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State of Minnesota  
**In Supreme Court**

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Daniel Garcia-Mendoza,  
a/k/a Ricardo Cervantes-Perez,

*Appellant,*

v.

2003 Chevy Tahoe,  
VIN # 1GNEC13V23R143453  
Plate # 235JB; \$611.00 in U.S. Currency

*Respondent.*

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**REPLY BRIEF.**

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## LEGAL ISSUES ON APPEAL

- I. Whether the Court of Appeals erred in determining that the Fourth Amendment's Exclusionary Rule does not apply to civil forfeitures and affirming the district court's grant of summary judgment?

The Court of Appeals held: The exclusionary rule does not apply to civil forfeitures, thus the State was entitled to forfeit Appellant's property despite the fact that it was illegally obtained. Thus, the State were permitted to rely on statutory presumptions that the Property was subject to forfeiture, and summary judgment was proper.

The district court held: The district court did not address whether the exclusionary rule applied to civil forfeitures, although it did specifically hold that the stop and search of Appellant's vehicles was unlawful. However, the district court granted the State's motion for summary judgment.

## ARGUMENT

### I. THE PETITION FOR REVIEW WAS PROPERLY GRANTED BY THIS COURT.

The State raises several arguments in its brief (some for the first time) seeking to have this matter dismissed for various procedural reasons. For the reasons as stated below, this matter is properly before this Court and this issue needs to be addressed.

A point the State ignores is that Appellant's only basis for seeking review of the Court of Appeals' prior decision in this matter (which was already granted by this Court) is to address the holding that the Exclusionary Rule does not apply to Civil Forfeitures. [See Petition for Discretionary Review at p. 1]. This is an important issue that has never been addressed by this Court and our Court of Appeals has now made two (2) decisions on the issue that are in direct conflict with a decision of the United States Supreme Court. Thus, there is no reason why this Court cannot address that important issue in this case.

Although the State brought its own Petition for Discretionary Review, which was denied by this Court, it seems intent on continuing to seek review of those issues. Additionally, despite the fact that the State did not seek review of any other issues, it is essentially requesting this Court to review other portions of the Court of Appeals decision as well as the decision of the district court, which is improper.

A. Appellant Has Standing to Challenge Forfeiture.

The State argues that Appellant lacks standing to challenge the forfeiture *in this case* because of language in his Plea Agreement in United States District Court. This argument is without merit.

First, it is undisputed that at the time the Notice of Seizure and Intent to Forfeit was served on Appellant he was the owner of the vehicle and the money. Further, it is undisputed that at the time Appellant filed the Petition for Judicial Determination of Forfeiture that he was the owner of the vehicle and the money. Thus, he has standing to challenge Respondent's purported forfeiture.

In an interesting twist, the State is now asserting that the reason Appellant does not have standing is because the United States of America is now the owner of this Property. [Respondent's Brief at p. 11-15]. This is not only the first time the State has raised this argument, but it is a complete reversal of its prior position that the Plymouth Police Department should be the owners of the Property. [(Proposed) Order contained in Appellant's Brief and Appendix to Court of Appeals at A-1, previously filed with this Court].

If the State is correct that the United States of America is now the owner of this Property, then both the Hennepin County Attorney and the Plymouth Police Department lack standing to pursue forfeiture in this case. Standing requires that a party have a sufficient interest in the controversy to seek relief from the Court. State by Humphrey v. Philip Morris, Inc., 551 N.W.2d 490, 493 (Minn. 1996). The

State is conceding that it has *no* interest in the Property. If the State no longer has an interest in the Property, then it lacks standing to pursue its forfeiture.<sup>1</sup>

As properly determined by the Court of Appeals, the federal forfeiture statute (as referenced in the plea agreement) has no relevance in this matter because the State maintains jurisdiction. Garcia-Mendoza v. 2003 Chevy Tahoe, 2013 WL 6152304 \*3 (Minn.Ct.App.). “Under the rule of exclusive jurisdiction, if a federal and state court each has the power to proceed against the res, the court first assuming jurisdiction over the property may maintain and exercise that jurisdiction to the exclusion of the other.” Strange v. 1997 Jeep Cherokee, 597 N.W.2d 355, 357 (Minn.Ct.App. 1999) (quoting Penn Gen. Cas. Co. v. Pennsylvania, 294 U.S. 189, 195 (1935)) (other citations omitted). The State did not file a Petition for Review of the Court of Appeals’ decision on this issue so this Court need not consider it.

Respondent is trying to assert the rights of the United States of America into this case, which it cannot do. Indeed, since the United States of America is not a party to this action, this Court cannot determine what rights it has, if any, to the property.

What Respondent seems to be arguing is that this issue is now ‘moot’

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<sup>1</sup> This begs the question if the Hennepin County Attorney and the Plymouth Police Department are surrendering any claim to this property then why are they arguing for the rights of the United States of America? The United States of America had the ability to intervene in this matter long ago and did not to do so. If the State wants to take the position that the property belongs to the United States then it has the ability to rescind its attempt to forfeit the property.

because of the resolution of the Federal case. Appellant disagrees with this argument because the State maintains jurisdiction over this forfeiture matter, it has not been removed to Federal court, and the United States of America is not a party to this action.

However, even if this Court agrees with the State on that argument, this Court should not dismiss this matter as moot because the issue is "capable of repetition but likely to evade review." Kahn v. Griffin, 701 N.W.2d 815, 821 (Minn. 2005). "[T]he mootness doctrine is a flexible discretionary doctrine, not a mechanical rule that is invoked automatically whenever the underlying dispute between the particular parties is settled or otherwise resolved." State v. Rud, 359 N.W.2d 573, 576 (Minn. 1984).

As stated above, this Court has never reviewed this issue of whether the Exclusionary Rule applies to civil forfeitures. And, the Court of Appeals has now rendered two (2) decisions that are in direct conflict with the United States Supreme Court's interpretation of the Fourth Amendment. Thus, this issue is not moot. See Northwest Publications, Inc. v. Anderson, 259 N.W.2d 254, 257 (Minn. 1977) (the case was not moot because it was "capable of repetition, yet evading review") (quoting Pacific Terminal Co. v. I.C.C., 219 U.S. 498, 515 (1911)); see also Falgren v. State, Bd. of Teaching, 545 N.W.2d 901, 903 (Minn. 1996) (supreme court heard case involving revocation of teacher's license even after the teacher had died, because case involved "issue of public concern that is capable of

repetition, yet may evade review”).

For the reasons stated above, Appellant has standing in this case and the issue is not moot.

B. Respondent Lacks Standing to Assert Rights Pursuant to Plea Agreement in Federal Court.

Again, it cannot be disputed that neither the State of Minnesota, the Hennepin County Attorney nor the Plymouth Police Department were parties to the Plea Agreement in Federal Court. The only parties to that agreement are the United States of America, through the United States Attorney’s Office, and Appellant.

In Minnesota, principles of contract law are applied to determine the terms and enforcement of plea agreements. State v. Spraggins, 742 N.W.2d 1,4 (Minn.Ct.App. 2007); citing In re Ashman, 608 N.W.2d 853, 858 (Minn. 2000). Generally, one who is not a party to a contract has no rights under the contract. Caldas v. Affordable Granite & Stone, Inc., 820 N.W.2d 826, 832 (Minn. 2012); citing N. Nat’l Bank of Bemidji v. N. Minn. Nat’l Bank of Duluth, 244 Minn. 202, 208-09, 70 N.W.2d 118, 123 (Minn. 1955).

Since none of the local agencies that were previously seeking forfeiture of Appellant’s property were parties to the plea agreement, they have no rights under said contract. Indeed, the State concedes that it has no rights under the contract because it has taken the position that the property was forfeited to the United States of America. Since these forfeiting agencies have no rights under the plea

agreement and now have relinquished any claim to the property at issue in this forfeiture action, they lack standing to seek enforcement and/or interpretation of it.

What the State is implicitly requesting is a declaratory judgment as to what affect the plea agreement has to this forfeiture action, if any. Indeed, they are essentially asking this Court to determine that United States of America (who is not a party to this action) is the owner of this Property. However, the law of the State of Minnesota is very clear that a non-party to a contract lacks standing to seek a declaratory judgment pursuant to said contract. See Karnatcheva v. JP Mortgage Chase Bank, NA, 704 F.3d 545, 547 (8<sup>th</sup> Cir. 2013) (mortgagors cannot seek declaratory judgment because they are not parties nor beneficiaries to the agreements).

Further, even if the State did have standing, the plea agreement is not dispositive of Appellant's rights in this case. Since Appellant filed his Petition for Judicial Determination of Forfeiture prior to being indicted, the State of Minnesota maintained jurisdiction over this forfeiture matter. See Strange, 597 N.W.2d 355. Since the State of Minnesota has jurisdiction over this matter, State law applies.

Indeed, even if the plea agreement did have some bearing on this case, the forfeiture provision only relates to "the [Appellant's] violation." [Plea Agreement; Resp's Appdx. at R-9]. This is singular, not plural. In fact, the forfeiture provision in the plea agreement mentions "the [Appellant's] violation" twice, and both times it is singular.

As noted previously, that distinction means that Appellant agreed to forfeit the property, if any, associated with the charge stemming from the December 22, 2011, incident only.<sup>2</sup> The State has not presented any evidence that Appellant's property that it sought to forfeit in this case was derived from or used in connection with that matter. Again, since the State was not a party to this agreement, it lacks standing to seek enforcement and/or interpretation of it.

C. Federal Ruling on Suppression Motion is Not Relevant.

Although not raised in its summary judgment motion, the State continuously argues that the search and seizure issue was previously decided by the United States Magistrate Judge and that is somehow dispositive of this case. This is incorrect.

What the State fails to recognize is that “[u]nder the rule of exclusive jurisdiction, if a federal and state court each has the power to proceed against the res, the court first assuming jurisdiction over the property may maintain and exercise that jurisdiction to the exclusion of the other.” Strange, 597 N.W.2d at 357 (quoting Penn Gen. Cas. Co., 294 U.S. at 195).

Since it was the Plymouth Police Department that initiated this forfeiture, and since Appellant filed this Petition for Judicial Determination in State court,

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<sup>2</sup> In support of its argument that Appellant agreed to forfeit his property to the United States, it cites a provision of the Indictment, which states that any property shall be forfeited. [Respondent's Brief at 12]. Clearly the State was not a party to that document either. However, the Indictment is simply allegations, lists the charges Appellant was facing and potential consequences. It is not a contract. The plea agreement is a contract and only references Appellant's "violation" not violations.

then this case shall remain in State court absent an Order to remove. It is undisputed that the United States of American has not sought to intervene in this action, and neither the State nor the United States has sought to have this matter removed to Federal court.

Since this action is in State court then State law applies. Thus, the Minnesota Constitution (and this Court's interpretation of it), are controlling in this case. The decision of the United States Magistrate Judge did not address Article I, Section 10 of the Minnesota Constitution, it only analyzed the stop pursuant to the Fourth Amendment of the United States Constitution.

And, since this Court has a long history of giving more rights to individuals under the Minnesota Constitution than is provided by the United States Constitution, see State v. Askerooth, 681 N.W.2d 353, 363 (Minn. 2004); State v. Wiegand, 645 N.W.2d 125, 136 (Minn. 2002); Ascher v. Comm. of Pub. Safety, 519 N.W.2d 183, 186 (Minn. 1994); In re Welfare of E.D.J., 502 N.W.2d 779, 780, 783 (Minn. 1993), the decision of the United States Magistrate Judge is not dispositive of this issue.

Further, since Count IV was ultimately dismissed, there is a question as to whether that decision has any res judicata or collateral estoppel affects on this case. See Demers v. City of Minneapolis, 486 N.W.2d 828, 830 (Minn.Ct.App. 1992) (res judicata requires (1) a final adjudication on the merits, (2) a subsequent suit involving the same cause of action, and (3) identical parties or persons in privity with the original parties); Ellis v. Minneapolis Comm'n on Civil Rights,

319 N.W.2d 702, 704 (Minn. 1982) (in order for collateral estoppel to be applied the issue must be the same as that adjudicated in the prior action and it must have been *necessary and essential* to the resulting judgment in that action). For these reasons, the State's reliance on the decision of the United States Magistrate Judge is not dispositive of this case.

D. The State is Barred from Challenging District Court's Findings of Fact Because it Did Not Appeal Them.

The State argues for the first time on appeal that the district court made improper findings of fact on summary judgment. However, the State did not file a Notice of Related Appeal of these findings of fact to the Court of Appeals so they are now barred from doing so. Day Masonry v. Indep. Sch. Dist. 347, 781 N.W.2d 321, 332 (Minn. 2010); Minn.R.Civ.App.P., Rule 103.02, 106.

Indeed, the Court of Appeals already ruled that the State is barred from challenging the district court's findings of fact. [Order of Court of Appeals dated October 1, 2013 at p. 2-3, 7]. The State did not appeal the Court of Appeals Order and this Court clearly has not granted review of that decision. Thus, since this the State has never appealed the findings of the district court the State is barred from seeking review of them now.

E. The Improperly Seized Evidence was at Issue in the Prior Decisions.

In yet another apparent attempt to have this matter dismissed the State argues that the prior decisions were not based on the illegally obtained evidence. Both the district court and the Court of Appeals addressed Appellant's argument

that the evidence was obtained illegally, but held (for different reasons) that summary judgment was still appropriate.

Clearly, had the district court properly determined that the plea agreement in federal court had no bearing on this matter because State law applied (as the Court of Appeals later determined), then the evidence would have been suppressed. Had the evidence been suppressed, then the State would not have had an independent basis for seeking forfeiture.

Additionally, had the Court of Appeals ruled that the Exclusionary Rule did apply to civil forfeitures, then the illegally obtained evidence would have been suppressed. And, since the State would not have had an independent basis for seeking forfeiture, the district court's grant of summary judgment would have been reversed. For these reasons this issue is properly before this Court.

## **II. THE STATE CONCEDES THAT MINN.STAT. § 626.21, IS APPLICABLE TO CIVIL FORFEITURES.**

The State correctly concedes that Minn.Stat. § 626.21, is applicable to civil forfeitures and thus illegally obtained evidence must be excluded from civil forfeiture proceedings. [Respondent's Brief at p. 20-21]. Indeed, the State concedes that this statute provides even broader protections for individuals than the Exclusionary Rule. [Respondent's Brief at p. 20 fn. 8]. However, the State then argues that this Court should not consider this issue because it was not previously raised by Appellant.

Although Minn.Stat. § 626.21, was not specifically referenced by Appellant until his Petition for Discretionary Review to this Court, he has always argued that the evidence should be suppressed because it was obtained in violation of the law. And, since it was obtained illegally than it should be excluded from the forfeiture proceedings. Thus, Appellant has not waived application of this statute.

If this Court agrees with the State that Minn.Stat. § 626.21, is applicable to civil forfeitures and the illegally obtained evidence must be suppressed, then Appellant will concede that this Court does not need to address the constitutional questions at issue. State v. Bourke, 718 N.W.2d 922, 926 (Minn. 2006) (this Court will only address a constitutional question if another legal basis to decide a case does not exist).

**III. THE STATE IS BARRED FROM CHALLENGING THE FINDING THAT THE SEARCH AND SEIZURE WAS UNLAWFUL.**

As stated above, for the first time on appeal,<sup>3</sup> the State in Argument III.A of its brief is now arguing that the stop and subsequent seizure of Appellant's vehicle was lawful. The district court made a specific finding of fact that the search and seizure at issue in this was illegal. [Order Granting Summary Judgment at App's Appdx. A-2-3, 7].

It is undisputed that Respondent did not file a Notice of Related Appeal to the Court of Appeals. Indeed, the Court of Appeals specifically ruled that "Respondent [was] precluded from challenging the district court's ruling in the

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<sup>3</sup> Respondent did not raise this issue in its brief to the Court of Appeals. The State simply argued that the district court's grant of summary judgment was proper.

January 11, 2013 order that the stop and seizure of appellant's vehicle were unlawful because respondent did not file a notice of related appeal raising this issue." [Order from Court of Appeals dated October 1, 2013 at p. 3, previously filed with this Court].

Because the State has never previously raised this issue, since it was previously barred from raising said issue, and since this Court has not granted review of this issue, this argument should be disregarded by this Court.

**IV. THERE IS NOT A SUFFICIENT INDEPENDENT BASIS TO JUSTIFY THE FORFEITURE IF THE EVIDENCE OBTAINED AS A RESULT OF THE ILLEGAL SEARCH IS EXCLUDED.**

The State argues that this Court does not need to consider the constitutional issue because there is an independent basis to justify the forfeiture in this matter because of Appellant's plea in Federal court. This is incorrect.

Appellant concedes that he pled guilty in United States District Court to Count II of the Indictment which involved a charge relating only to an incident on December 22, 2011. [Plea Agreement; Resp's Appdx. at R-5]. Although the plea agreement does state that Appellant was engaging in the distribution of controlled substances over a period of time, it cannot be disputed that he was not charged with nor convicted of an ongoing criminal conspiracy.

Appellant was charged with four (4) separate incidents of distribution/possession of controlled substances, and he was only convicted of 1 of the incidents from December 22, 2011. Count IV, which dealt with the incident that served as Respondent's basis for seeking forfeiture of the property was

dismissed by the United States. Additionally, the State of Minnesota dismissed this charge as well.

Further, the State has never presented any evidence that Appellant made factual admissions that the vehicle and/or money at issue in this case was “used, or [was] intended for use,” in the possession and/or distribution of controlled substances on March 19, 2012. Minn.Stat. § 609.5311, subd. 2. Certainly the plea agreement is silent as to this specific issue.

Indeed, the Court of Appeals specifically noted that it is unclear from the record whether the quantities of methamphetamine referenced in the factual basis included the 225.90 grams recovered in the March 19 stop. Garcia-Mendoza, 2013 WL 6152304 \*2.

The fact of the matter is that the sole basis for the Plymouth Police Department initiating the administrative forfeiture in this matter was from the stop and search of Appellant’s vehicle on March 19, 2012. Appellant has never been convicted of anything regarding the incident involved on that date. And, as noted by the Court of Appeals, Respondent has not provided any evidence that Appellant’s plea included an admission to the contraband that was discovered as a result of the unlawful search and seizure.

Thus, the State’s argument on this issue is irrelevant.

V. **PLYMOUTH SEDAN HAS NEVER BEEN REVERSED BY THE UNITED STATES SUPREME COURT, THUS IT IS STILL APPLICABLE TO THIS CASE, AND THE FOURTH AMENDMENT APPLIES TO CIVIL FORFEITURE.**

Although the State initially seems to concede that the Fourth Amendment is applicable to civil forfeitures, it asks this Court to disregard the Fourth Amendment and not to extend the exclusionary rule to civil forfeiture proceedings because any marginal incremental benefit from applying it does not justify its application. [Respondent's Brief at p. 29]. This argument is simply without merit.

Then, Respondent goes on to essentially argue that One 1958 Plymouth Sedan v. Pennsylvania, 380 U.S. 693 (1965), is no longer good law and that this Court does not need to follow its application. As an initial point, it cannot be disputed that the United States Supreme Court has NOT overruled or reversed Plymouth Sedan. Since the United States Supreme Court (which is the only Court that can reverse its own decisions), has not done so, it is still good law and this Court is bound by its holding.

Indeed, the State references a decision of the Maryland Court of Special Appeals to support its argument that Plymouth Sedan may no longer be applicable to civil forfeitures. Baltimore v. 1995 Corvette, 706 A.2d 43 (Md.App. 1998). However, Respondent failed to mention that the Maryland Court of Appeals later reversed that decision because it was not appropriate for a State court to attempt to overrule a decision of the United States Supreme Court. 1995 Chevrolet v. Baltimore, 724 A.2d 680, 686 (Md. 1999).

Indeed, the Maryland Court of Appeals went on to recognize that Eleven of the Thirteen United States Circuit Court of Appeals, as well as thirty-four of the States have interpreted Plymouth Sedan to stand for the proposition that the Fourth Amendment's Exclusionary Rule applies to civil *in rem* forfeitures. 1995 Chevrolet, 724 A.2d at 684-85, fn. 5, 6. The forfeiture in this case is also a "civil in rem" forfeiture. Minn.Stat. § 609.531, subd. 6(a).

A minority of courts have attempted to distinguish Plymouth Sedan by fabricating a distinction between "quasi-criminal" proceedings, such as the one supposedly at issue in Plymouth Sedan, and purely civil forfeiture proceedings. See People v. \$241,600 U.S. Currency, 67 Cal. App. 4th 1100, 1113 (Cal. Ct. App. 1998); See also Ga. Code 16-3-49(g)(3); Ariz. Rev. Stat. 13-4310. E3d.

Similarly, in a concurrence, Judge Frank Easterbrook distinguished Plymouth Sedan, stating "[a]lthough [Plymouth Sedan] suppressed evidence in a forfeiture, Janis stated that this was because that forfeiture was intended as a criminal punishment. The forfeiture in our case is civil." United States v. Marocco, 578 F.3d 627, 642 (7th Cir. 2009) (Easterbrook, J., concurring).

This Court has already rejected such a distinction because it has a long history of holding that civil *in rem* forfeiture is a penalty, is disfavored and should be strictly construed. Torgelson v. Real Property known as 17138 880<sup>th</sup> Ave., Renville County, 749 N.W.2d 24, 26-27 (Minn. 2008); Jacobson v. \$55,900 in U.S. Currency, 728 N.W.2d 510, 521 (Minn. 2007); see also Austin v. United States, 509 U.S. 602, 621-22 (1993) (holding that forfeitures of real property

pursuant to federal law are fines that fall within the scope of the Excessive Fines Clause of the United States Constitution); Riley v. 1987 Station Wagon, 650 N.W.2d 441, 443 (Minn. 2002) (“[T]o the extent that the forfeiture law at issue here is, in part, “punishment” and, therefore, disfavored generally, we strictly construe its language and resolve any doubt in favor of the party challenging it.”).

This Court should also reject this false dichotomy between “quasi-criminal” and “civil” forfeitures as a false distinction. As stated previously, in Plymouth Sedan, the United States Supreme Court mentioned that the leading authority for the issue of search and seizure is Boyd v. United States, 116 U.S. 616 (1886), which was not a criminal matter. 380 U.S. at 696. The Supreme Court quoted Justice Bradley from the Boyd decision, “[w]e are also clearly of opinion that proceedings instituted for the purpose of declaring the forfeiture of a man's property by reason of offenses committed by him, though they may be civil in form, are in their nature criminal . . .” One 1958 Plymouth Sedan, 380 U.S. 697; quoting Boyd, 116 U.S. at 633-34.

Additionally, forfeiture statutes, including Minnesota's, are usually found in the state's criminal code, with the panoply of the state's crimes. Minnesota Statutes Chapter 609; See also Ariz. Rev. Stat. Ann. 13-4311, 13-4312; Tex. Crim. Proc. Code. 59.05. Minnesota's forfeiture statutes, in particular, are located in the theft section of the criminal code between identity theft and embezzlement of public funds. Minn.Stat. § 609.52-609.555. The fact that forfeiture statutes in

Minnesota are based on criminal offenses and are located in the criminal code, is an indication that even the Legislature identifies them as criminal in nature.

Further, law enforcement itself touts forfeiture as a way of taking the profit out of crime. That is why property is only forfeitable when it is associated with criminal activity. Indeed, the Supreme Court acknowledges that forfeiture is supposed “to confiscate property used in violation of the law, and to require disgorgement of the fruits of illegal conduct.” United States v. Ursery, 518 U.S. 267, 284 (1996).

Although forfeiture may have some incidental purposes such as restitution it is difficult to imagine what purpose forfeiture exists for if not to punish the property owner for committing a criminal act. Certainly using forfeiture as a tool to pad law enforcement budgets is a non-criminal purpose but it is unimaginable that the need to confiscate extra cash for law enforcement budgets is a sufficient reason to make forfeiture proceedings easier for law enforcement. Rather, the profit incentive should counsel in favor of applying the exclusionary rule to civil forfeiture proceedings in order to discourage law enforcement from conducting illegal searches solely for the purpose of raising funds for the department.

Thus, the distinction between “quasi criminal” and civil forfeiture is a false one because all forfeiture is criminal in nature. Accordingly, this Court should decline to distinguish Plymouth Sedan on the basis that it involved a “quasi-criminal” forfeiture and should adopt the majority rule and apply the exclusionary rule to all civil forfeiture proceedings in Minnesota.

Since the United States Supreme Court has not reversed Plymouth Sedan, the Fourth Amendment is applicable to civil forfeitures in this case because all forfeitures under Minnesota State law is pursuant to alleged criminal conduct.

**VI. THE ADDITIONAL PROTECTIONS AFFORDED BY THE MINNESOTA CONSTITUTION SHOULD BE EXTENDED TO CIVIL FORFEITURES.**

Again, the State concedes that the Exclusionary Rule is applicable to civil forfeitures. Additionally, the State requests this Court not to address this issue because Minn.Stat. § 626.21, provides a statutory exclusionary rule to civil forfeitures. However, the State argues that the additional protections afforded by this Court pursuant to Article I, Section of the Minnesota Constitution should not be extended to civil forfeitures.

This Court should find that the additional protections afforded under the Minnesota Constitution are applicable to civil forfeitures the same as they are in criminal prosecutions. There is no statutory or constitutional language to justify any other interpretation.

Again, the language of the Fourth Amendment to the United States Constitution and Article I, Section 10 of the Minnesota Constitution are identical. Further, neither provision limits the applicability solely to criminal cases. Indeed, other sections of the Minnesota Constitution such as Article I, Sections 5-7, do limit the applicability of those sections to criminal prosecutions only. Article I, Section 10 is silent as to this issue which means that the protections are afforded in all proceedings, both criminal and civil.

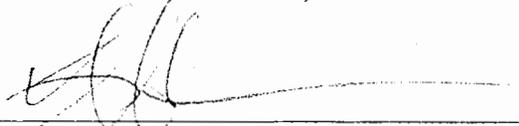
This Court has afforded some additional protections under the Minnesota Constitution then are protected by the Fourth Amendment. Since Article I, Section 10, is not limited only to criminal prosecutions, those protections are also applicable to civil forfeitures.

### CONCLUSION

For the reasons stated above, and as previously argued in Appellant's Brief, Appellant respectfully requests this Court reverse the Court of Appeals and hold that the Exclusionary Rule is applicable to civil forfeitures. And, since the State does not have an independent and untainted basis to seek forfeiture of Appellant's property in this case, Appellant respectfully requests this Court order the property returned to him.

Dated: April 11, 2014

**Anderson Law Firm, PLLC**



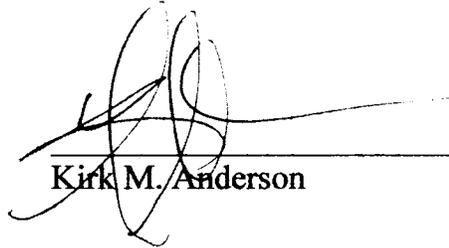
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**CERTIFICATION AS TO BRIEF LENGTH**

Pursuant to Minn.R.Civ.App.P., Rule 132.01, subd. 1 and 3, I, Kirk M. Anderson, do hereby certify that this Reply Brief was prepared using Microsoft Word with thirteen (13) point Times New Roman font, is nineteen (19) pages long, and there are 4,744 words contained in said brief, which includes footnotes.

Dated: April 11, 2014



Kirk M. Anderson

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April 14, 2014

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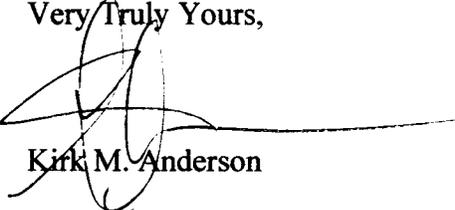
Re: Daniel Garcia-Mendoza v. 2003 Chevy Tahoe, et al.  
Court File No. A13-445

Dear Clerk:

Please find enclosed with this letter for filing, the following:

1. Original and twelve (12) bound copies of Reply Brief;
2. Two (2) unbound copies of Reply Brief; and
3. Affidavit of Service.

Very Truly Yours,



Kirk M. Anderson

Cc: Hennepin County Attorney (via U.S. Mail)  
Max Keller, Minnesota Society for Criminal Justice (via U.S. Mail)  
Scott Hersey, Minnesota County Attorney's Association (via U.S. Mail)  
Teresa Nelson, American Civil Liberties Union of Minnesota (via U.S. Mail)  
Lee McGrath, Institute for Justice – Minnesota (via U.S. Mail)

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN )

**AFFIDAVIT OF SERVICE**

I, Kirk M. Anderson, after being duly sworn upon oath deposes and states that on April 14, 2014, he caused to be served two (2) copies of the **Reply Brief in Daniel Garcia-Mendoza v. 2003 Chevy Tahoe, et al.**, Court File No. A13-445 by sending true and correct copies of the same via U.S. Mail, first-class postage prepaid, to the following addresses:

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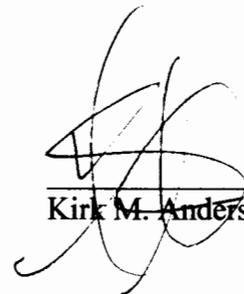
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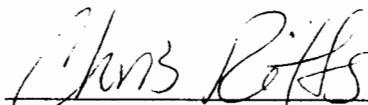
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Subscribed and sworn to before me  
this 14 day of April, 2014.

  
Kirk M. Anderson

  
Notary Public

