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Heatley Plea May Cause Deportation

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ATLANTA (AP) -- Dany Heatley's ability to play hockey in the United States if he pleads guilty in his vehicular homicide case could hinge on the crime's definition and the length of the sentence the Atlanta Thrashers star receives.

A conviction for Heatley, a Canadian citizen, could result in deportation from the United States, legal experts say. It also could prevent him from entering the United States from another country.

His lawyers have been studying the issue as they move closer to a plea deal with Atlanta prosecutors. They have said the case is expected to be resolved Friday, though they haven't given any details. A trial had been scheduled to get underway next week.

Heatley is charged with first-degree vehicular homicide, second-degree vehicular homicide, reckless driving, driving too fast for conditions, failure to maintain a lane and speeding in connection with the Sept. 29, 2003 car crash that killed teammate Dan Snyder, 25. The top count is a felony in Georgia, the others are misdemeanors.

Under federal immigration law, an alien convicted of an "aggravated felony," such as a crime of violence, can be deported if the person is sentenced to more than one year in jail. The law also says that an alien convicted of a crime involving "moral turpitude" can be excluded from entering the country.

One exception to the excludability provision is if the maximum possible sentence for the crime an alien is convicted of doesn't exceed one year in jail and the actual term the person is given doesn't exceed six months.

"Generally under the law, the most dangerous thing for him would be what they call the aggravated felony," said Socheat Chea, an Atlanta immigration lawyer. "It could be construed as a crime of violence."

Chea said a guilty plea to second-degree vehicular homicide might be Heatley's best bet to avoid deportation and not to be excluded from the United States because it is a misdemeanor that carries a sentence of up to 12 months in jail.

"He might have some room to maneuver," Chea said.

Leon Wildes, a New York immigration lawyer who won lawful permanent U.S. residence for Beatles singer John Lennon in the 1970s, said the law is not black and white, so whatever Heatley does could be a risk.

"Ultimately, he has to rely on his lawyers' advice as to what he is going to plead guilty to," said Wildes.

A November U.S. Supreme Court decision could help Heatley on the deportation issue. The court ruled that a drunken driving accident that injured two people was not a crime of violence allowing the government to deport a Florida man to his native Haiti. Josue Leocal had pleaded guilty to a felony charge of drunken driving in the Miami area.

The high court also said that the statute suggests the felony offense must require intent in causing harm—not mere negligence as in Leocal's case—before immigrants are subject to the drastic consequence of deportation.

Police estimated that Heatley, the MVP of the 2003 NHL All-Star game, was driving his black Ferrari convertible between 60 mph and 90 mph on a curved road in a residential area when it ran into a brick pillar and iron fence. Authorities said Heatley had consumed some alcohol, but was not intoxicated. Snyder, a passenger in the car, died after several days in a coma.

An NHL spokesman and Thrashers general manager Don Waddell did not immediately return calls Tuesday seeking comment. Heatley, who had been playing in Switzerland during the NHL lockout, returned to Atlanta earlier this week.

One of Heatley's lawyers, Don Samuel, said the defense is working hard to make sure Heatley's career is not affected by a plea.

"The immigration issues are obviously focused on the nature of the crime, the category of the crime and the length of sentence," Samuel said. "That's the same advice we're getting. Whether it's a felony or misdemeanor makes a difference."

Samuel agreed that a plea is risky because of what immigration officials might do.

"It doesn't appear to be as simple as arithmetic," he said. "Whatever the resolution, there appears to be a certain amount of discretion that the (immigration service) retains."

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