

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, : NO. 09-00,922
Plaintiff :
 :
vs. :
 : CIVIL ACTION
\$1208.00 U.S. CURRENCY :
 : Forfeiture

OPINION AND ORDER

Before the Court is the Commonwealth's Petition for Forfeiture and Condemnation, filed April 20, 2009. A hearing on the petition was held December 1, 2009.¹

The Commonwealth asks this Court to declare forfeited the \$868.00 taken from the person of Karim Williams at the time of his arrest on April 8, 2007, following a traffic stop of the vehicle in which Mr. Williams was a passenger. This request is based on the Commonwealth's contention that the money was "furnished ... by [a] person in exchange for a controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act" or "used ... to facilitate [a] violation of The Controlled Substance, Drug, Device and Cosmetic Act." 42 Pa.C.S. Section 6801(a)(6)(i)(A) and (B). While the Commonwealth presented no direct evidence in support of this contention, inasmuch as the evidence showed that Mr. Williams was at the time of his arrest in possession of a small amount of marijuana, and as there was on the floor of the back seat of the car a small amount of heroin, the Commonwealth relies on the presumption that currency found in close proximity to a controlled substance is presumed to be proceeds derived from the selling of such a controlled substance and, therefore, subject to forfeiture. 42 Pa.C.S. Section 6801(a)(6)(ii). That presumption is rebuttable, however, and Mr. Williams offered in response his testimony that his Mother gave him \$2000.00 in November 2006 and the money on his person was the remainder

¹ The \$1208.00 sought to be forfeited was taken from two individuals, \$340.00 from Jamar Andrews and \$868.00 from Karim Williams. Mr. Andrews did not file an Answer to the petition and did not seek the return of the \$340.00 taken from him. Mr. Williams did make a claim to the money taken from him, and participated in the hearing by teleconference from Graterford State Correctional Institution.

of that \$2000.00. He also provided a copy of his Mother's bank statement showing a \$2000.00 check having been drawn on her account on November 2, 2006.

Mr. Williams was arrested for possession of a small amount of marijuana for personal use, and the Commonwealth presented no evidence that Mr. Williams had been selling controlled substances or was intending to purchase controlled substances. The Commonwealth's argument that because he was in possession of the money, he *could have* purchased controlled substances, does not in and of itself convince the Court that it was more likely than not that he was intending to do so. Indeed, the Court finds the evidence lacking and, accordingly, will enter the following:

ORDER

AND NOW, this day of December 2009, for the foregoing reasons, the Commonwealth's Petition for Forfeiture is hereby DENIED. The \$868.00 U.S. currency seized from Karim Williams on April 8, 2007, shall be returned to him forthwith.

BY THE COURT,

Dudley N. Anderson, Judge

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 Hon. Dudley Anderson