after the defendant pleaded guilty in federal court.
3. Whether the forfeiture violated the defendant's federal plea agreement.
4. Whether forfeiture of the Toyota Avalon was excessive in relation to the underlying offense.

HOLDINGS

1. RSA 318-B:17-b, IV(a) permits the State to file a forfeiture petition in the court having jurisdiction over related criminal proceedings that could be brought under RSA chapter 318-B; it does not require that the State actually prosecute the related offense or retain the prosecution after referring it to federal authorities.
2. Double jeopardy did not bar the State's civil forfeiture petition following the defendant's guilty plea in federal court because RSA 318-B:17-b is civil and nonpunitive.
3. The forfeiture action did not violate the defendant's plea agreement because the agreement was limited to the specified parties and expressly excluded civil or administrative consequences controlled by other governmental authorities.
4. The forfeiture was not excessive in relation to the underlying offense. The trial court properly determined that the vehicle was subject to forfeiture and that the forfeiture was not excessive based on the statutory factors and the record.

KEY QUOTATIONS

“When a statute’s language is plain and unambiguous, we need not look beyond it for further indication of legislative intent, and we will not consider what the legislature might have said or add language that the legislature did not see fit to include.” (155 N.H. at 722)

“Accordingly, we conclude that double jeopardy does not bar the State’s forfeiture petition following the defendant’s guilty plea in federal court.” (155 N.H. at 723)

FACTUAL BACKGROUND

Police learned through a confidential informant that Dervon Benedict would participate in a crack-cocaine transaction and observed him travel to the meeting in a Toyota Avalon. After his arrest, police found seventy-eight baggies containing 28.7 grams of crack cocaine. The State referred the criminal prosecution to federal authorities, where Benedict pleaded guilty, but it separately pursued forfeiture of the vehicle based on its use in drug trafficking and distribution.

PROCEDURAL HISTORY

The State filed a civil forfeiture petition while the defendant's drug prosecution was pending in Merrimack County. The Superior Court deemed the allegations admitted because the defendant's answer did not comply

with Superior Court Rule 133, held that the vehicle was subject to forfeiture, and found that forfeiture was not excessive in relation to the underlying offense. The defendant appealed after pleading guilty to a federal drug-distribution charge.

DISPOSITION

affirmed

CASES CITED

- Woodview Dev. Corp. v. Town of Pelham, 152 N.H. 114, 116 (2005)
- Hughes v. N.H. Div. of Aeronautics, 152 N.H. 30, 38-39 (2005)
- State v. McNally, 122 N.H. 892, 895 (1982)
- State v. Hogg, 118 N.H. 262, 266 (1978)
- In re 1994 Chevrolet Cavalier, 142 N.H. 705, 709 (1998)

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