DWI Vehicle Forfeiture Found Constitutional

By Michael J. McNamara

On October 16, 2003 the Minnesota Supreme Court unanimously ruled that vehicle forfeiture following a second gross misdemeanor conviction for driving while impaired (DWI) was constitutional against a challenge of "excessive punishment" under either the Minnesota Constitution or the United States Constitution where the second offense was based upon two "aggravating factors". Debra Jane Miller v. One 2001 Pontiac Aztek, #GHS-186, VIN: 3G7DA03E41S500032, 669 N.W.2d 893 (Minn. 2003). By its ruling, the Supreme Court affirmed the validity of Minn. Stat. §169A.25, subd. 1 (2000).

The "aggravating factors" in the Miller case were a second DWI conviction within a 10-year period, and a blood alcohol concentration ("BAC") greater than 0.20. Because the second DWI conviction had at least two aggravating factors, the conviction was a "first-degree" conviction under Minn. Stat. §169A.25, subd. 1, which in turn resulted in the offense being a "designated offense" under Minn. Stat. §169A.63, subd. (1)d(1) (2000), subjecting the vehicle to forfeiture under Minn. Stat. §169A.63, subd. 2 (2000).

By upholding the constitutionality of the vehicle forfeiture statute, the Minnesota Supreme Court also implicitly rejected the defense (and a trial court finding) that extreme financial hardship converts vehicle forfeiture into an unconstitutional "excessive fine" under the Excessive Fines Clauses of either the United States Constitution [1] or the Minnesota Constitution. [2] Specifically, the Court stated "without specifically deciding the extent that harshness can be measured by a defendant's unique financial situation, we conclude on the record before us that the district court abused its discretion in finding that a forfeiture of more than $1,000 was a violation of the United States or Minnesota Constitutions." The Court then went on to apply the "gross disproportionality" standard from Solem v. Helm, 463 U.S. 277 (1983) and United States v. Bajakjian, 524 U.S. 321 (1998), and the three-part test enunciated in *Solem,* and the "sufficient nexus" test enunciated in Riley v. 1987 Station Wagon, 650 N.W.2d 441(Minn. 2002), concluding that the forfeiture was constitutional.

Conclusion: When a defendant who has been unemployed for almost one and one-half years, who has no current employment, and who persuaded a trial court judge that loss of anything more than $1,000.00 would constitute an unconstitutional penalty still loses her vehicle under the forfeiture statute, there is no hope for any future DWI defendant faced with vehicle forfeiture.

**894 Syllabus by the Court*

Forfeiture of the vehicle in issue, pursuant to Minn. Stat. §169A.63 (2000), following a first-degree driving while impaired conviction, in violation of M!nn. Stat, § 169A.20 (2000), does not constitute an Excessive Punishment under the United States or Minnesota Constitutions.

Leonard Castro, Chief Fourth District Public Defender, .Barbara S. Isaacman, Assistant Hennepin County Public Defender, Minneapolis, MN, for Appellant.

Sandra Henkels Johnson, Associate Bloomington City Attorney, Bloomington, MN, for Respondent.

Heard, considered, and decided by the court en banc.

[1] US Constitution, Amendment Vlll.

[2] Minnesota Constitution, Article I, §5.