Grades: 9-12	**The Minnesota Supreme Court Traveling Oral Argument Program** **Champlin Park High School** **May 12, 2014** **Case Summary**	MINNESOTA JUDICIAL BRANCH MINNESOTA STATE BAR ASSOCIATION CIVIC EDUCATION COMMITTEE

Daniel Garcia-Mendoza v. 2003 Chevy Tahoe, VIN #1GNEC13V23R143453, Plate #235JBM, $611.00 in U.S. Currency

MN Supreme Court Argument – May 12, 2014 at Champlin Park High School

I. PARTIES

A. Appellant = Daniel Garcia-Mendoza

Note: Appellant also has used the name Ricardo Cervantes Perez

B. Respondent = 2003 Chevy Tahoe, VIN #1GNEC13V23R143453, Plate #235JBM, $611.00 in U.S. Currency

Question: How can a car or U.S. currency be the Respondent?

Answer: Because this case involves an "in rem" (A lawsuit against an item of property, not against a person.) proceeding related to who has the legal right to the property at issue. In this case, that is the 2003 Chevy Tahoe Appellant was driving when he was arrested plus the $611.00 he had in his possession at that time. The object of an "in rem" lawsuit is to determine the disposition of the property at issue, regardless of who the owner is or who else might have an interest in the property. Interested parties, such as the person who owned the property before it was seized and forfeited to the government, may appear in the matter. *See* the Key Terms and Concepts section below for more information about "in rem" actions.

C. Amici Curiae = American Civil Liberties Union of Minnesota, Institute For Justice and Minnesota Society of Criminal Justice

Amici = Plural for amicus. An "amicus curiae" is someone who is not a party to a case who offers information and arguments related to the case (typically through an amicus brief) as a means to introduce concerns addressing the possibly broad legal effects of a court decision. The phrase "amicus curiae" is Latin for "friend of the court."

In this case, all three of the amici curiae submitted briefs in support of Appellant's argument that the Minnesota Court of Appeals erred by not applying the constitutional exclusionary rule to civil forfeiture cases in Minnesota state court.

II. KEY TERMS AND CONCEPTS

- "Appellant" = A party in a legal proceeding who asks a higher court for a reversal of the decision of a lower court

- "Respondent" = The party in a legal proceeding who responds to an appeal brought by an appellant

- "Indictment" = A document used to charge criminal defendants in U.S. District Court after a grand jury has determined there is probable cause to believe that the defendant has committed the charged offense(s). In Minnesota, a grand juror is required to report for service one to three consecutive days each month for a term of twelve months.

- "In Rem" = The phrase "in rem" is Latin for "against or about a thing," referring to a lawsuit or other legal action directed toward property, rather than toward a particular person. Thus, if title to property is the issue, the action is "in rem." The term is important because the location of the property determines which court has jurisdiction. Enforcement of a judgment must be upon the property and does not follow a person. "In rem" is different from "in personam," which is directed toward a particular person.

- "Standard of Review" = The approach the reviewing court takes when reviewing the lower court's ruling. On appeal from a grant of summary judgment in a civil matter, the Minnesota Court of Appeals reviews the district court's decision "de novo," which means the Court of Appeals views the evidence in the light most favorable to the party against whom summary judgment was granted. This is done to determine (1) whether there are genuine issues of material fact and (2) if the district court erred in its application of the law, giving no deference to the district court's summary judgment decision. Similarly, the Minnesota Supreme Court reviews a Court of Appeals' affirmation of a district court's summary judgment order "de novo." The Minnesota Supreme Court also applies the "de novo" standard of review to issues of constitutional and statutory interpretation.

- "Summary Judgment" = A judgment entered by a court for one party and against another party summarily, *i.e.*, without a full trial. In civil matters in Minnesota state court, summary judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that either party is entitled to judgment as a matter of law." Minnesota Rule of Civil Procedure 56.03.

III. KEY STATUTES and CONSTITUTIONAL PROVISIONS

- Fourth Amendment to the U.S. Constitution

  The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but

upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized

- The Federal "Exclusionary Rule"

  A legal principle grounded in the Fourth Amendment to the U.S. Constitution, which holds that evidence collected or analyzed in violation of the defendant's constitutional right to be free from unreasonable searches and seizures is inadmissible to support a criminal prosecution of the defendant. The exclusionary rule is a judicially-created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect. The exclusionary rule also applies to violations of the Sixth Amendment to the U.S. Constitution, which guarantees the right to counsel.

- Article I, section 10 of the Minnesota Constitution

  The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized

- The Minnesota "Exclusionary Rule"

  Like the federal exclusionary rule, it is a legal principle that prohibits the use of evidence discovered as a result of a violation of Article I, section 10 of the Minnesota Constitution in a criminal prosecution

- 21 U.S.C. § 853(a)

  Any person convicted of a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law (1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; (2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and (3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 848 of this title, the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise. The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this subchapter or subchapter II of this chapter, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

- Minn. Stat. § 609.531, subd 6a(a)-(c)

  Forfeiture is a civil in rem action and is independent of any criminal prosecution.

- Minn. Stat. § 609.5314, subd. 1(a)(1)(i)

All money "found in proximity" to controlled substances is presumed to be subject to civil forfeiture

- Minn. Stat. § 609.5314, subd. 1(a)(2)

  All conveyance devices containing controlled substances with a retail value of $100 or more, if possession or sale of the controlled substance would be a felony, are presumed to be subject to civil forfeiture.

- Minn. Stat. § 609.5314, subd. 1(c)

  A claimant challenging a civil forfeiture bears the burden to rebut the presumption of civil forfeiture.

  "A claimant rebuts this presumption of forfeitability by producing evidence sufficient to justify a finding that (1) he or she owns the defendant property; and (2) the defendant property is not connected to drug trafficking." *Jacobson v. $55,900 is U.S. Currency*, 728 N.W.2d 510, 519 (Minn. 2007). If the claimant meets the burden to rebut the evidentiary presumption, "the prosecuting agency, in order to prevail, must meet its burden of persuasion by producing clear and convincing evidence that the defendant property is connected to drug trafficking."

- Minn. Stat. § 626.21

  A person aggrieved by an unlawful search and seizure may move the district court for the district in which the property was seized or the district court having jurisdiction of the substantive offense for the return of the property and to suppress the use, as evidence, of anything so obtained on the ground that (1) the property was illegally seized, or (2) the property was illegally seized without warrant….The judge shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored unless otherwise subject to lawful detention, and it shall not be admissible in evidence at any hearing or trial.

IV. KEY FACTS AND LEGAL ARGUMENTS

A. KEY FACTS

1. The Stop

- On March 19, 2012, at approximately 1:45 p.m., Appellant was stopped on I-94 just south of Highway 55 (Olson Memorial Highway) by Plymouth Police Officer Ryan Peterson while Appellant was driving a 2003 Chevy Tahoe with one passenger

- Officer Peterson, who was working with Robbinsdale Police Officer Casey Landherr, a member of the Northwest Drug Task Force at the time of the stop, claimed he stopped Appellant's vehicle because he believed Appellant may not have a valid driver's license

- Officer Peterson's belief that Appellant may be driving without a valid license was based on the following: (1) Officer Peterson observed the Tahoe pass him traveling 62-63 miles per hour in a 60-mile-per-hour zone, (2) neither Appellant nor his passenger looked at Officer Peterson when they drove past him, (3) Appellant had both hands on the steering wheel and was looking straight ahead, and (4) Officer Peterson ran a registration check on the license plate that identified a registered owner (Ricardo Cervantes Perez) who did not have a driver's license associated with that name (which Officer Peterson wrote in his report is a common occurrence when the driver does not possess a valid driver's license)

- Officer Peterson stopped the Tahoe and discovered that neither Appellant nor the passenger had a valid driver's license (Appellant produced a Mexican ID card identifying himself as Ricardo Cervantes Perez and admitted that he did not have a valid driver's license)

- While speaking with Appellant and observing his surroundings during the stop, Officer Peterson observed: (1) Appellant appeared to be nervous and breathing heavily when questioned, (2) the Tahoe was a clean looking vehicle with new oversized tires and rims, (3) there were several air fresheners in the Tahoe, (4) there was a single key in the ignition (not part of a keychain), and (5) there was a card with a reference to Santa Muerte on it inside the Tahoe

  Note: Santa Muerte (Our Lady of the Holy Death) is a female folk saint associated with healing, protection, and safe delivery to the afterlife by her devotees. The Santa Muerte cult is often associated with violence, criminality, and the illegal Mexican drug trade.

- Officer Peterson issued a citation to Appellant for driving without a license and decided to have the Tahoe towed because the passenger also did not have a valid driver's license and Officer Peterson did not want to leave the vehicle on the right shoulder of I-94

2. The Search and Arrest

- Robbinsdale Police Officer Landherr, a member of the Northwest Drug Task Force, searched the Tahoe before it was towed

- During the search, Officer Landherr found a plastic bag with 225.90 grams (just under one-half pound) of methamphetamine inside a Pringles potato chip can in a bag of clothes in the back seat

- Appellant was arrested and his Tahoe and $611.00 found in Appellant's possession were seized by the Plymouth Police Department

3. The Criminal Charges and Federal Plea Agreement

- On March 21, 2012, the State of Minnesota charged Appellant with first-degree possession of a controlled substance based on Appellant possessing more than 25 grams of methamphetamine on March 19, 2012

- On May 21, 2012, Appellant was indicted in U.S. District Court for the District of Minnesota and charged with the following counts: (1) knowing and intentional distribution and possession with an intent to distribute 50 grams or more of methamphetamine on November 3, 2011, (2) knowing and intentional distribution and possession with an intent to distribute 50 grams or more of methamphetamine on December 22, 2011, (3) knowing and intentional distribution and possession with an intent to distribute 5 grams or more of methamphetamine on February 1, 2012, and (4) possession with an intent to distribute 50 grams or more of methamphetamine on March 19, 2012

  Note: All of the facts supporting the federal indictment are not included in the record, but based on the indictment it appears that a federal criminal investigation uncovered that Appellant was involved in possessing and selling methamphetamine on multiple occasions between November 3, 2011 and March 19, 2012.

- On June 6, 2012, the State of Minnesota dismissed its charge of first-degree possession of a controlled substance based on Appellant possessing more than 25 grams of methamphetamine because Appellant's federal court indictment included a felony count based on the March 19, 2012 incident.

- On July 21, 2012, a U.S. Magistrate Judge determined that the March 19, 2012 traffic stop was lawful and recommended to the U.S. District Court Judge that Appellant's motion to suppress the evidence resulting from the search that occurred after the traffic stop be denied. The U.S. District Court Judge subsequently adopted the U.S. Magistrate Judge's recommendation.

- On August 8, 2012, Appellant pled guilty to Count II of the federal indictment (related to Appellant knowingly and intentionally distributing and possessing with an intent to distribute 50 grams or more of methamphetamine on December 22, 2011).

- As part of this plea agreement, the remaining charges included in the federal indictment were dismissed

- Appellant's plea agreement included a factual basis for the guilty plea, stating that Appellant distributed approximately 180 grams of methamphetamine from November 3, 2011 to March 19, 2012, that Appellant possessed with the intent to distribute an additional 162 grams of methamphetamine during that same time period, and that Appellant was responsible for distributing and possessing with an intent to distribute between 150 and 500 grams of methamphetamine.

- Appellant's federal plea agreement also included the following language:

  Pursuant to 21 U.S.C. § 853(a), the Defendant agrees to forfeit any and all property constituting, or derived from, any proceeds the Defendant obtained, directly or indirectly, as the result of the Defendant's violation, as well as any and all of Defendant's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the Defendant's violation.

4. The Forfeiture Proceeding

- The same day as Appellant's vehicle was stopped and he was arrested (March 19, 2012), the Plymouth Police Department served Appellant with a Notice of Seizure and Intent to Forfeit Property pursuant to Minn. Stat. § 609.5314, subd. 3

- The Notice of Seizure and Intent to Forfeit Property informed Appellant that forfeiture of the Tahoe and $611.00 would be automatic unless within 60 days of Appellant's receipt of the notice he demanded a judicial determination of the forfeiture matter.

- On May 7, 2012, Appellant filed a petition for judicial determination of forfeiture pursuant to Minn. Stat. § 609.5314, subd. 3.

- On November 15, 2012, Hennepin County brought a motion for summary judgment in the state forfeiture action, arguing that the Tahoe and $611.00 should be deemed forfeited because Appellant pled guilty in U.S. District Court.

- On January 11, 2013, Hennepin County District Court Judge Sipkins determined: (1) "there was neither a reasonable or articulable suspicion for the [March 19] stop, nor a legitimate basis for the expansion of it" and "[b]ased on the blatant disregard for any Police Department policies and, more importantly, complete disregard for the laws of the United States, including the Fourth Amendment to the United States Constitution, this Court would have suppressed any evidence obtained in violation of fundamental rights including the bad allegedly containing methamphetamine," but (2) that Hennepin County was entitled to summary judgment because "irrespective of the legality of the stop and search," the only issue was "whether genuine issues of material fact exist as to whether the property is subject to forfeiture pursuant to the please agreement and applicable statutes" and "no issues of material fact exist as to whether the subject property is subject to forfeiture."

- Appellant asked Judge Sipkins to reconsider his Order, which Judge Sipkins denied.

- Appellant appealed to the Minnesota Court of Appeals.

- The Minnesota Court of Appeals affirmed the district court's grant of summary judgment on November 25, 2013.

- Appellant asked the Minnesota Supreme Court to review the Minnesota Court of Appeals' decision, and the Minnesota Supreme Court granted this request.

B. APPELLANT'S LEGAL ARGUMENTS

- The Court of Appeals erred in determining that the constitutional exclusionary rule does not apply to civil forfeitures

- Relying on the U.S. Supreme Court's decision in *One 1958 Plymouth Sedan v. Pennsylvania*, 380 U.S. 693 (1965) and federal cases since 1965 that have followed One 1958 Plymouth Sedan, Appellant argues that for nearly 50 years the United States Supreme Court has held that the Fourth Amendment's exclusionary rule applies to civil forfeitures.

    - In *Plymouth Sedan*, Pennsylvania police stopped a car for riding "low in the rear," conducted a warrantless search of the car, and discovered illegal liquor. Based on the presence of the illegal liquor, the state initiated forfeiture proceedings against the car. The state district court concluded that the search lacked probable cause and therefore violated the Fourth Amendment, and dismissed the forfeiture proceeding on that basis. The Pennsylvania Supreme Court rejected the district court's application of the Fourth Amendment's exclusionary rule to the civil forfeiture proceeding. The U.S. Supreme Court reversed, concluding that a forfeiture proceeding is quasi-criminal in nature and holding: "the constitutional exclusionary rule does apply to [civil] forfeiture proceedings."

- Appellant recognizes that the Minnesota Supreme Court has never addressed whether Article 1, Section 10 of the Minnesota Constitution applies to civil forfeiture, but argues that it should conclude that the exclusionary rule based on Minnesota's state constitution should extend to civil forfeitures because: (1) the Minnesota Supreme Court has a long history of giving the same or more rights to individuals under the Minnesota Constitution than is provided under the U.S. Constitution, and (2) the Minnesota Supreme Court has a long history of recognizing civil forfeitures as being quasi-criminal in nature and disfavoring such forfeitures.

- Appellant argues that the Minnesota Court of Appeals erred by relying on its decision in *Rife v. One 1987 Chevrolet Cavalier*, 485 N.W.2d 318, 322 (Minn. App. 1992), review denied (Minn. June 30, 1992), and that in any event the Minnesota Supreme Court is not bound by the Court of Appeals' decision in *Rife* (which Appellant asserts was wrongly decided).

    - In *Rife*, police seized a vehicle in connection with a drug investigation and the state initiated administrative forfeiture proceedings. Among other defenses, the car's

owner asserted that the warrant underlying the search that led to the seizure of the vehicle was unlawful because it was unsigned, and that the civil forfeiture must therefore fail. The Minnesota Court of Appeals rejected this argument, concluding that "forfeiture is a civil proceeding, and there is no exclusionary rule whereby an unlawful seizure impairs the state's ability to demonstrate its case."

- Appellant argues that under Minn. Stat. § 626.21 (see Key Statutes and Constitution Provisions section above) any evidence obtained unlawfully "shall" be excluded from any hearing or trial, including any civil forfeiture proceeding.

- Applying these arguments to the facts of this case, Appellant asserts that if the U.S. and Minnesota constitutional exclusionary rules apply, then Hennepin County does not have an independent and untainted basis to seek forfeiture of his 2003 Chevy Tahoe or $611.00 because the evidence used to support his criminal conviction was obtained illegally,

C. RESPONDENT'S LEGAL ARGUMENTS

- Respondent argues that Appellant's petition for review should not have been granted by the Minnesota Supreme Court (and therefore the Minnesota Supreme Court should not consider whether the constitutional exclusionary rule should apply to civil forfeitures) because:

  - Appellant lacks standing to pursue the return of the Tahoe or $611.00

    - Respondent asserts that Appellant lost the ability to challenge the forfeiture when he pled guilty to Count II of the federal indictment because by doing so Appellant forfeited all right, title, and interest in the seized property to the U.S. government, which has the authority under federal law to transfer the seized property to the Plymouth Police Department.

  - The application of the exclusionary rule under the U.S. or Minnesota Constitution is not properly before the Minnesota Supreme Court because the stop, search, and seizure were found lawful in the federal criminal case before Appellant pled guilty to Count II in the federal indictment.

    - Respondent argues that the U.S. District Court judge's decision that the March 19, 2012, traffic stop was lawful barred Appellant from re-litigating the issue before the Hennepin County court judge in connection with Hennepin County's motion for summary judgment in the civil forfeiture proceeding.

  - The Hennepin County District Court judge erred when it made decisions of material disputed fact related to Appellant's stop, search, and seizure when deciding Hennepin County's summary judgment motion concerning the civil forfeiture.

    - Respondent argues that the Hennepin County District Court judge acted inappropriately by making findings about the stop, search, and seizure on March 19, 2012, because the only relevant legal issue for the court to consider was whether there was sufficient uncontested evidence to grant Hennepin County's motion for summary judgment in the civil forfeiture proceeding.

- Neither the state district court ruling, nor the Court of Appeals' decision, were based on the admission of improperly seized evidence.
    - Respondent asserts that the application of the constitutional exclusionary rule has never been an issue in this case because Appellant never argued that there were any genuine issues of material fact as to whether the seized property – the Tahoe and $611.00 – fell within the scope of 21 U.S.C. § 853(a).

- Respondent also argues that if the Minnesota Supreme Court considers the merits of Appellant's arguments, then it need not decide whether the constitutional exclusionary rule should apply to civil forfeitures because:
    - Minn. Stat. § 626.21 provides a person who has been aggrieved by an improper search or seizure the process by which such person can recover the unlawfully seized property without application of the constitutional exclusionary rule.
        - Respondent asserts that Appellant had a right to seek return of his seized property under this statute, but he waived this right by giving up all ownership interest in the property when he pled guilty in federal court and by not raising it before the district court or the Court of Appeals.
    - Sufficient admissible evidence exists to support forfeiture under Minn. Stat. § 609.5314 (based on the Tahoe and money being found in proximity to a controlled substance).
        - Respondent argues that the police had reasonable cause to stop Appellant, the search of his vehicle was supported both by probable cause and as a permissible inventory search incident to impoundment, and Appellant's admissions as part of his guilty plea in federal court provided an evidentiary presumption for forfeiture.
    - Extending application of the constitutional exclusionary rule to this civil in rem forfeiture action will not advance the deterrent value of the rule beyond its application in criminal prosecutions
        - Respondent asserts that the U.S. Supreme Court has consistently declined to extend the constitutional exclusionary rule to civil proceedings since *Plymouth Sedan*.
        - Respondent also argues that the minimal deterrent value from applying the constitutional exclusionary rule in civil in rem forfeitures does not justify its application to civil forfeiture actions.

- The Minnesota Supreme Court need not expand the protection of the Minnesota Constitution beyond those provided by the U.S. Constitution.
    - Respondent asserts that the statutory exclusionary rule under Minn. Stat. § 626.21 adequately protects against unlawful forfeitures and there is no reason to interpret the Minnesota Constitution to provide for rights that Respondent claims are beyond those provided under the federal exclusionary rule.