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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2022**

Princeton Auto Center Inc. DLR 22118,
Respondent,

vs.

2010 Chevrolet Silverado Crew Cab Pickup,
VIN#3GCRKSE37AG123890,
MN License Plate 511THX,
Appellant.

**Filed August 5, 2019
Affirmed
Cochran, Judge**

Stearns County District Court
File No. 73-CV-17-10807

Craig E. Cascarano, Minneapolis, Minnesota (for respondent)

Kristi Stanislawski, Jovanovich, Kadlec & Athmann, P.A., St. Cloud, Minnesota (for
appellant)

Considered and decided by Florey, Presiding Judge; Worke, Judge; and Cochran,
Judge.

U N P U B L I S H E D O P I N I O N

COCHRAN, Judge

The City of Cold Spring (the city) appeals the district court's order precluding
forfeiture of a 2010 Chevrolet Silverado, arguing that the district court erred in finding that
respondent Princeton Auto Center Inc. (Princeton Auto), the titleholder and registered

owner, is an innocent owner under Minn. Stat. § 169A.63, subd. 7(d) (2018). Because we conclude that the district court's factual findings are not clearly erroneous and that the district court correctly applied the innocent-owner provision, we affirm.

FACTS

John Davis owns three car dealerships, including respondent Princeton Auto. Princeton Auto is a subchapter S corporation and John is the majority owner. Princeton Auto holds, for resale, the title to a 2010 Chevrolet Silverado (the truck) that is the subject of this case. Princeton Auto is the registered owner of the truck. The truck is listed on Princeton Auto's inventory.

John's sons Craig and Chad, and Chad's son Connor, live with John in his house and work at the dealerships. John's wife also lives in the house. In June 2017, Connor turned 16 years old. John gave Connor the truck for his birthday, but the title to the truck was never transferred from Princeton Auto to Connor. John admitted that the title "probably should have been transferred." John paid for an insurance policy on the truck that covered himself, his wife, Chad and Connor. The insurance was not purchased through Princeton Auto. Connor had exclusive use of the truck.

In September 2017, John, Connor, and Craig were at their home. Craig asked Connor if he could use the truck. Connor allowed Craig to use it. Though John was at the home, he was not with Connor and Craig when Craig asked to use the truck, and did not know that Connor loaned the truck to Craig.

Craig had been convicted of driving while impaired four times before borrowing the truck from Connor. On this occasion, Craig drove the truck to a bar and had several drinks.

He then picked up Chad, who was at another bar, and drove to a fast food restaurant. Police were dispatched to the restaurant after receiving a report of a possible intoxicated driver at the restaurant. Police stopped Craig at the restaurant and arrested him after Craig refused to take a breath test. Craig ultimately pleaded guilty to second-degree driving while impaired—test refusal. Craig told police that the truck was his and that he had insurance for it.

The following day, police served Craig with notice of an intent to forfeit the truck. Craig told police that his family was working on putting the truck in Connor’s name.

Craig and Princeton Auto filed petitions to the district court to preclude forfeiture of the truck. The district court held an evidentiary hearing on the petitions. Craig voluntarily dismissed his petition at the beginning of the hearing. Princeton Auto proceeded. Princeton Auto argued it was an “innocent owner” under Minn. Stat. § 169A.63, subd. 7(d), and therefore the vehicle was not subject to forfeiture. The city agreed that Princeton Auto held the title to the truck and was the registered owner, but maintained that the “innocent owner” exception did not apply. The district court received testimony from John, Connor, Chad, Craig, and the officer who arrested Craig. The district court found that Princeton Auto was an “innocent owner” and granted Princeton Auto’s motion to preclude forfeiture of the truck.

The city appeals.

DECISION

Under Minn. Stat. § 169A.63 (2018), a vehicle is subject to forfeiture if it was used in the commission of a designated offense, including second-degree driving while impaired. A vehicle is not subject to forfeiture, however, if

any of its owners who petition the court can demonstrate by clear and convincing evidence that the petitioning owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the petitioning owner took reasonable steps to prevent use of the vehicle by the offender. If the offender is a family or household member of any of the owners who petition the court and has three or more prior impaired driving convictions, the petitioning owner is presumed to know of any vehicle use by the offender that is contrary to law [including driving while impaired].

Minn. Stat. § 169A.63, subd. 7(d). The city argues that the district court erred in finding that Princeton Auto satisfied the requirements of this statute and granting the motion to preclude forfeiture of the truck. Specifically, the city argues that the district court erred in finding that Princeton Auto was an “owner” of the truck and erred in concluding that Princeton Auto proved that it did not have actual or constructive knowledge that the vehicle would be used in a manner contrary to law.

“When reviewing a trial court’s findings of fact, the appellate court shall not set such findings aside unless they are clearly erroneous and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses.” *Rife v. One 1987 Chevrolet Cavalier*, 485 N.W.2d 318, 321 (Minn. App. 1992) (quotation omitted), review denied (Minn. June 30, 1992). We review questions of law de novo. *Modrow v. JP Foodservice, Inc.*, 656 N.W.2d 389, 393 (Minn. 2003).

I. The district court did not clearly err in finding that Princeton Auto was an owner.

The city argues that the district court erred in determining that Princeton Auto is an “owner” of the truck within the meaning of Minn. Stat. § 169A.63. The city contends that the evidence shows that Princeton Auto is not an owner because John Davis gifted the truck to Connor for his birthday, Connor had exclusive use of the truck, and Princeton Auto was not connected to the insurance policy that John paid for to cover the truck. The city further argues that the evidence shows that Princeton Auto holds the title for resale, but never intended to resell the truck after John gave it to Connor. Princeton Auto maintains that the record supports the district court’s determination that it is an owner of the truck within the meaning of the statute because it is the registered owner of the truck, it holds the title to the truck, and the truck is listed on Princeton Auto’s inventory.

The forfeiture statute at issue defines the term “owner” as follows:

“Owner” means a person legally entitled to possession, use, and control of a motor vehicle, including a lessee of a motor vehicle if the lease agreement has a term of 180 days or more. There is a rebuttable presumption that a person registered as the owner of a motor vehicle according to the records of the Department of Public Safety is the legal owner. For purposes of this section, if a motor vehicle is owned jointly by two or more people, each owner’s interest extends to the whole of the vehicle and is not subject to apportionment.

Minn. Stat. § 169A.63, subd. 1(h). This court has treated the question of ownership as a question of fact. *See Rife*, 485 N.W.2d at 322 (indicating that the trial court did not clearly err in finding that a person was the owner of a vehicle).

Because Princeton Auto is the registered owner of the truck, the district court applied the rebuttable presumption established in the statute. It found that the city failed to rebut the presumption and that Princeton Auto is an “owner” under the statute. The district court reasoned that, although John intended to transfer the truck to Connor, he never transferred the title and the gift was not completed.

The city relies on *Rife* to support its position that Princeton Auto does not own the truck notwithstanding the fact that Princeton Auto holds the title and is the registered owner. In affirming the district court in *Rife*, we concluded that the district court did not clearly err in finding that the appellant’s daughter owned the vehicle in question despite the fact that the appellant-father was the registered title owner of the vehicle. 485 N.W.2d at 321-22. Before the father entered into a purchase agreement for the vehicle, the daughter asked a court to release funds from an earlier personal-injury settlement to purchase a car. *Id.* at 320. The court did not release any funds and the daughter then asked her parents for help. *Id.* The father and daughter subsequently went shopping for a car and the father testified that he entered into a contract to purchase the vehicle in question. *Id.* The mother, who was the conservator of the daughter’s estate, then petitioned the court to release funds to pay for a vehicle, tax, and insurance. *Id.* After the father purchased the vehicle, the father listed the vehicle on his insurance policy and did not list the daughter. *Id.* But the daughter, after being arrested for conspiring to sell narcotics, told police that she paid for the vehicle and that it was registered in her father’s name only for insurance purposes. *Id.* There was also evidence that the daughter always had possession and use of the vehicle. *Id.* We concluded that there was sufficient evidence to sustain the district court’s finding

that the daughter owned the vehicle despite the presumption that the father—the registered title owner—owned the vehicle. *Id.* at 321.

But, this case is procedurally distinguishable from *Rife* in a critical regard. Here, the district court found that the title holder and registered owner—Princeton Auto—was an “owner” as defined by Minn. Stat. § 169A.63, subd. 1(h). Thus, our review is limited to whether that finding was clearly erroneous. *Rife*, 485 N.W.2d at 321.

The evidence produced at the evidentiary hearing supports the district court’s finding that Princeton Auto was an owner under Minn. Stat. § 169A.63, subd. 1(h). An owner is a person or entity that is “*legally entitled to possession, use, and control of a motor vehicle.*” Minn. Stat. § 169A.63, subd. 1(h) (emphasis added). As the registered owner of the truck, Princeton Auto was presumed to be an owner. *See id.* Though it was undisputed that Connor had actual possession, use, and control of the truck, the district court found that the truck had not been fully transferred to Connor because Princeton Auto did not transfer the title. The finding is consistent with the requirements of a valid gift. “For a gift to be valid, there must be donative intent, delivery, and absolute disposition of the property.” *Muschik v. Conner-Muschik*, 920 N.W.2d 215, 223 (Minn. App. 2018). While John had the intent to gift the truck to Connor at some point, Princeton Auto did not absolutely dispose of the truck because it did not transfer the title to Connor or any of the Davises.

Moreover, although John paid for a personal insurance policy to cover the truck, there is no evidence that either Princeton Auto or the Davis family made any effort to comply with Minn. Stat. § 168A.11, subd. 1 (2018), which establishes the obligations of a

dealer when transferring a vehicle being held for resale to another person. *See* Minn. Stat. § 168A.11, subd. 1 (requiring the dealer to “promptly execute the assignment and warranty of title” upon transferring the vehicle to another person). We further note that Connor, as a 16-year-old, was prohibited by law from owning the truck at the time that the city attempted to forfeit it. *See* Minn. Stat. § 168.101, subd. 1 (2018) (making it unlawful for a person under the age of 18 to own a passenger automobile or truck, subject to exceptions not relevant here); *see also* Minn. Stat. § 168.101, subd. 2 (2018) (making it a misdemeanor to knowingly transfer title of a passenger automobile or truck to a person who is prohibited from owning a passenger automobile or truck under subdivision one).

The evidence in the record supports the district court’s findings that Princeton Auto held title to the truck and was the registered owner, and that Princeton Auto listed the truck on its inventory. Under these circumstances, we conclude that the district court did not clearly err in finding that Princeton Auto was legally entitled to possession, use, and control of the vehicle and was therefore an “owner” under Minn. Stat. § 169A.63, subd. 1(h).

II. The district court did not clearly err in finding that Princeton Auto did not have actual or constructive knowledge of Craig’s use of the vehicle.

We turn next to the city’s argument that the district court erred in finding that Princeton Auto did not have actual or constructive knowledge that Craig would operate or use the vehicle in a manner contrary to law. The city argues that the district court should have presumed that Princeton Auto knew of Craig’s illegal use of the vehicle. It maintains that Minn. Stat. § 169A.63, subd. 7(d), imposes a presumption that John, Connor, and Chad knew that Craig would operate the vehicle contrary to law, and that Princeton Auto

therefore failed to meet its burden in proving that it was an innocent owner under the statute.

We must first address the question of whether the presumption of knowledge provided in Minn. Stat. § 169A.63, subd. 7(d) applies to Princeton Auto or any of the Davises under these circumstances. Minn. Stat. § 169A.63, subd. 7(d) provides that “[i]f the offender is a family or household member of any of the owners who petition the court and has three or more prior impaired driving convictions, the petitioning owner is presumed to know of any vehicle use by the offender that is contrary to law.” A “family or household member” includes a parent, brother, uncle, nephew, grandparent, or “persons residing together or persons who regularly associate and communicate with one another outside of a workplace setting.” Minn. Stat. § 169A.63, subd. 1(f)(1)-(3). The district court determined that the presumption did not apply to Princeton Auto. The city argues on appeal that the district court should have applied the presumption to all of the Davises and imputed their knowledge—particularly John’s knowledge—to Princeton Auto.

Appellate courts review issues of statutory interpretation *de novo*. *Webster v. Hennepin County*, 910 N.W.2d 420, 430 (Minn. 2018). “If a statute is unambiguous, we apply the statute’s plain meaning.” *State v. Overweg*, 922 N.W.2d 179, 183 (Minn. 2019) (quotation omitted). The plain and unambiguous language of Minn. Stat. § 169A.63, subd. 7(d), imposes the presumption of knowledge upon the *petitioning owner* only if the *petitioning owner* is a family or household member of the offending driver. Considering the unambiguous language of the statute, we conclude that the district court did not err when it determined that the presumption did not extend to Princeton Auto because

Princeton Auto is an S corporation. Princeton Auto is not a “family or household member” to Craig as defined by Minn. Stat. § 169A.63, subd. 1(f). We similarly reject the city’s argument that John, Chad, and Connor were presumed to know of Craig’s illegal use of the vehicle because none of them were a petitioning owner.¹

Having determined that the statute did not impose a presumption that Princeton Auto, John, Chad, or Connor had knowledge of Craig’s illegal use of the truck, we review whether the district court clearly erred in finding that Princeton Auto did not have actual or constructive knowledge of Craig’s illegal use of the truck. The district court found that, even assuming that John’s knowledge could be imputed to Princeton Auto as the majority shareholder, Princeton Auto proved by clear and convincing evidence that John did not have actual or constructive knowledge that Craig would drive the vehicle at all. The evidence supports the finding that John did not have actual knowledge that Craig would drive the truck because John was not present when Craig borrowed the truck from Connor. The district court’s finding that John did not have constructive knowledge is also not clearly erroneous because, although John had actual knowledge that Craig had been convicted of multiple driving-while-intoxicated offenses, there was no evidence to suggest that Craig drove the truck on any other occasion or that Craig used vehicles belonging to other people in the house. Connor testified that this incident was the only time that Craig ever asked to borrow the truck. Based on the evidence in the record, we cannot say that the district court clearly erred in determining that Princeton Auto, and John Davis, did not

¹ Craig filed a petition but voluntarily dismissed his petition at the start of the hearing. The only petition considered by the district court was the petition filed by Princeton Auto.

have actual or constructive knowledge that Craig would drive the truck in a manner contrary to law.

The city argues that precluding forfeiture in this case will allow Craig to drive vehicles owned by John's dealerships without the threat that the vehicles will be forfeited. We disagree that the innocent-owner defense will be as readily available for the dealership in any similar future cases. Given Craig's use of the vehicle in this case, a strong argument can be made in future cases that the dealership has constructive knowledge that vehicles owned by the dealership but used by the Davises will be used in a manner contrary to law by Craig.

Because Princeton Auto proved by clear and convincing evidence that it did not have actual or constructive knowledge that the vehicle would be used or operated in a manner contrary to law, the district court did not err in granting Princeton Auto's motion to preclude forfeiture of the truck.

Affirmed.