

STATE OF MINNESOTA
COUNTY OF SCOTT

DISTRICT COURT
FIRST JUDICIAL DISTRICT

[REDACTED]

Plaintiff,

Court No.: [REDACTED]

vs.

One [REDACTED] Lexus MN
License Plate No. [REDACTED]
VIN: [REDACTED],

**ORDER GRANTING
SUMMARY JUDGMENT
*and judgment***

FILED

Defendant Vehicle.

MAY 24 2017

SCOTT COUNTY COURTS

INTRODUCTION

The above-entitled matter came on for a Hearing before the Honorable [REDACTED], Judge of District Court, on February 23, 2017, at the Scott County Government Center, Shakopee, Minnesota. Daniel Koewler, Esq. appeared on behalf of the Plaintiffs. [REDACTED] appeared on behalf of the State to represent its interest in the [REDACTED] Lexus, MN License Plate No. [REDACTED], VIN: [REDACTED].

The hearing was in response to the Plaintiff's Summary Judgment Motion filed October 14, 2016. Plaintiffs argue that summary judgment is appropriate because the forfeiture law is unconstitutional. Additionally, Plaintiff [REDACTED] argues that she is an innocent owner and therefore summary judgment should be granted in her favor as a matter of law. The Plaintiffs also sent notice to the Office of the Attorney General on October 14, 2016, indicating their intent to challenge the constitutionality of Minn. Stat. § 169A.63. The Office of the Attorney General has not filed or appeared in this case. The State filed a Response to the Plaintiff's Motion for Summary Judgment on November 29, 2016. At the February 23, 2017 Hearing, the parties argued their

respective positions regarding Plaintiff's Motion for Summary Judgment. Following the hearing, the Court immediately took the matter under advisement.

Based on all files, records, and proceedings, the Court makes the following:

FACTUAL BASIS

1. On August 16, 2015, Plaintiff [REDACTED] ("Plaintiff-Driver") was arrested for driving while under the influence of alcohol.
2. Plaintiff had three prior DWI convictions: September 18, 2006; September 29, 2009; and January 18, 2011.
3. Plaintiff-Driver was charged with two counts of Felony First Degree Driving While Impaired ("DWI") in violation of Minn. Stat. §§ 169A.20.1(1), 169A.20.1(5).
4. Because a First Degree DWI is a designated offense, the vehicle Plaintiff-Driver was driving at the time of her arrest, a [REDACTED] Lexus, MN License Plate No. [REDACTED], VIN: [REDACTED] (the "vehicle"), was seized by the Shakopee Police Department pursuant to Minn. Stat. § 169A.63.
5. Plaintiff-Driver was served a Notice of Seizure and Intent to Forfeit Vehicle-DWI at the time of the stop.
6. Plaintiff [REDACTED] [REDACTED] ("Plaintiff") is the registered owner of the vehicle.
7. Plaintiff was also served a Notice of Seizure and Intent to forfeit Vehicle-DWI pursuant to Minn. Stat. § 169A.63.
8. Plaintiff-Driver filed an Implied Consent Petition on September 14, 2015.
9. Plaintiffs filed a Demand for Judicial Determination of Motor Vehicle on October 7, 2015.

10. On May 16, 2016, Scott County District Court upheld Plaintiff-Driver's license revocation.
11. On October 12, 2016, Plaintiff-Driver pled guilty to First Degree DWI—Alcohol Concentration 0.08 within Two Hours of Driving in violation of Minn. Stat. § 169A.20.1(5).
12. On October 14, 2016, Plaintiffs moved for Summary Judgment on the forfeiture matter.
13. This matter was continued several times at the agreement of all involved as the parties awaited the conclusion of the underlying criminal action.
14. Plaintiff was adjudicated guilty of Felony First Degree DWI on February 13, 2017.
15. The Summary Judgment Hearing was held before the undersigned on February 23, 2017.

CONCLUSIONS OF LAW

I. Minnesota Statute Section 169A.63, subdivision 9(d) is Unconstitutional Because It Provides No Prompt Judicial Review Following the Pre-Hearing Deprivation of the Vehicle.¹

A. Background

The Plaintiffs argue that they are entitled to return of the vehicle in question because Minnesota Statute Section 169A.63, subd. 9(d) violates their right to due process, providing no prompt review following the pre-hearing deprivation. The Commissioner argues that the statute provides adequate hardship relief and post-deprivation hearing opportunities to safeguard due process. Because Minnesota Statute Section 169A.63, subd. 9(d) provides no prompt judicial review following the pre-hearing taking of a plaintiff's property interest in their vehicle and no

¹ Because the Court is granting summary judgment to the Plaintiff on the grounds that Minnesota Statute Section 169A.63 unconstitutionally infringes on a the Plaintiff's due process rights, the Court does not reach the other arguments put forth in Plaintiff's Summary Judgment motion, including other constitutional questions and whether Plaintiff [REDACTED] was an innocent owner.

meaningful hardship relief, the statute violates a citizen's right to due process and is therefore unconstitutional.

The party challenging a statute has the burden of demonstrating beyond a reasonable doubt a violation of some provision of the Minnesota Constitution. *See, Fedziuk v. Comm'r of Pub. Safety*, 696 N.W.2d 340, 344 (Minn. 2005); *In re Haggerty*, 448 N.W.2d 363, 364 (Minn. 1989). The judicial branch's power to declare a statute unconstitutional should be exercised with extreme caution and "only when absolutely necessary." *State v. Bennifield*, 678 N.W.2d 42, 45 (Minn. 2004); *Hamilton v. Comm'r of Pub. Safety*, 600 N.W.2d 720, 722 (Minn. 1999). If possible, courts should interpret a statute to uphold its constitutionality. *St. Paul Cos., Inc. v. Hatch*, 449 N.W.2d 130, 137 (Minn. 1989).

B. Consideration of the *Mathews* Factors

Both the United States and the Minnesota Constitutions provide that a person's life, liberty, and property will not be deprived by the government "without due process of law." U.S. Const. Amend. XIV, § 1; Minn. Const. Art. 1, § 7. In *Mathews v. Eldridge*, the United States Supreme Court established a three-part test for determining whether due process has been afforded when property has been taken prior to a hearing. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). A Court should carefully balance all three factors:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Id. In considering the weight given to the private interest, the Court should consider (1) the duration of the deprivation period; (2) the availability of hardship relief; and (3) the availability

[REDACTED]

of prompt post-revocation review. *Heddan v. Dirkswager*, 336 N.W.2d 54, 60 (Minn. 1983) (citing *Mackey v. Montryn*, 442 U.S. 1 (1979)).

i. Private Property Interest

For many persons, a vehicle is the most valuable property interest in their life, unless they own a home. It has both monetary value and utility as a method of transportation for work, leisure, and family. Additionally, the forfeiture of the vehicle is permanent. Any hardship relief available is illusory. While the owner may request possession of the vehicle before the forfeiture action has been determined, it will only be returned if the owner posts bond or security equal to the value of the vehicle *and* the state places a disabling device on the vehicle. Minn. Stat. 169A.63, subd. 4 (2016). Essentially, the owner has the right to determine where the car is parked.

Further, the availability of post-revocation review is anything but prompt. Judicial review should “be held at the earliest practicable date, and in any event no later than 180 days following the filing of demand by the claimant. If a related criminal proceeding is pending, the hearing shall not be held until the conclusion of the criminal proceedings.” *Id.* subd. 9(d). One hundred eighty days is not only substantially longer than other vehicle forfeiture post-deprivation hearing deadlines, it is, in most cases, a deceptive timeline if the forfeiture is related to a criminal matter. *See, e.g.* Minn. Stat. § 609.5312, subd. 3 (2016) (requiring that when a vehicle is seized for a prostitution offense without a judicial order, a hearing will be held within 96 *hours* of the seizure); *id.*, subd. 4 (requiring a post-deprivation hearing within 96 *hours* of seizure if a vehicle is seized for use in fleeing a peace officer). For an innocent owner, the fate of their vehicle is tied to another’s criminal case and they are afforded no control over the timing of the resolution. Criminal proceedings can continue for years; in the instant matter, the subject vehicle was seized in August, 2015 and this matter has been pending since. Finally, unlike *Fedziuk*, where the Court considered

[REDACTED]

whether an administrative could provide a prompt and meaningful review where a judicial review failed, there is no administrative review of vehicle forfeitures for alcohol-related driving offenses. *See Fedziuk*, 696 U.S. at 347; *see also* Minn. Stat. 169A.63, subd. 8 (2016).

ii. Potential Erroneous Deprivation and Procedural Safeguards

The State argues, “due process is satisfied because the forfeiture action is directly tied to the criminal proceeding, which affords a criminal defendant a finding of probable cause and the right to a speedy trial.” (State’s Response to Plaintiff’s Motion for Summary Judgment at *9). However, as discussed above, criminal proceedings can continue for years. While ““something less than an evidentiary hearing is sufficient prior to adverse administrative action,”” when there is no prompt post-deprivation review, more than a “reasonably reliable basis” stated by a government official is necessary to ensure a low risk of erroneous deprivation. *Mackey v. Montrym*, 443 U.S. 1, 13 (1979) (quoting *Dixon v. Love*, 431 U.S. 105, 113 (1977)). Additionally, a driver’s criminal case—and whether there is probable cause—has little bearing on whether an innocent owner has been erroneously deprived of her vehicle.

iii. Government’s Interest

The government has an obvious and significant interest in protecting the public from repeat drunk driving offenders. However, forfeiture is not the only protection available. Instead of forfeiture, the state could consider lengthier license revocations or license plate impoundment. The burdens of these alternatives would be minimal. The simplest solution for procedural safeguards? A prompter judicial review of the forfeiture. As discussed above, other vehicle forfeitures for different offenses already provide extremely prompt review following the deprivation. The effort of extending this review to driving under the influence offenses should be negligible.

[REDACTED]

C. Conclusion

The government's interest in keeping habitual drunk drivers off of the public road ways is clearly important. However, there is no compelling reason for this interest to necessitate the denial of a prompt post-deprivation hearing. The "fiscal and administrative burdens that the additional or substitute procedural requirement would entail" does not outweigh the importance of the private interest in the vehicle, the risk of permanent deprivation, lack of hardship relief, potential for erroneous deprivation of an innocent owner, illusory procedural safeguards, and essentially the unavailability of prompt review. *See Mathews*, 424 U.S. at 335. The Plaintiffs have met their burden of demonstrating beyond a reasonable doubt that Minnesota Statute Section 169A.63, subd. 9(d) violates the Minnesota Constitution. *See Fedziuk*, 696 N.W.2d at 344.

The failure of Minnesota Statute Section 169A.63, subd. 9(d) to provide Plaintiffs with prompt, meaningful review after a prehearing deprivation of the vehicle renders the statute unconstitutional as it violates Plaintiffs' rights to due process. Accordingly, the forfeiture should be denied and the vehicle returned the Plaintiffs.

ORDER

1. Minnesota Statute Section 169A.63, subd. 9(d) violates Plaintiffs' due process rights under the United States and Minnesota Constitutions.
2. The Plaintiff's Request for return of the [REDACTED] Lexus, MN License Plate No. [REDACTED], VIN: [REDACTED] is **GRANTED**.
3. The vehicle captioned above is not subject to forfeiture and shall be returned to Plaintiff promptly.
4. The City of Shakopee shall reimburse Plaintiff for the filing fees associated with

[REDACTED]

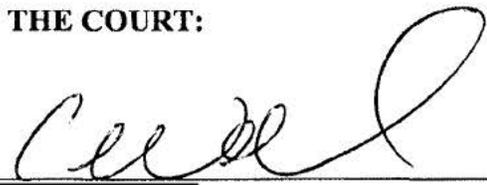
this matter pursuant to the mandatory requirement of Minnesota Statute Section 169A.63, subd. 9(h).

5. Plaintiff shall not be responsible for any storage fees.
6. Plaintiffs' request for attorneys' fees is **DENIED**.

LET JUDGMENT BE ENTERED FORTHWITH.

BY THE COURT:

Date: May 24, 2017

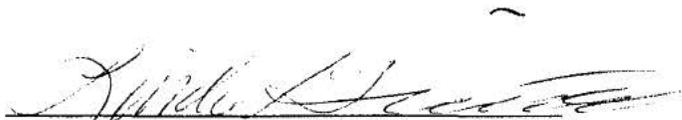


[REDACTED]
Judge of District Court

JUDGMENT

I hereby certify that the above Order for Judgment and Judgment does hereby constitute the Judgment of this Court.

Date: 5/24/17



Scott County Court Administrator