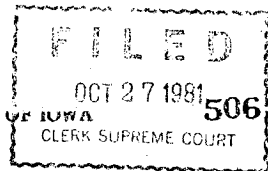


IN THE COURT OF APPEALS OF IOWA



STATE OF IOWA,	)	
	)	
Plaintiff-Appellant,	)	Filed October 27, 1981
vs.	)	
JOHN IVAN FRONING,	)	
	)	<u>1-244</u>
Defendant-Appellee.	)	65620

Appeal from Black Hawk District Court - William G. Klotzbach, Judge.

Plaintiff appeals from trial court's order dismissing charges against defendant for possession of a firearm by a convicted felon in violation of section 724.26, The Code 1979, asserting that trial court erred in dismissing the trial information against defendant based on the court's interpretation that the language of the executive order restoring to defendant "all rights" included the right to possess a firearm. REVERSED AND REMANDED.

Thomas J. Miller, Attorney General of Iowa, and Shirley Steffe, Assistant Attorney General, for plaintiff-appellant.

E. J. Gallagher, III, of Gallagher, Langlas & Gallagher, Waterloo, Iowa, for defendant-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Plaintiff, State of Iowa, appeals, as a matter of right, from trial court's order dismissing charges against defendant, John Ivan Eroning, for possession of a firearm by a convicted felon in violation of section 724.26, The Code 1979. The State asserts that trial court erred in dismissing the trial information against defendant based on the court's interpretation that the language of the executive order restoring to defendant "all rights" included the right to possess a firearm. We reverse trial court's ruling and remand this case for reinstatement of the charges against defendant.

Defendant was convicted of a third offense O.M.V.U.I. in 1976. His rights were restored by executive order on September 7, 1979. Defendant was arrested on July 6, 1980, and charged with violation of section 724.26 on July 17, 1980.

I. Scope of Review. Our review of the case is at law. Iowa R. App. P. 4.

II. Discussion. We find that State v. Hall, 301 N.W.2d 729 (Iowa 1981), is dispositive of this appeal. In Hall, the court said: "... Defendant, like every other felon, is bound by section 724.26 for possession of firearms after January 1, 1978 [the effective date of the statute]." Id. at 732. The court continued by stating:

The restoration of citizenship [as in the instant case] specifically disavowed any intent to grant a pardon or to operate as a "remission of guilt." ... We are convinced our statute was designed to include as offenders all felons who possess firearms after January 1, 1978, unless they come within the exception set out in section 724.27, The Code.

Id. at 733 (emphasis in original).

Section 724.27, The Code, provides as follows:

The provisions of ... 724.26 shall not apply to a person who is pardoned or has had his or her civil rights restored by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices.

Since defendant's circumstances meet neither exception to the operation of section 724.26, we conclude trial court erroneously dismissed the charges against defendant. We therefore reverse trial court's ruling and remand this case for reinstatement of charges against defendant.

REVERSED AND REMANDED.