

SUPREME COURT OF LOUISIANA

State v. Faggin

150 So. 3d 298 (La. 2014) · Decided October 24, 2014

SUMMARY

The Louisiana Supreme Court held that a defendant charged with possession of hydrocodone could not quash the prosecution under Louisiana Code of Criminal Procedure article 532(10) based on another person's valid prescription. The defendant's claim that she possessed the drugs as an agent for her live-in partner presented a merits defense for the fact finder at trial, rather than a proper ground for a motion to quash.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	October 24, 2014
DISPOSITION	reversed
PROCEDURAL POSTURE	The State sought review of a ruling quashing a prosecution for possession of hydrocodone. The Supreme Court granted the writ.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential
PARTIES	State v. Faggin

TOPICS

- criminal procedure
- statutory interpretation
- plain meaning rule

PRACTICE AREAS

- criminal procedure
- controlled substances

QUESTIONS PRESENTED

- Whether a defendant charged with possession of a controlled substance may quash the prosecution under Louisiana Code of Criminal Procedure article 532(10) by asserting that the substance was prescribed to another person for whom the defendant retrieved it.

2. Whether the defendant's assertion that she lacked possession because she acted as an agent for the prescription holder is a defense that may be resolved on a motion to quash or is instead a defense on the merits for the fact finder at trial.

HOLDINGS

1. A defendant charged with violating the Uniform Controlled Dangerous Substances Law may invoke Louisiana Code of Criminal Procedure article 532(10) only when the defendant personally has a valid prescription for the substance; a prescription held by another person does not provide a ground for quashing the prosecution.
2. A defendant's claim that she retrieved controlled substances for another person and therefore did not possess them for her own use is a defense on the merits for determination by the fact finder at trial, not a proper ground for a motion to quash.

KEY QUOTATIONS

“The motion to quash is essentially a mechanism by which to raise pre-trial pleas of defense, i. e. those matters which do not go to the merits of the charge.... While evidence may be adduced, such may not include a defense on the merits.” (150 So. 3d at 299)

“defendant’s statement that she was retrieving the controlled dangerous substance for [her partner], who was a member of her household and had a valid prescription for hydrocodone, is not a ground on which to assert a motion to quash under La.C.Cr.P. art. 532(1) [because] art. 532(10) requires the individual charged, ie., the defendant, to have a valid prescription.” (150 So. 3d at 300)

FACTUAL BACKGROUND

Faggin was charged with possession of hydrocodone. She asserted that she was retrieving the pills for her live-in partner, who held a valid prescription, rather than possessing them for her own use. The trial court quashed the prosecution, and the court of appeal affirmed.

PROCEDURAL HISTORY

The trial court granted the defendant's motion to quash the pending prosecution for possession of hydrocodone. The Louisiana Fourth Circuit affirmed that ruling in an unpublished decision. The Louisiana Supreme Court granted review and held that both lower courts erred.

DISPOSITION

reversed

CASES CITED

- State v. Perez, 464 So. 2d 737, 739 (La. 1985)
- State v. Faggin, 13-0617 (La. App. 4 Cir. Jan. 15, 2014)
- State v. Love, 947 So. 2d 161, 165-67 (La. App. 4 Cir. 2006)

OPINION

State v. Faggin

150 So. 3d 298

PER CURIAM.

PER CURIAM. |, Granted. The trial court erred in granting defendant's motion to quash her pending prosecution for possession of hydroco-done in violation of La.R.S. 40:967(0(2), and the court of appeal erred in affirming that ruling. State v. Faggin, 13-0617 (La. App. 4 Cir. 1/15/14), 2014 WL 529957 (Bagneris, Lombard, JJ., Lobrano, J. dissenting) (unpub'd). As a general rule, "[t]he motion to quash is essentially a mechanism by which to raise pre-trial pleas of defense, i. e. those matters which do not go to the merits of the charge.... While evidence may be adduced, such may not include a defense on the merits." State v. Perez, 464 So.2d 737, 739 (La.1985). The legislature has made an exception to that rule in La. C.Cr.P. art. 532(10), which provides as a general ground for a motion to quash that "[t]he individual charged with a violation of the Uniform Controlled Dangerous Substances Law has a valid prescription for that substance." An individual claiming possession of a valid prescription for any controlled substance in fact has a duty "to produce sufficient proof of a valid prescription to the appropriate prosecuting office" by way of, for | ;example, "the original prescription bottle with the defendant's name, the pharmacist's name, and prescription number," La.R.S. 40:991(A), and he or she must raise the defense before trial by way of a motion to quash. La.R.S. 40:991(C). In the present ease, defendant claims as a basis for quashing the prosecution not that the prescription for hydro-codone was in her name but that she was retrieving the pills on behalf of the holder of a valid prescription for the drugs whom she identified as her live-in partner. Although the arrest register and various bail forms filed into the record raise some question whether defendant and the prescription holder resided at the same address at the time of her arrest, we agree with Judge Lobrano in any event that "defendant's statement that she was retrieving the controlled dangerous substance for [her partner], who was a member of her household and had a valid prescription for hydrocodone, is not a ground on which to assert a motion to quash under La.C.Cr.P. art. 532(1) [because] art. 532(10) requires the individual charged, ie., the defendant, to have a valid prescription." Faggin, 13-0061 at *3 (Lobrano,- J., dissenting). Defendant's claim she lived with the holder of the prescription and acted as an agent for him in retrieving the pills on his behalf, and thus did not have possession of the pills for her own use when arrested, is in the nature of a defense on the merits for a fact finder at trial. Cf La.R.S. 37:1164(10) (For purposes of Louisiana's Pharmacy Practice Act, the term "dispense" "[m]eans the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient [and] necessarily includes a Itransfer of possession of a drug or device to the patient or the patient's agent.") (emphasis added); State v. Love, 06-0539, p. 6 (La.App. 4 Cir. 12/6/06), 947 So.2d 161, 165-67 ("Assuming that [defendant's sister] was telling the truth when she testified that

the defendant was in *300possession of the drugs solely to deliver them to her at her request because she had failed to take them with her when she moved a month before, it appears that the defendant did not commit the offense [possession of oxycodone] with which he was charged. However, the jury apparently rejected the testimony of Ms. Love and thus the defendant's reasonable hypothesis of innocence."). JOHNSON, C.J., dissents.