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Abstract

Enroute from Tallahassee to Stuart in his 1973 Dodge pick-up truck, Griffis was stopped by a Florida Inspector of Agriculture and Consumer Services and ordered to return to an inspection station.

KEYWORDS: vehicle, Nexus, forfeiture
Enroute from Tallahassee to Stuart in his 1973 Dodge pick-up truck, Griffis was stopped by a Florida Inspector of Agriculture and Consumer Services and ordered to return to an inspection station. At the station, the inspector searched Griffis and his vehicle and seized an unascertained amount of cocaine and marijuana. Griffis pled nolo contendere to the charge of possession of marijuana, and the state dismissed the companion cocaine charge. Shortly thereafter, the state moved for forfeiture proceedings of the seized truck pursuant to the Florida Uniform Contraband Transportation Act [hereinafter cited as the UCTA].2

When Griffis failed to show cause why his pick-up truck should not be forfeited under the Florida UCTA, the trial court ordered its forfeiture.3 Griffis' subsequent appeal of this order raised significant

2. FLA. STAT. §§ 943.41-44 (Supp. 1974). The Florida Uniform Contraband Transportation Act consolidated the narcotics contraband and illegally sold food and beverages forfeiture statutes. FLA. STAT. § 943.42 states that:
   It is unlawful: (1) To transport, carry or convey any contraband article in, upon or by means of any vessel, motor vehicle, or aircraft. (2) To conceal or possess any contraband article in or upon any vessel, motor vehicle, or aircraft. (3) To use any vessel, motor vehicle, or aircraft to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of any contraband article.

   FLA. STAT. § 943.44 then provides for forfeiture proceedings:
   The state attorney within whose jurisdiction the vessel, motor vehicle, or aircraft has been seized because of its use or attempted use in violation of any provisions of law dealing with contraband . . . may proceed against the vessel, motor vehicle, or aircraft by rule to show cause . . . and may have such vessel, motor vehicle, or aircraft forfeited to the use of, or to be sold by, the law enforcement agency making the seizure, upon producing due proof that the vessel, motor vehicle, or aircraft was being used in violation of the provisions of said law.

3. Griffis at 298. One of the unique features of a forfeiture provision is the burden of proof. The State Attorney submits a rule to show cause motion to the court. At that point, the burden shifts to the defendant to show why the vehicle should not be forfeited. A recent successful forfeiture contest in the Second District Court of Appeal,
questions concerning the constitutionality and scope of Florida forfeiture proceedings.

In Griffis, the Supreme Court of Florida held that the state must demonstrate a "nexus" between a vehicle seized and illegal trafficking of contraband, to justify a forfeiture order. No longer is mere possession of contraband within a vehicle sufficient to sustain a forfeiture order.

The ultimate issue left unanswered in Griffis remains the nature of the nexus which supports forfeiture of a vehicle. Should the quantity of contraband be determinative of a finding that a vehicle is being used illegally? For example, does possession of a substantial quantity of contraband in a vehicle justify forfeiture proceedings, presuming possession with intent to sell and concurrent use of that vehicle in facilitating the sale? Will using a vehicle as transportation to the point of the transfer or sale of contraband articles be sufficient to justify forfeiture proceedings? Will the mere act of selling contraband in a vehicle justify its forfeiture? The Griffis court looked beyond Florida cases and considered federal authority in arriving at its opinion. As did the Griffis court, we must examine precedent from many sources to describe the nexus criteria.

FEDERAL CASE LAW

The Florida UCTA was written in 1974 with the express legislative intent to "achieve uniformity between the laws of Florida and the laws of the United States, which was necessary and desirable for effective drug abuse prevention and control." The history of forfeiture proceedings under federal case law, therefore, bears directly on any in-

One 1973 Cadillac v. State, 372 So. 2d 103 (Fla. 2d Dist. Ct. App. 1979), attacked the trial court forfeiture order on the burden of proof issue. The appellant, Mr. Jack Agnew, Sr., explained that the car forfeited was the property of the corporation, and he did not know that his son, in whose possession the car was seized, was involved in any illegal enterprise. In its holding the court stated that: "The seizing agency may release said vessel, motor vehicle, or aircraft to the innocent party or lienholder upon the filing of a sworn affidavit by said innocent party or lienholder that he had no knowledge of the alleged violation causing such seizure and upon then producing a valid certificate of title." Id. at 104.

4. Id. at 297.
5. Id. at 297, 300-02.
Under the federal contraband statute, two federal district courts ordered the forfeiture of motor vehicles where the driver possessed narcotic substances. In United States v. One 1975 Mercury Monarch, the appellate court upheld the magistrate's order of forfeiture of the Mercury even though there was minimal showing as to any significant amount of contraband within the car. This case involved an automobile owner who was arrested after he left his building where marijuana crates were stored. Subsequent to his arrest, the officers searched him and the car, finding cocaine on him and a suitcase containing marijuana residue in the trunk of the car. The court held that the facts were sufficient to sustain a forfeiture order although it was indicated that more than mere possession of contraband by a driver of a vehicle was necessary to uphold a forfeiture under the forfeiture act. The court found that the similarity in appearance of the marijuana in the suitcase with that in the crates took the case beyond mere possession, the suitcase providing the sufficient nexus to justify forfeiture.

The same district court, in United States v. One 1973 Jaguar Coupe, sustained a forfeiture order where the forfeitee's car was being driven by her boyfriend who was searched and subsequently charged with possession of cocaine. The court rejected her contention that the vehicle had no substantial connection to drug trafficking because she was not present nor had she any knowledge concerning the seized co-

7. 49 U.S.C. § 781 (1976) provides:
   (a) It shall be unlawful (1) to transport, carry, or convey any contraband article in, upon, or by means of any vessel, vehicle, or aircraft; (2) to conceal or possess any contraband article in or upon any vessel, vehicle, or aircraft; or (3) to use any vessel, vehicle, or aircraft to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of any contraband article.
Also see 49 U.S.C. § 782 (1976) which requires that, "[a]ny vessel, vehicle, or aircraft which has been used in violation of any provision of section 781 of this title, or in, upon, or by means of which any violation of said section has taken or is taking place, shall be seized and forfeited..."
9. Id. at 1030.
10. Id. at 1032.
11. Id.
12. Id.
14. Id. at 129.
caine.\textsuperscript{15} Hence, the owner was deprived of her property with a minimal showing of a link between her actions and the contraband in question. Both of these cases upheld forfeiture where the driver was arrested in the vehicle and was charged with, at least, possession of narcotics.

The district court sitting in New Hampshire, in \textit{United States v. One 1972 Datsun},\textsuperscript{16} reversed a magistrate’s order forfeiting an automobile after government agents followed the owner in his Datsun to two locations where they purchased approximately 5,000 doses of lysergic acid diethylamide.\textsuperscript{17} In reversing the order, the court said that “to be forfeited, a vehicle must have some substantial connection to, or be instrumental in the commission of, the underlying activity which the statute seeks to prevent.”\textsuperscript{18}

The result in \textit{Datsun}, when compared to the results in \textit{Mercury} and \textit{Jaguar}, can be distinguished in that there was no showing of possession of contraband by the driver of the vehicle. However, \textit{Datsun} appears closer to the threshold requirement set out in \textit{Mercury}, as there was a direct relationship between the use of the automobile in the facilitation of the sale of contraband and the forfeiture.

Criteria for the forfeiture of contraband involved vehicles are emerging from circuit court cases reviewing forfeiture orders on appeal. \textit{United States v. One 1971 Chevrolet Corvette},\textsuperscript{19} reversed a district court forfeiture order granted on grounds that appellant had driven the Corvette in an alleged drug transaction. In this case, the suspect was arrested when he attempted to purchase cocaine from a person already in police custody at the Miami International Airport.\textsuperscript{20} The vehicle was the second of three cars the suspect used to get to the airport. In fact, he drove the forfeited car only five blocks before switching to another car which he parked at the airport.\textsuperscript{21} The Fifth

\textsuperscript{15} \textit{Id.} at 130.
\textsuperscript{17} \textit{Id.}
\textsuperscript{18} \textit{Id.} at 1205.
\textsuperscript{19} 496 F.2d 210 (5th Cir. 1974). According to the facts on record in the case, Hilda Landeo, the Corvette owner, had returned to Miami, from Peru, only a few hours before her arrest. Met at the airport by her husband, in a borrowed Cadillac, they drove to visit her father-in-law and then drove to the couple’s apartment where they transferred from the Cadillac to the Corvette. They then parked the Corvette at the father-in-law’s house and took his Ford to the airport. \textit{Id.} at 211.
\textsuperscript{20} \textit{Id.}
\textsuperscript{21} \textit{Id.} at 210.
Circuit Court of Appeal held that, at best, the Corvette was marginally used to facilitate a contraband related offense. No nexus had been demonstrated since there must be a showing beyond marginal connection before a vehicle forfeiture order will be sustained.\textsuperscript{22}

Facts sufficient to meet the criteria for forfeiture were found in \textit{United States v. One 1972 Pontiac GTO, 2-Door Hardtop},\textsuperscript{23} wherein a government agent initiated a heroin purchase while sitting in the Pontiac. Although the drug itself had not been delivered in the automobile, the court justified forfeiture, finding “that the sale was consummated in the car.”\textsuperscript{24} Here, the vehicle was involved in facilitating a drug transaction, and forfeiture was clearly warranted.

A forfeiture order was also upheld in a federal court where marijuana and cocaine were found inside the car and where the owner was charged with smuggling marijuana in the vehicle.\textsuperscript{25} Therefore, federal courts seem to require a showing that the vehicle has been instrumental in an act which violates drug or contraband statutes in order to justify its forfeiture. In interpreting the intent of federal forfeiture statutes,\textsuperscript{26} most federal courts require this connection, holding mere possession of contraband insufficient grounds for forfeiture.\textsuperscript{27}

\textsuperscript{22} \textit{Id.} at 212.

\textsuperscript{23} 529 F.2d 65 (9th Cir. 1976). Aside from the argument concerning the sufficiency of nexus, the appellant also raised the questions of whether the forfeiture provisions unconstitutionally impose the burden of proof upon the claimant and whether the government must prove probable cause by clear and convincing evidence. These claims were both rejected. \textit{Id.} at 66.

\textsuperscript{24} \textit{Id.}


\textsuperscript{26} 49 U.S.C. §§ 781, 782. An interesting note is that many of the federal cases discussing the statutory intent of the Congress in authorizing forfeiture did not cite \textit{United States v. United States Coin and Currency}, 401 U.S. 715 (1971) which elevated certain requirements for forfeiture to the level of constitutional requisites. The Court reversed a forfeiture order sustained upon a conviction for failing to register as a gambler and in their holding, they stated that, “When the forfeiture statutes are viewed in their entirety, it is manifest that they are intended to impose a penalty only upon those who are significantly involved in a criminal enterprise.” \textit{Id.} at 721. While many courts have used the language of “significant involvement” none have cited or attributed this phrase to the case.

\textsuperscript{27} \textit{See} note 13 \textit{supra}, for a decision requiring minimal connection.
HISTORY OF FORFEITURE IN FLORIDA

The forfeiture of vehicles related to seizures of contraband in Florida has been primarily governed by two statutes. The Uniform Narcotic Drug Laws [hereinafter cited as UNDL],28 first authorized forfeiture, giving all "authorized state officers the power to arrest any persons violating the narcotic laws of the State and to seize all vehicles, boats and aircraft used in violation of such laws." In 1974, the forfeiture provision was excised from the UNDL and consolidated with other contraband statutes in the Florida UCTA.29

The Florida UCTA provides for forfeiture of vessels, motor vehicles or aircraft, by the State Attorney within whose jurisdiction the vessel, motor vehicle or aircraft is seized. The forfeiture order requires a showing that the vehicle seized has been used "to transport, conceal, or possess . . . or used . . . to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of any contraband article."30

The Florida UCTA, broader than the UNDL, extends beyond narcotics to include other contraband articles as well. For example, "gambling paraphernalia, lottery tickets . . . and currency used or intended to be used in violation of the gambling laws . . ."31 or "[a]ny equipment, . . . which is being used . . . in violation of the beverage or tobacco laws of the state . . ."32 can subject the vessel, motor vehicle or aircraft holding these items to be seized in forfeiture proceedings.

The Florida UCTA broadens the grounds for forfeiture proceedings in addition to expanding the types of articles subject to its rule. It provides for forfeiture in the instances where vehicles are used, or where there has been an attempt to use a vehicle to facilitate the trafficking of contraband, as opposed to the requirement of actual use set forth in the earlier act. Judicial interpretation of what acts constitute

29. FLA. STAT. §§ 943.41-44.
30. FLA. STAT. § 943.42.
31. FLA. STAT. § 943.41. A case involving reversal of a forfeiture order of currency seized in connection with gambling allegations is reported in Baker v. State, 343 So. 2d 622 (Fla. 4th Dist. Ct. App. 1977), cert. denied 348 So. 2d 953 (Fla. 1977).
32. FLA. STAT. § 943.41.
“use” or “attempted use” of a vehicle for illegal purposes under either forfeiture statute has been inconsistent, and the language of both acts has given rise to controversy.

Under the Florida Comprehensive Drug Abuse Prevention and Control Act of 1973, the First District Court of Appeal, in *Grimm v. State*, sustained a forfeiture order where it was the passenger, not the owner of the vehicle, who was convicted of possession of marijuana. The court saw a clear mandate in the statute to uphold the trial court’s action despite the fact that no charge was ever filed against the owner.

Under the same act, however, Florida’s Third District Court of Appeal, in *In re 1972 Porsche 2 Door*, refused to find grounds for a forfeiture when the owner of the vehicle was arrested for possession of drugs, but his car was not shown to further any drug trafficking. In denying the forfeiture motion, the court said:

> [T]o forfeit the person’s ownership of the vehicle just because they are arrested for having some quantity of drugs, whether it be hard drugs or not, is not the intent of this statute. . . . I think it is whether the vehicle is being used to further a drug operation. That is the way I have always interpreted the statute.

*Grimm* and *Porsche*, thus exemplify the judicial controversy as to the statutory intent of the Florida Comprehensive Drug Abuse Prevention Control Act. It is hard to reconcile the fact that *Grimm* held that the statutory intent allowed forfeiture of a vehicle where a passenger possessed a mere 13 grams of marijuana whereas *Porsche* reached an opposite interpretation of the statutory intent, requiring instead, a

33. FLA. STAT. § 893.12 (2) (1973). This act charges law enforcement agencies with the responsibility of seizing contraband and vehicles, vessels and aircraft, and then directs them to proceed with forfeiture pursuant to the Florida UCTA.

34. 305 So. 2d 252 (Fla. 1st Dist. Ct. App. 1974).

35. 307 So. 2d 452 (Fla. 3d Dist. Ct. App. 1975). The owner of a 1972 Porsche had been arrested at the residence of another on charges of possession of cocaine and marijuana. While conducting a post-arrest inventory of the vehicle, an officer found a small amount of PCP under the seat of the car. It should be noted, however, that the court based its decision on arguments that the PCP in the car was the subject of an illegal search and that the state failed to show that “the individual was significantly involved in a criminal enterprise.” *Id.* at 452.


36. *Id.* at 452.
showing of a criminal intent to justify an order of forfeiture.

_Porsche_ was cited approvingly in _In Re Chevrolet Camaro_, where appellee's Camaro had been seized after he was arrested for possession of marijuana while in the vehicle. The Third District Court of Appeal upheld the trial court order of forfeiture, giving authority to the dicta in _Porsche_. "[F]orfeiture statutes are intended to apply to those individuals who are significantly involved in a criminal enterprise, § 943.43, Fla. Stat., . . . authorizing forfeitures, is discretionary, not mandatory." The court in _Camaro_ called for a showing beyond the mere possession _Grimm_ found sufficient, requiring significant involvement in a criminal enterprise in order to justify a forfeiture; clearly this is a more liberal interpretation of the contraband forfeiture statute.

_In State v. Washington_, wherein the defendant was awarded towing and storage costs that resulted from an overturned forfeiture order, the Fourth District Court of Appeal, in dicta, reported the trial court's finding that there were no grounds to support a forfeiture order where the state declines to prosecute.

_Helms v. One 1973 Chevrolet El Camino_, introduced a requirement that there must be proof that links the vehicle to the offense charged in order to justify forfeiture proceedings. In this case, the Florida Supreme Court refused to find that the seized automobile was used in connection with the offense charged.

These decisions interpreting the different forfeiture statutes suggest that no forfeiture should be sustained where the state declines to prosecute on the charges giving rise to the seizure. Failure to do so would also fail to link the automobile to the commission of the offense charged. The controversy in the statutory interpretation of the acts therefore arises from the district court decisions of _Grimm_, _Porsche_ and _Camaro_. These cases present the question of whether possession on

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37. 334 So. 2d 82 (Fla. 3d Dist. Ct. App. 1976). The claimant "was arrested for possession of marijuana while in his automobile. Mr. Costigliola pled guilty to the charge and as a first offender was placed on probation." _Id._ at 82.

38. _Id._ at 83.

39. 352 So. 2d 138 (Fla. 4th Dist. Ct. App. 1977). The reversal of the lower court implied that an improper forfeiture may leave the city liable for storing, towage and resultant damage to the vehicle.

40. 343 So. 2d 604 (Fla. 1977). The Florida Supreme Court received this case on transfer from the Third District Court of Appeal because of an apparent constitutional issue. The supreme court found that there was "no need to address the asserted constitutional issue." _Id._ at 605.
the person or in the vehicle constitutes sufficient cause for a forfeiture order. This issue was addressed when the Florida Supreme Court granted direct review in *Griffis*.

**IMPACT OF GRIFFIS**

The question of statutory interpretation remained in dispute until the Florida Supreme Court reviewed a circuit court's order of forfeiture of a motor vehicle seized on the grounds that appellant possessed marijuana and cocaine on his person and in the vehicle. The order of forfeiture followed the entry of a plea of nolo contendere to possession of marijuana, the cocaine charge having been dismissed by the state. Before the supreme court, appellant again argued against the constitutionality of the Florida UCTA, alleging that to "allow forfeiture without evidence of trafficking would render the statutes void as violative of due process, equal protection, and double jeopardy provisions of the Florida and United States Constitutions." The court agreed with appellant's contention that forfeiture should require a showing of a nexus between the vehicle and trafficking. However, in doing so, the court found it unnecessary to reach any state or federal constitutional issues, choosing instead to base its holding on an interpretation of both the current statute and its predecessor.

In construing the Florida UCTA, the court held that the trial court's literal reading of the statute was violative of the express legislative intent behind the enactment of the UCTA. Justice Karl, author of the opinion, quoted the following language from the preamble to the act: "Uniformity between the laws of Florida and the laws of the United States was necessary and desirable for effective drug abuse prevention and control." The court went on to find that this language clearly evinced a legislative intent to achieve state and federal uniformity.

After so concluding, the court analyzed the federal forfeiture sta-

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41. 356 So. 2d 297 (Fla. 1978).
42. Id. at 298.
43. Id.
44. Id. at 299.
45. Id. at 300.
46. Id.
utes47 to determine whether a nexus is necessary under federal law. The court specifically found the intent of Congress was to include such a requirement. "The congressional committee report that accompanied the amendment leaves no doubt that the congressional intent was not to permit forfeiture for mere possession of a controlled substance but to authorize forfeiture of those vehicles used in trafficking drugs in violation of the Internal Revenue laws."48

As the federal forfeiture statute requires a showing of a nexus, the Florida UCTA must then also require a showing of trafficking before a forfeiture action can be justified; the intent of the Florida Legislature being to expressly achieve uniformity between the Florida and federal forfeiture procedures.

In support of that proposition, the Griffis court noted language from the decisions in Datsun and Porsche. Datsun precluded forfeiture where there was no clear relationship between the vehicle and possession or sale of drugs therein.49 The court therefore seemed to be interpreting statutory intent as requiring a showing beyond mere possession. Griffis quoted similar language from Porsche: "forfeiture statutes . . . are intended to apply to those persons significantly included in a criminal enterprise."50 Mere possession was not deemed sufficient to give rise to a presumption of involvement in a criminal enterprise.

POST GRIFFIS

An examination of forfeiture appeals post-Griffis, reveals some confusion at the trial court level as to the proper grounds for forfeiture. Some trial courts still are ordering forfeiture in "mere possession" fact situations.

A forfeiture order had to be quashed in Nichols v. State,61 after a circuit court in Charlotte County, Florida, ordered the forfeiture of a van because a search of it resulted in the discovery of a small quantity

47. Id. at 299.
48. Id. at 300.
50. 356 So. 2d at 302.
51. 356 So. 2d 933 (Fla. 2d Dist. Ct. App. 1978). The appellate court noted the impact of Griffis, when it rejected a literal reading of the statute; "the teaching of the Supreme Court of Florida in a very recent opinion, however, demonstrates that such an approach is superficial." Id. at 934.
of marijuana and the charging of the owner with possession. The Second District Court of Appeal held that:

The trial judge applied the forfeiture statutes in a literal manner and ordered forfeiture because a small amount of marijuana was found in the vehicle while Nichols was legally in charge of it. Since, however, the evidence before the trial court did not reveal any nexus between the controlled substance found in the van and any illegal drug operation, this appeal is directly controlled by the supreme court’s opinion in Griffis v. State, supra. Accordingly, the order of the trial court must be and is hereby vacated.52

In Brown v. State,53 appellant’s car had been forfeited even though he had not been charged with possession of marijuana. The evidentiary hearing on the state’s motion for forfeiture revealed:

A Jacksonville Beach police officer received information from a confidential informant that Brown was in possession of marijuana. The officer went to Brown’s home where he saw Brown and two men get into the car. The officer followed the car and when it stopped, identified himself and asked if he could search the car. Brown consented to the search. The officer found eight one-ounce baggies of marijuana in the trunk. Brown denied they were his.54

The trial court’s forfeiture order was overturned because the district court felt that there was no showing of a nexus. “[T]ransportation of a controlled substance in a car which is only incidental to possession, . . . is insufficient to invoke the forfeiture provisions of Sections 943.41-44.”55

Other trial court decisions reveal confusion as to the sufficiency of acts which will give rise to forfeiture. A trial court order denying forfeiture was reversed and remanded by the Fourth District Court of Appeal in State v. Franzer.56 Franzer was arrested and pled nolo contendere to charges of selling a large quantity of marijuana to Fort

52. Id. at 934.
53. 357 So. 2d 472 (Fla. 1st Dist. Ct. App. 1978). Some of the evidence adduced at the hearing included the fact “that Brown knew that the marijuana was in the car.” Id. at 472.
54. Id. at 472.
55. Id. at 473.
Lauderdale police officers. He had delivered the drugs in his 1974 Corvette. After a review of the statement of stipulated facts, the court held that “the record reflects that the appellee's automobile was used as the delivery vehicle in a scheme to promote the distribution of marijuana. Use of a vehicle to deliver marijuana for sale is clearly sufficient to bring into play the forfeiture provisions.”

In line with its decision in *Franzer*, the Fourth District Court of Appeal in Florida upheld a forfeiture order in *Mosley v. State*, wherein negotiations for the purchase of heroin, delivery, and payment, were all accomplished in the forfeited vehicle. The appellant had attempted to have the order vacated because the actual seizure of the car took place eight days after the arrest. The court found the time delay of no consequence and sustained the trial court order.

**CONCLUSION**

The holding in *Griffis* limits the ability of a State Attorney to move for a forfeiture order in cases of mere possession of narcotics and contraband. It seems clear from the opinion that due to the harshness of forfeiture orders, Florida courts will be required to find a clear nexus between the use of the vehicle and the intent to traffic in drugs, before an individual's property can be subjected to this penalty.

*Griffis* raises significant questions as to what constitutes a nexus, as a nexus is deemed necessary to order forfeiture. While mere possession will not be sufficient, those facts which will permit forfeiture remain unclear.

Some of the criteria developed in federal case law may, however, be applicable. For example, where the car is shown to be the location of a narcotics transaction, and where the vehicle is used in facilitating the smuggling of marijuana, sufficient rationale for forfeiture might well lie within the limits contemplated by the legislature. However, federal criteria established through case law may not always be applicable as in *Jaguar*, wherein the court was willing to order forfeiture upon a showing of possession of cocaine by the driver.

57. *Id.* at 63.
59. *See* note 23 *supra*.
60. *See* note 8 *supra*.
In spite of occasional trial court forfeiture orders in cases of mere possession, the impact of the Griffis decision appears to have been the application of the legislature's intent to make clear that forfeiture is a harsh penalty only to be ordered to curtail trafficking of narcotics and contraband. Therefore, forfeitures seem non-applicable to casual consumers of narcotic substances in a vehicle, nor to "mere possessors" of small amounts of contraband. The federal and Florida forfeiture statutes are meant to reach the tools of narcotics and contraband trafficking in order to curtail those illegal activities, and the use of forfeiture in instances of "mere possession" proves too harsh a penalty.

A recent examination of trial court forfeiture orders leads one to conclude that many trial courts have not yet fully applied the guidelines established in the Griffin decision. Appellate review of improper forfeiture orders provides some legal relief, however, the economic costs of such review often exceed the equity in the vehicle. In such instances, an unfair penalty is wrought. There are criminal statutes designed to govern acts of possession of drugs and contraband substances. To subject an individual to both criminal proceedings and forfeiture orders, without a clear nexus between trafficking and the vehicle, works an unfair double penalty. Griffis reaffirms the spirit of fundamental fairness which we would hope to find in all statutes requiring loss of individual property.

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