SCOTUS on Forfeiture: How the Federal Statute Operates When Two or More Defendants Act as Part of a Conspiracy

Description

On June 5th, 2017, in *Honeycutt v. United States,*[1] the United States Supreme Court had the opportunity to take a close look at the forfeiture statute (formally known as the Comprehensive Forfeiture Act of 1984, 21 U. S. C. Â§853). The federal statute mandates forfeiture of any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, â??as the result ofâ?• certain drug crimes. Specifically, the Supreme Court decided how the words â??obtainâ?• and â??acquiredâ?• should be read when two or more defendants act as part of a conspiracy to commit drug crimes. The Courtâ??s analysis, as well as the particular facts of the case, are helpful when conducting forfeiture investigations and more than one defendant is found guilty.

Facts:

Terry Honeycutt managed sales and inventory for a Tennessee hardware store owned by his brother, Tony Honeycutt. After observing several â??â??edgy looking folksâ??â?• purchasing an iodine-based water-purification product known as Polar Pure, Terry Honeycutt contacted the Chattanooga Police Department to inquire whether the iodine crystals in the product could be used to manufacture methamphetamine. The officer confirmed that individuals were using Polar Pure for this purpose and advised Terry to cease selling it if the sales made Honeycutt uncomfortable. Notwithstanding the officerâ??s advice, the store continued to sell large quantities of Polar Pure. Although each bottle of Polar Pure contained enough iodine to purify 500 gallons of water, and despite the fact that most people have no legitimate use for the product in large quantities, the brothers sold as many as 12 bottles in a single transaction to a single customer. Over a three-year period, the store grossed roughly $400,000 from the sale of more than 20,000 bottles of Polar Pure. The sales prompted an investigation by the FDA, along with state and local law enforcement.

Procedural History:

A federal grand jury indicted the Honeycutt brothers for various federal crimes relating to their sale of iodine while knowing or having reason to believe it would be used to manufacture methamphetamine. Pursuant to the Comprehensive Forfeiture Act of 1984, Â§303, 98 Stat. 2045, 21 U. S. C. Â§853(a)(1), the Government sought forfeiture money judgments against each brother in the amount of $269,751.98, which represented the hardware storeâ??s profits from the sale of Polar Pure. Tony Honeycutt plead guilty and agreed to forfeit $200,000. Terry Honeycutt went to trial and was found guilty of 11 out of the 14 charges, including conspiring to distribute, and knowingly distributing, iodine in violation of the forfeiture statute.

The District Court sentenced Terry Honeycutt to 60 months in prison, and the Government sought to forfeit from Terry $69,751.98, the amount of the conspiracy profits outstanding after Tony Honeycuttâ??s forfeiture payment. The District Court declined to enter a forfeiture judgment against Terry, holding that Terry was a salaried employee who had not personally received any profits from the iodine sales. The Government appealed the District Courtâ??s judgment and the Court of Appeals for

the 6th Circuit reversed. The Court of Appeals concluded that the brothers are jointly and severally liable for any proceeds of the conspiracy and as such, each brother bore full responsibility for the entire forfeiture judgment. Terry Honeycutt appealed the judgment to the Supreme Court.

Decision and Reasoning

The Supreme Court reversed the Court of Appealsâ?? judgment holding that:

1. A defendant cannot be held jointly and severally liable for property that his co-conspirator derived from the crime when the defendant himself did not acquire it. Such liability would be inconsistent with the text and structure of the forfeiture statute.
2. The provision at issue here limits forfeiture to property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of the crime. Also, it restricts forfeiture to property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the crime. Finally, the forfeiture statute applies to persons convicted of engaging in a continuing criminal enterpriseâ??a form of conspiracyâ??and requires forfeiture of property described in the statute as well as any of the defendantâ??s interest in, claims against, and property or contractual rights affording a source of control over, â??the continuing criminal enterprise.â?• These provisions, by their terms, limit forfeiture under the statute to tainted property; that is, property flowing from, or used in the crime itself.
3. In this case forfeiture pursuant to the statute is limited to property the defendant himself actually acquired as the result of the crime. The Supreme Court agreed with the District Courtâ??s assessment that Terry Honeycutt had no ownership interest in his brotherâ??s store and did not personally benefit from the Polar Pure sales. Because Honeycutt never obtained tainted property as a result of the crime, the statute does not require any forfeiture.

Conclusion

When conducting drug crime investigations with more than one involved defendant, the ownership interest of each defendant, and any benefit they obtained (or lack thereof), is essential to establish liability when using the Comprehensive Forfeiture Act of 1984, 21 U. S. C. Â§853.

1. 581 U.S. ____ (2017). â??

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