

SUPREME COURT OF LOUISIANA

State v. 2002 Chevrolet Trail Blazer

104 So. 3d 394 (La. 2012) · Decided November 16, 2012

SUMMARY

The Louisiana Supreme Court held that a 2002 Chevrolet Trail Blazer was subject to civil forfeiture because the vehicle was used to conceal and transport cocaine, conduct falling within Louisiana's forfeiture statute. The court also held that the respondent's prior criminal acquittal did not preclude the subsequent civil forfeiture proceeding, which applied a lower preponderance-of-the-evidence standard.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Louisiana                                                                                                                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Per curiam                                                                                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | Louisiana                                                                                                                                                                                                                                                                                                                                                             |
| DECIDED               | November 16, 2012                                                                                                                                                                                                                                                                                                                                                     |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | The State appealed a Louisiana Fourth Circuit decision reversing a civil forfeiture judgment and ordering return of the vehicle. The Louisiana Supreme Court granted the writ, reversed the court of appeal, reinstated the district court's forfeiture judgment, and remanded for consideration of an assignment of error that the court of appeal had pretermitted. |
| STANDARD OF REVIEW    | Whether the evidence established by a preponderance that the vehicle was used or intended to be used to facilitate conduct giving rise to forfeiture; whether the criminal acquittal precluded civil forfeiture under the lower civil burden of proof.                                                                                                                |
| PRECEDENTIAL VALUE    | Published Louisiana Supreme Court opinion; precedential                                                                                                                                                                                                                                                                                                               |
| PARTIES               | State v. 2002 Chevrolet Trail Blazer                                                                                                                                                                                                                                                                                                                                  |

TOPICS

- remedies
- burden of proof
- evidence
- statutory interpretation
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the evidence established by a preponderance that the Chevrolet Trail Blazer was used or intended to be used to facilitate conduct giving rise to forfeiture under La. R.S. 40:2604(2)(b).
2. Whether the respondent's acquittal in the related criminal case precluded the State from obtaining civil forfeiture of the vehicle under the lower preponderance-of-the-evidence standard.

## HOLDINGS

1. The evidence was sufficient to establish by a preponderance that respondent used the Trail Blazer to conceal and transport cocaine in his possession, and that this use fell within the broad scope of La. R.S. 40:2604(2)(b).
2. The criminal acquittal did not preclude the State from obtaining civil forfeiture because the forfeiture proceeding applied a less rigorous burden of proof.

## KEY QUOTATIONS

*“Proof is sufficient to constitute a preponderance when the entirety of the evidence, both direct and circumstantial, shows the fact sought to be proved is more probable than not.” (396)*

*“Moreover, defendant’s acquittal in the criminal case did not preclude the state’s subsequent forfeiture of the vehicle under a different and less rigorous standard of proof.” (396)*

## FACTUAL BACKGROUND

During a traffic stop, police recovered a plastic bag containing crack cocaine from the fuse-box area of the respondent's Chevrolet Trail Blazer. Before the stop, Detective Todd Durel had observed respondent conduct a hand-to-hand exchange and then drive away; after a drug-detection dog alerted on the vehicle, officers recovered what Durel identified as the same bag he had seen respondent remove from his pocket. The criminal possession case ended in acquittal, but the civil forfeiture hearing produced testimony supporting an inference that respondent hid and transported the cocaine in the vehicle.

## PROCEDURAL HISTORY

After police recovered crack cocaine hidden in the vehicle, the State instituted criminal possession proceedings and in rem civil forfeiture proceedings. The criminal case ended in acquittal, but the Orleans Parish Criminal District Court magistrate judge ordered the vehicle forfeited after finding that the State established grounds for forfeiture. The Fourth Circuit reversed, concluding that the State had not shown that the vehicle facilitated a narcotics sale and treating the acquittal as further support for reversal. The Louisiana Supreme Court reversed and reinstated the forfeiture judgment, remanding to the court of appeal to address the remaining assignment of error.

## DISPOSITION

## REMAND INSTRUCTIONS

The court of appeal's decision is reversed, the district court's judgment of forfeiture is reinstated, and the case is remanded to the court of appeal to consider respondent's remaining assignment of error that was pretermitted on original hearing.

## CASES CITED

- Hanks v. Entergy Corp., 06-0477, p. 19 (La. 12/18/06), 944 So. 2d 564, 578
- State v. Major, 03-3522, p. 8 (La. 12/1/04), 888 So. 2d 798, 802
- One Lot Emerald Cut Stones and One Ring v. United States, 409 U.S. 232, 235, 93 S. Ct. 489, 492, 34 L. Ed. 2d 438 (1972)
- State v. Cotton, 00-0850, p. 7 (La. 1/29/01), 778 So. 2d 569, 575
- Dowling v. United States, 493 U.S. 342, 349, 110 S. Ct. 668, 672, 107 L. Ed. 2d 708 (1990)
- State v. 2002 Chevrolet Trail Blazer, 11-1088, p. 10 (La. App. 4 Cir. 4/25/12), 91 So. 3d 487, 492
- United States v. One 1976 Porsche 911S, etc., 670 F.2d 810, 812 (9th Cir. 1979)