

## A Victim Of Circumstance

### Who Would Give Away A 1955 Chevrolet?

If you doubt the importance of maintaining documentation regarding your acquisition of a collector car and its parts, consider the case of *Dellechiaie vs. Florida*, decided on September 4, 1998 by the Court of Appeal of Florida. Based in part on the presence of such documentation, the Court of Appeal reversed a conviction for alleged grand theft of a motor vehicle.

According to the court, Richard Lanoue owned a maroon 1955 Chevrolet Bel Air that had been reconditioned and fitted with an orange 1963 Corvette 327 engine. He displayed it on the fenced lot of his antique car dealership, "Classy Chassis." On the morning of Thursday, October 22, 1992, he

discovered that someone had taken the Bel Air.

The following Monday, October 26, an anonymous telephone caller told Lanoue that he was appalled at what had been done to the car. Lanoue traced the call to a residence. A detective went there and observed what he believed to be the distinctive engine that had been installed in the stolen Bel Air. The homeowner was arrested, and eventually pleaded guilty to grand theft.

Although there was no evidence to link Dellechiaie to that person, the State accused Dellechiaie of participating in the theft of the Bel Air. At trial, the State attempted to prove Dellechiaie's involvement by circumstantial evidence. The State alleged that late in the afternoon of Friday, October 23, the day after the theft was discovered, Dellechiaie and two others were seen towing the Bel Air behind a pickup truck. They deposited the car in front of Dellechiaie's home. Later that night, Dellechiaie was arrested for stealing the car.

Lanoue testified that on Saturday, October 24, he received a telephone call at his dealership from a man and woman who identified themselves as Dellechiaie and his wife.

The woman asked to speak to the owner of the 1955 Chevy. She and Dellechiaie were angry. Dellechiaie sought the return of his tires and wheels, which he had affixed to the Bel Air for towing (and which Lanoue had presumably reclaimed). Dellechiaie told Lanoue that he had retrieved the

Bel Air's body from some woods located not far from the car dealership and the homeowner's property. When Lanoue asked Dellechiaie how he knew the car belonged to him, Dellechiaie replied that he had called car dealerships in the phone book until he came to Lanoue's.

The State also relied on Dellechiaie's possession of the recently stolen property which, under Florida law, in the absence of a satisfactory explanation, would allow an inference that he knew or should have known that the property was stolen.

The defense countered that on the afternoon of October 23, Dellechiaie and a friend were driving along a dirt road in the woods, when they happened upon the body of the Bel Air. The car was missing a variety of parts, including its engine, transmission, and radiator, and had no tires or rims. Its body had been damaged, and one of its windows was cracked. The car, or what was left of it, rested near other junk dumped in the area.

A man standing nearby, whom Dellechiaie and his friend took to be the

owner of the property, told them that they could have the car if they hauled it away. The man wrote out a receipt: "October 23, 1992. Mr. Dellechiaie. Spring Hill, Fla. I give 1955 Chey [sic] to tow as junk from my Eden Avenue property to [Mr.] Dellechiaie for no charge." Dellechiaie and his friend obtained tires from Dellechiaie's home and from that of another friend. They mounted the tires on the Bel Air and towed it to Dellechiaie's house.

At trial, Dellechiaie's lawyer moved for an acquittal. He argued, among other things, that the State's circumstantial evidence was insufficient to prove Dellechiaie's guilt. Both motions were denied, and the jury found Dellechiaie guilty.

In reversing Dellechiaie's conviction, the appellate court noted that where, as here, the State relies solely on circumstantial evidence to prove a defendant's guilt, the jury may convict only if it finds that the evidence excludes every reasonable hypothesis of innocence beyond a reasonable doubt. To pose that question to the jury, the State must meet its threshold burden to present

competent evidence that is inconsistent with the defendant's theory of innocence. If the State does not meet that burden, the defendant is entitled to an acquittal.

In this case, none of the State's circumstantial evidence contradicted the defense hypothesis of Dellechiaie's innocence. Moreover, the statutory inference that Dellechiaie knew the property was stolen was dispelled by Dellechiaie's explanation of how he came to possess the car. That explanation was not unreasonable, nor was it in any way refuted. To the contrary, other circumstances tended to corroborate it. For this reason, the evidence was legally insufficient to sustain Dellechiaie's conviction.



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*Lawrence Savell is Counsel at the law firm Chadbourne & Parke LLP in New York City. This column provides general information and cannot substitute for consultation with an attorney. Additional background on this and prior "Old Cars in Law" articles can be found online at [www.lawrencesavell.com](http://www.lawrencesavell.com)*