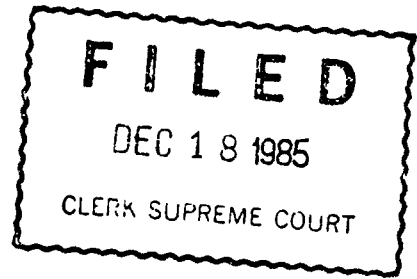


IN THE COURT OF APPEALS OF IOWA



STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed December 18, 1985
vs.	)	
ONE CERTAIN AUTOMOBILE,	)	<u>5-472</u>
Defendant-Appellant.	)	85-56

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Appeal from the Iowa District Court for Shelby County, Paul H. Sulhoff, Judge.

Appeal is made from a judgment of forfeiture of the automobile.
AFFIRMED.

Barry V. Voss and Ken Sojka of Buckley & Sojka Law Offices, Minneapolis, for defendant-appellant.

Thomas J. Miller, Attorney General; David L. Dorff, Assistant Attorney General; and Daniel J. Murtaugh, County Attorney, for plaintiff-appellee.

Considered by Oxberger, C.J., Donielson, and Sackett, JJ.

OXBERGER, C.J.

This appeal is brought in an attempt to reverse the trial court's order that the automobile in question be forfeited to the State of Iowa. We affirm.

Timothy Ueland, the former owner of the vehicle, and Greg Klingehut pleaded guilty to charges of attempted burglary in the second degree and burglary in the second degree arising out of break-ins at two pharmacies in Harlan. Charges of possession with intent to deliver a controlled substance were dismissed. Ueland was arrested while fleeing from one of the pharmacies, where an alarm had been activated. Klingehut was arrested nearby at the wheel of a 1984 Corvette without license plates. When the car was searched, the following items were found: a glove matching a glove found in the vicinity of Ueland's arrest, three bottles containing one hundred tablets each of Dilaudid, a bottle containing one hundred morphine sulfate tablets, a bottle containing hydrochloride flakes, a small quantity of marijuana, and \$6000. The State sought forfeiture of the vehicle pursuant to statute.

The forfeiture statute provides:

A conveyance as defined in section 127.1 which is used in the unlawful transportation or distribution of a controlled substance is subject to seizure and forfeiture under this chapter in the same manner as if the conveyance is used in the unlawful transportation of intoxicating liquor.

Iowa Code § 127.24 (1984). The appellant relies on section 127.12 of the Code which indicates that forfeiture is allowed when: (1) a quantity of liquor is transported in large enough amounts so that it may be presumed the transport was for the purpose of sale; (2) the transport was not incidental to the transport of persons or other property; and (3) one of the owners or lienholders knew or consented to transportation of the liquor. The appellant contends the state has not proven these element regarding the transportation of the drugs.

The court in this state has indicated that the section of the Code relied upon by appellant does not apply in this situation. Specifically, "The requirements of section 127.12 are not applicable to the forfeiture of a conveyance used to facilitate a violation of the Uniform Controlled Substances Act, Iowa Code chapter 204" and instead the basis for the forfeiture must be found in Iowa code section 204.505(1)(f). Matter of Property Seized on January 31, 1983, 362 N.W.2d 565, 569 (Iowa 1985). That section indicates the State must show: (1) the conveyance was used to facilitate a violation of Iowa Code chapter 204 and (2) the conveyance was used with the owner's knowledge of, or consent to, acts or omissions constituting a violation of chapter 204. Iowa Code § 204.505(1)(f)(1984).

Iowa Code section 204.401(1) prohibits the manufacture, delivery, or possession of a controlled substance with intent to manufacture or deliver it, and section 204.401(3) prohibits possession of controlled substances without a valid prescription or as otherwise authorized by the chapter.

In pleading guilty to the burglary charges, Ueland admitted he obtained drugs, including Dilaudid, morphine sulfate, and cocaine hydrochloride, all defined as scheduled II narcotics under the Uniform Controlled Substances Act. Iowa Code §§ 204.206(2)(a)(11), .206(2)(a)(13), .206(d)(1)(1984). The evidence by Ueland's own admission was sufficient to show violation of section 204.401(3) of the Code. The court found that the drugs were intended for sale. Although Ueland claims that the drugs were in an amount he and his cohort usually would consume within a matter of days, his statements were given little weight by the court since they were, at best, self-serving. The evidence showed that in addition to the large number of drugs, six thousand dollars was found in the car along with marijuana. We find the court's conclusion is supported by the evidence.

The appellant also claims the Ueland never gave permission for using his car to transport the drugs. The appellant says even if he is found to have given his consent, his wife is a co-owner of the automobile.

When Harlan police sergeant Brad McQueen arrived at the scene and arrested Klingelhut, Klingelhut told him that Ueland had been driving the conveyance, and that the drugs in the car belonged to Ueland. Ueland's participation in operating the conveyance was also shown by the presence of a glove in the car which matched that found near Ueland at the time of his arrest.

At the time the conveyance was seized, Ueland was not married to Jeannie Marie Stevens Ueland. No ownership interest on her part was ever established. Although she claims she contributed \$12,000 towards purchase of the vehicle, the court discounted her testimony as not credible. Her name does not appear in the documents of ownership, and title is in Ueland's name only.

We find substantial evidence in the record to support the trial court's conclusions and affirm its order that the automobile be forfeited.

AFFIRMED.