

SUPREME COURT OF FLORIDA

Velez v. Miami-Dade County Police Department

934 So. 2d 1162 (Fla. 2006) · No. SC04-1944 · Decided June 22, 2006

SUMMARY

The Supreme Court of Florida held that a person in possession of property at the time of seizure has standing to participate in an adversarial preliminary hearing under the Florida Contraband Forfeiture Act without demonstrating a proprietary interest. The court quashed the Third District's contrary decision, approved conflicting Fourth District decisions, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Bell, J.; Pariente, C.J.; Wells, J.; Anstead, J.; Lewis, J.; Quince, J.; Cantero, J.
JURISDICTION	Florida
DECIDED	June 22, 2006
DOCKET	SC04-1944
DISPOSITION	quashed
PROCEDURAL POSTURE	Florida Supreme Court review of a certified conflict decision from the Third District Court of Appeal concerning whether a person who merely possessed seized property has standing to challenge probable cause at an adversarial preliminary forfeiture hearing.
STANDARD OF REVIEW	De novo review applies to interpretation of the Florida Contraband Forfeiture Act.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Florida; binding statewide precedent.
PARTIES	Walter Velez v. Miami-Dade County Police Department

TOPICS

- standing
- civil procedure
- statutory interpretation
- procedural due process
- remedies

PRACTICE AREAS

- civil procedure
- asset forfeiture
- statutory interpretation
- constitutional law

QUESTIONS PRESENTED

1. Whether a person who was merely in possession of property at the time of its seizure has standing to participate in an adversarial preliminary hearing under the Florida Contraband Forfeiture Act without demonstrating a proprietary interest in the property.
2. Whether the statutory distinction between a person entitled to notice of an adversarial preliminary hearing and a claimant in the subsequent forfeiture proceeding permits broader standing at the preliminary hearing.

HOLDINGS

1. Under the Florida Contraband Forfeiture Act, a person in possession of property subject to forfeiture at the time of seizure has standing to participate in the adversarial preliminary hearing and challenge probable cause without showing a proprietary interest in the property.
2. The Forfeiture Act must be interpreted according to its plain meaning and in a manner that gives effect to all statutory provisions; because forfeiture statutes are strictly construed, a person entitled to notice cannot be required to establish claimant status merely to participate in the preliminary hearing.

KEY QUOTATIONS

“the Legislature intended to include those merely in possession of the property at the time of seizure within the class of persons entitled to contest the seizure at the adversarial preliminary hearing.” (1164-65)

“Accordingly, we conclude that under the Forfeiture Act a person in possession of the property subject to forfeiture at the time of the seizure has standing at an adversarial preliminary hearing to challenge probable cause for the seizure and is not required to also show a proprietary interest in the property.” (1167)

FACTUAL BACKGROUND

A Miami-Dade police officer stopped Velez for a traffic infraction and searched a suitcase in the vehicle after Velez consented. The suitcase contained \$489,880 in currency, which Velez said did not belong to him but had been given to him by an unknown person. Velez requested an adversarial preliminary hearing fifteen days after the seizure, but the trial court denied him standing because he had not demonstrated a proprietary interest in the currency.

PROCEDURAL HISTORY

After Velez requested an adversarial preliminary hearing under section 932.703(2)(a), the trial court denied him standing because he had not shown a possessory or ownership interest and found probable cause based on the sworn complaint. The Third District affirmed, relying on *Vasquez v. State*, and certified conflict with Fourth District decisions holding that a person entitled to notice need not demonstrate a proprietary interest. The Florida Supreme Court accepted review, quashed the Third District's decision, approved the Fourth District decisions, and remanded.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The decision of the Third District Court of Appeal is quashed, and the case is remanded to that court for proceedings consistent with the Florida Supreme Court's opinion.

CASES CITED

- Velez v. Miami-Dade County Police Department, 881 So. 2d 1190, 1192 (Fla. 3d DCA 2004)
- City of Fort Lauderdale v. Baruch, 718 So. 2d 843, 846 (Fla. 4th DCA 1998)
- Jean-Louis v. Forfeiture of \$203,595.00 in U.S. Currency, 767 So. 2d 595, 598 (Fla. 4th DCA 2000)
- Vasquez v. State, 777 So. 2d 1200, 1202 (Fla. 3d DCA 2001)
- B.Y. v. Department of Children & Families, 887 So. 2d 1253, 1255 (Fla. 2004)
- Fla. Dep't of Revenue v. New Sea Escape Cruises, Ltd., 894 So. 2d 954, 960 (Fla. 2005)
- A.R. Douglass, Inc. v. McRaney, 102 Fla. 1141, 137 So. 157, 159 (1931)
- McLaughlin v. State, 721 So. 2d 1170, 1172 (Fla. 1998)
- Holly v. Auld, 450 So. 2d 217, 219 (Fla. 1984)
- Forsythe v. Longboat Key Beach Erosion Control District, 604 So. 2d 452, 455-56 (Fla. 1992)
- Unruh v. State, 669 So. 2d 242, 245 (Fla. 1996)
- Department of Law Enforcement v. Real Property, 588 So. 2d 957, 961, 966 (Fla. 1991)
- DeGregorio v. Balkwill, 853 So. 2d 371, 373 (Fla. 2003)