

## **Richard P. Clem Continuing Legal Education**

### **Course Materials for Podcast CLE**

**Originally presented Wednesday, April 13, 2011**

**12:00 - 1:00 PM Central Daylight Time (1700-1800 GMT)**

### **Minnesota Supreme Court: March 2011 Decisions**

#### **Constitutional Law**

##### **Eminent Domain**

DeCook v. Rochester International Airport Joint Zoning Board, \_\_\_ N.W.2d \_\_\_ (No. A09-969)(Minn. Mar. 30, 2011).

In 2002, by ordinance, Zoning Board modified the "Safety Zone" adjoining the airport. It increased the size of the zone, and changed the ordinance to allow fewer uses for property within the zone. For example, part of the adjoining property could have no structures of any kind. The jury concluded that this ordinance diminished the value of the adjoining property by \$170,000.

Plaintiff brought an inverse condemnation action under the Takings clause of the Minnesota Constitution, seeking compensation for the diminution in value. The Supreme Court held that plaintiff was entitled to compensation, since the diminution in value was "substantial". While this determination "is highly fact-specific, depending on the particular circumstances underlying" the case, there was a taking under these facts.

#### **Contracts**

##### **Mutual Mistake of Material Fact**

SCI Minnesota Funeral Services v. Washburn-McReavy Funeral Corp., \_\_\_ N.W.2d \_\_\_ (No. A09-935)(Minn. Mar. 30, 2011).

Seller transferred its interest in a corporation to purchaser. The assets of the corporation included three cemeteries. Unbeknownst to the persons involved in the transaction, the corporation was also the owner of two vacant lots. Certain assets of the corporation were excluded from the transaction, but the two vacant lots were neither included nor excluded. The total purchase price was \$1 million, and the two vacant lots were worth \$2 million.

The Supreme Court first held that the contract could not be rescinded for mutual mistake of material fact. The mistake was merely one as to value--the parties intended to transfer the stock of the corporation, including all of its assets. "A mistake relating merely to the attributes, quality, or value of the subject of a sale does not warrant rescission. Quoting Costello v. Sykes, 143 Minn. 109, 111, 172 N.W. 907, 908 (Minn. 1918). The court declined the invitation to

overrule Costello, and declined to follow Clayburg v. Whitt, 171 N.W.2d 623 (Iowa 1969).

Nor was the seller entitled to rescission due to lack of mutual assent. There was mutual assent--the parties agreed to transfer the corporate stock, along with all of the assets and liabilities of the corporation.

Similarly, the contract should not be reformed. The seller failed to establish that the contract did not express the parties' true intentions, nor that any such failure was due to mutual mistake. And since some employees of the corporate seller were aware of the existence of the lots (and paid property taxes on them), the seller could not argue that it was unaware of their existence, since such knowledge is imputed to the corporation.

## **Criminal Law**

### **Expert testimony**

State v. Obeta, \_\_\_ N.W. 2d \_\_\_ (No. A10-1349)(Minn. Mar 24, 2011)

In criminal sexual conduct case in which defendant argues that conduct was consensual, the district court has discretion to admit expert testimony as to typicality of delayed reporting, lack of physical injuries, and submissive conduct by victim. The evidence must be helpful to the jury, and the opinion has foundational reliability. State v. Saldana, 324 N.W.2d 227 (Minn. 1982), does not operate as a blanket prohibition of such testimony.

Expert testimony is admissible because "the mental and physical reactions of an adult sexual-assault victim may lie outside the common understanding of an average juror."

Since the trial court erred in holding that Saldana was a blanket prohibition, the case is remanded to determine whether the evidence is admissible.

### **Search and Seizure**

State v. Diede, (No. A09-1120)(Minn. Mar. 30, 2011)

Evidence (methamphetamine discovered in cigarette package) should have been suppressed. Stop was not permissible Terry stop. Nor was search of cigarette package reasonable to investigate mismatched license plates on vehicle. Under the fact of the case, defendant did not consent to search. Nor would the evidence have inevitably been discovered.

State v. Williams, \_\_\_ N.W.2d \_\_\_ (Minn. Mar. 9, 2011)

District Court properly admitted evidence obtained after arrest. Defendant was seen running near scene of armed assault, and officer saw pistol in defendant's pocket. Probable cause existed, even though defendant was not prosecuted for assault.

Second Amendment claim (probable cause for arrest based upon possession of firearm, where officer has no knowledge as to whether or not suspect has permit) was waived for failure to raise the issue in district court.

### **Postconviction relief**

Rickert v. State, \_\_\_ N.W.2d \_\_\_ (No. A08-2269)(Minn. Mar. 23, 2011)

1. In determining whether petition for postconviction relief is timely, court may consider previously-filed motion for an extension.
2. Ambiguities in the factual basis of a guilty plea regarding the date of an alleged offense did not trigger the rule of *Blakely v. Washington*, 542 U.S. 296 (2004).

### **Restitution**

State v. Gaiovnik, \_\_\_ N.W.2d \_\_\_ (No. A09-190) (Minn. Mar. 9, 2011)

Minn. Stat. § 611A.04 allows award of restitution, even if not requested by victim. Defendant could raise the issue, despite noncompliance with time limits for objection, since his challenge was to the court's authority to award restitution, not the amount of the restitution. However, district court did have such authority, even in the absence of a request by the victim.

### **Sentencing Guidelines**

State v. Robideau, \_\_\_ N.W.2d \_\_\_ (No. A09-530)(Minn. Mar. 23, 2011).

Defendant's sentence was enhanced because the offense was committed in the presence of a child. The supreme court held that enhancement was improper because, even though the child was present in the house, the record was clear that the child "did not see, hear, or otherwise witness any portion of the commission of the offense."

## **Taxation**

### **Tax-exempt property**

Crossroads Church of Prior Lake MN, v. County of Dakota, \_\_\_ N.W.2d \_\_\_ (No. A10-859)(Minn. Mar. 2, 2011)

Minn. Stat. § 272.02 provides for property tax exemption for property "acquired" by exempt entity prior to July 1 of the tax year. Legal title had been acquired in September, but church argued that it had taken possession and paid earnest money prior to July 1.

The Supreme Court held that the property had not been "acquired" prior to July 1. Church argued

that equitable title had passed prior to that date. However, a number of unfulfilled conditions of the purchase contract prevented equitable title from vesting until after July 1. For example, the contract was conditioned upon zoning changes, which had not taken place prior to July 1.

Even without these conditions, the church's equitable title was insufficient to constitute having "acquired" the property. Equitable title must be coupled with "indicia of ownership" such as a contract for deed.

### **Workers' Compensation**

*Stately v Red Lake Builders*, \_\_\_ N.W.2d \_\_\_ (No. A10-1909)(Minn. Mar. 9, 2011).

Decision of Workers Compensation Court of Appeals affirmed without opinion.

### **Other Orders**

There have been a number of Orders on amendments to rules, and an extension of the increase in lawyer registration fees:

March 16:

ADM09-8006, C4-84-2133, PROMULGATION OF AMENDMENT TO RULES OF CIVIL APPELLATE PROCEDURE RELATED TO AUDIO AND VIDEO COVERAGE OF APPELLATE COURT PROCEEDINGS.

ADM09-8009, CX-89-1863, PROMULGATION OF AMENDMENTS TO THE MINNESOTA GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS AND IMPLEMENTATION OF A PILOT PROJECT TO ALLOW MORE EXTENSIVE AUDIO AND VIDEO COVERAGE OF DISTRICT COURT PROCEEDINGS IN CIVIL CASES.

ADM10-8011, ADM04-8001, ADM09-8009, ADM09-8006 C6-84-2134, CX-89-1863, C4-84-2133, ORDER AMENDING E-FILING PROJECT.

ADM11-8003, ORDER PROMULGATING RULES OF PRACTICE BEFORE THE MINNESOTA SUPREME COURT FOR FORMER JUSTICES AND EMPLOYEES OF THE COURT.

March 9:

ADM10-8002, C9-81-1206, ORDER EXTENDING INCREASE IN LAWYER REGISTRATION FEES.

Court "reluctantly" extended the "temporary" fee increase for Minnesota attorneys--\$75 to fund

the Board of Public Defense, and \$25 to the Legal Services Advisory Committee. In doing so, the court stated:

In doing so, we caution the Legislature and the Governor, our coordinate branches of government that are responsible together for creation of the State's biennial budgets, that we will not continue, beyond this second temporary fee increase, to rely on lawyer registration fees to fund the constitutional obligation of the State to provide defense counsel for indigent criminal defendants. We call on the Legislature and the Governor to fulfill their constitutional responsibilities to provide adequate funding for the public defense system, with the knowledge that the additional temporary funding provided by this fee increase will not be extended beyond the July 2013 fees provided for in this order.

Justice Page dissented, arguing that the Supreme Court has no power to impose a tax.

Links to all of these opinions can be found at:

<http://www.lawlibrary.state.mn.us/archive/sct11q1.html>