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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-574**

Dennis Joseph Pearson,
Appellant,

vs.

2005 Chev Aveo, KL1T06285B453209, 544 CTC, MN,
Respondent.

**Filed September 12, 2011
Affirmed
Wright, Judge**

Goodhue County District Court
File No. 25-CV-09-3094

Dennis Pearson, Eagan, Minnesota (pro se appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Stephen N. Betcher, Goodhue County Attorney, Elizabeth M.S. Breza, Assistant
Goodhue County Attorney, Red Wing, Minnesota (for respondent)

Considered and decided by Wright, Presiding Judge; Hudson, Judge; and Stauber,
Judge.

UNPUBLISHED OPINION

WRIGHT, Judge

Appellant challenges the civil forfeiture of his vehicle for impaired-driving offenses. He argues that the civil forfeiture statute, Minn. Stat. § 169A.63 (2010), is unconstitutional because it constitutes a bill of attainder and violates double jeopardy.

Appellant also argues that a prior lien holder did not receive proper notice of the forfeiture and that his alcohol concentration did not exceed the legal limit of .08. We affirm.

FACTS

On August 28, 2009, Goodhue County Sheriff's Deputy Thomas McGuire observed a vehicle traveling westbound in an eastbound lane of traffic. Deputy McGuire stopped the vehicle and identified the driver as appellant Dennis Joseph Pearson. Deputy McGuire detected the odor of an alcoholic beverage on Pearson's breath; and Pearson exhibited bloodshot, watery eyes and slurred speech. Pearson attempted and failed multiple field sobriety tests, exhibited poor balance, and produced a preliminary breath test result of .15 alcohol concentration. Deputy McGuire learned from the dispatcher that Pearson's driver's license was subject to a "no use of alcohol" restriction. Deputy McGuire arrested Pearson and searched Pearson's vehicle where Deputy McGuire recovered an open bottle of alcohol.

Pearson was charged with second-degree driving while impaired (DWI) with two prior qualified impaired driving convictions within ten years prior to his arrest, Minn. Stat. §§ 169A.03, subd. 3, 169A.20, subd. 1(1), 169A.25 (2008 & Supp. 2009); violating a restricted driver's license, Minn. Stat. § 171.09, subd. 1(d)(1) (2008); and possession of an open bottle of alcohol in a motor vehicle, Minn. Stat. § 169A.35, subd. 3 (2008). Deputy McGuire also served on Pearson Goodhue County's notice of seizure and intent to forfeit his vehicle because it was used in the commission of a designated DWI-related offense under Minn. Stat. § 169A.63, namely, second-degree driving while impaired.

On September 15, 2009, Pearson filed a demand for judicial determination of the forfeiture. In its February 17, 2010 order, the district court concluded that the vehicle-forfeiture statute is not an unconstitutional bill of attainder and denied Pearson's motion to dismiss on that ground. After a bench trial, the district court affirmed Goodhue County's civil forfeiture of Pearson's vehicle, concluding that the vehicle was subject to forfeiture because it was used in conduct resulting in a designated driver's-license revocation and that Pearson proved no applicable affirmative defenses. The district court also denied Pearson's remaining motions. This appeal followed.

D E C I S I O N

Pearson argues that the civil forfeiture statute, Minn. Stat. § 169A.63, is unconstitutional because it is a bill of attainder and because it subjects him to double jeopardy. The constitutionality of a statute presents a question of law, which we review de novo. *State v. Melde*, 725 N.W.2d 99, 102 (Minn. 2006). In doing so, we presume that Minnesota statutes are constitutional and will strike down a statute as unconstitutional only if absolutely necessary. *Id.* To prevail, the party challenging the constitutionality of a statute must demonstrate beyond a reasonable doubt that the statute violates a constitutional provision. *Miller Brewing Co. v. State*, 284 N.W.2d 353, 356 (Minn. 1979).

I.

Bills of attainder are prohibited under the United States Constitution and the Minnesota Constitution. U.S. Const. art. I, § 9, cl. 3; Minn. Const. art. I, § 11. A bill of attainder is a law that legislatively determines guilt and imposes punishment on an

identifiable individual or a group without providing the protections of a judicial trial. *Reserve Mining Co. v. State*, 310 N.W.2d 487, 490 (Minn. 1981).

When a person commits a “designated offense,” which includes second-degree DWI and the violation of a restricted driver’s license, the vehicle used in the commission of that offense is subject to forfeiture. Minn. Stat. § 169A.63, subds. 1(e), 6(a). The forfeiture of a vehicle for DWI-related conduct does not constitute punishment because the primary purpose of such forfeiture is to enhance public safety. *Hawes v. 1997 Jeep Wrangler*, 602 N.W.2d 874, 878 (Minn. App. 1999) (observing that “the legislature intended vehicle forfeiture . . . to serve the important, nonpunitive, remedial goal of enhancing public safety by removing from repeat intoxicated drivers the instrumentality used to commit their violations”).¹ Moreover, Pearson demanded and received a judicial trial during which he presented evidence and arguments on his behalf, as provided by the forfeiture statute. Minn. Stat. § 169A.63, subd. 9. Accordingly, Minn. Stat. § 169A.63 is not an unconstitutional bill of attainder, and Pearson is not entitled to relief on this ground.

II.

The United States Constitution and the Minnesota Constitution protect against double jeopardy. U.S. Const. amend. V; Minn. Const. art. I, § 7. We presume that a civil forfeiture does not violate double jeopardy. *Lukkason v. 1993 Chevrolet Extended Cab Pickup*, 590 N.W.2d 803, 807 (Minn. App. 1999), *review denied* (Minn. May 18, 1999).

¹ In *Hawes* we applied an earlier version of the vehicle-forfeiture statute, which the legislature subsequently renumbered as Minn. Stat. § 169A.63.

“[A] criminal adjudication followed by a civil forfeiture, or vice versa, violates double jeopardy only if the forfeiture constitutes ‘punishment.’” *City of Pine Springs v. One 1992 Harley Davidson*, 555 N.W.2d 749, 750 (Minn. App. 1996).

Vehicle forfeiture is remedial, not punitive. *E.g.*, *City of New Brighton v. 2000 Ford Excursion*, 622 N.W.2d 364, 368-69 (Minn. App. 2001) (observing that “[t]he district court’s determination that forfeiture of [appellant]’s vehicle would not violate double jeopardy is consistent with our prior holdings” because it is remedial and not punishment), *review denied* (Minn. Apr. 17, 2001). The record reflects that Pearson’s vehicle was used in the commission of two “designated offenses,” namely, second-degree DWI and the violation of a restricted driver’s license. Minn. Stat. § 169A.63, subds. 1(e), 6(a). Pearson provides no legal argument that has not already been rejected by Minnesota appellate courts demonstrating that the legislature intended civil forfeiture under Minn. Stat. § 169A.63 to constitute punishment.² Accordingly, Pearson is not entitled to relief on this ground.

III.

Pearson asserts that reversal is warranted because the county did not provide proper notice to TruStone Financial, a prior lien holder on the vehicle. The county argues that Pearson lacks standing on this issue. Justiciability generally requires “(1) a genuine or present controversy (2) presented by persons with truly adverse interests and

² Pearson argues that the “ignition interlock” program, Minn. Stat. § 171.306 (2010), would render the forfeiture of his vehicle double punishment. But the existence of an alternative remedial measure does not render the forfeiture statute nonremedial or punitive. Moreover, there is no evidence in the record that Pearson is participating in the “ignition interlock” program.

(3) capable of specific rather than advisory relief by a decree or judgment.” *Rice Lake Contracting Corp. v. Rust Env’t & Infrastructure, Inc.*, 549 N.W.2d 96, 99 (Minn. App. 1996), *review denied* (Minn. Aug. 20, 1996). To establish standing, a plaintiff must have a sufficient personal stake in a justiciable controversy. *State by Humphrey v. Philip Morris Inc.*, 551 N.W.2d 490, 493 (Minn. 1996). One goal of the standing requirement is to ensure that the factual and legal issues before the courts will be vigorously and adequately presented. *Channel 10, Inc. v. Ind. Sch. Dist. No. 709, St. Louis Cnty.*, 298 Minn. 306, 314, 215 N.W.2d 814, 821 (1974). Standing is acquired in one of two ways. The plaintiff has either suffered an “injury-in-fact” or is the beneficiary of a legislative enactment granting standing. *Philip Morris Inc.*, 551 N.W.2d at 493. To suffer an injury-in-fact, a party must allege “a concrete and particularized invasion of a legally protected interest.” *Lorix v. Crompton Corp.*, 736 N.W.2d 619, 624 (Minn. 2007). We consider de novo the question of standing as an aspect of justiciability. *Schiff v. Griffin*, 639 N.W.2d 56, 59 (Minn. App. 2002).

The record reflects that TruStone, which had a lien on Pearson’s vehicle when he committed the offense and the county seized the vehicle in 2009, had not received notice of the forfeiture as of January 3, 2011. But a party may not raise an issue on behalf of an aggrieved third party that is not a party to the case. *See In re Estate of Mealey*, 695 N.W.2d 143, 147 (Minn. App. 2005) (holding that appellant lacked standing on appeal because appellant cannot “step into the shoes” of and defend the interests of a third party that declined to intervene); *State by Cooper v. Sports & Health Club, Inc.*, 438 N.W.2d 385, 390 (Minn. App. 1989) (holding that appellant “failed to show how *he* has standing

to raise [an] issue on behalf of [a third party]” when that third party did not intervene). Pearson has not demonstrated that the county’s purported failure to provide notice to TruStone caused *him* an injury-in-fact. Accordingly, Pearson lacks standing to challenge the adequacy of the county’s notice to TruStone.³

Affirmed.

³ Pearson also argues that reversal is warranted because the evidence reflects that his alcohol concentration did not exceed .08. Because Pearson provides no legal argument to support this claim, we decline to address it. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (holding that issues not briefed on appeal are waived); *Ganguli v. Univ. of Minn.*, 512 N.W.2d 918, 919 n.1 (Minn. App. 1994) (declining to address allegations unsupported by legal analysis or citation). We nonetheless observe that Pearson was charged with second-degree DWI and violation of a restricted driver’s license, which are designated offenses supporting vehicle forfeiture and do not require a particular alcohol-concentration level.