

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:	DOCKET NO. 13-02667
Plaintiffs,	:	
	:	CIVIL ACTION
vs.	:	
	:	FORFEITURE
\$4,793.25 U.S. CURRENCY and	:	
2006 CHEVROLET IMPALA,	:	
VIN # 2G1WT58K6694123984,	:	
Defendants.	:	NON-JURY VERDICT

Reputed Owner: George Minnick

VERDICT

In this matter, the Commonwealth seeks a forfeiture of property seized following a traffic stop on September 6, 2012. The Court held a non-jury trial on July 7, 2014. The Court hereby enters a verdict in favor of the Commonwealth and against Mr. Minnick, and the property at issue is forfeited.

I. Findings of Fact

On September 6, 2012, Williamsport Police Officer Justin Snyder¹ conducted a traffic stop of a black Chevrolet Impala (Vin # 2G1WT58K6694123984) (“vehicle”) for a window tint violation. From the window of the vehicle, Officer Snyder smelled an odor of marijuana emanating from the vehicle and could plainly see a “large wad” of currency. There was an active bench warrant on the passenger and owner of the vehicle, Mr. George Minnick. A search incident to arrest on the bench warrant revealed \$4,753.25 in Mr. Minnick’s front left pocket. His right pocket contained \$40 and 6 bags of heroin. The vehicle was impounded. A search of the vehicle revealed 110 bags of heroin and 5.2 grams of marijuana and 2.7 grams of cocaine base in a hidden compartment located behind the headlight switch mechanism in the vehicle.

¹ Williamsport Police Officer Justin Snyder has been with the Williamsport police since 2006 and was assigned to narcotics enforcement.

Officer R. Snyder employed a K-9 search of the vehicle with a certified drug and sniff dog who alerted drugs in the vehicle. Multiple controlled substances were found in the vehicle. On September 6, 2013, Mr. Minnick pled guilty to count 1, the Manufacture, Delivery or Possession With Intent to Manufacture or Deliver, a felony, under 35 §780-113§§A30 and was sentenced to a minimum of 2 and a maximum of 4 years. The offense date is September 6, 2012. (See, Commonwealth's Exhibit 5)

The Commonwealth sought a forfeiture of the money and vehicle seized. Mr. Minnick filed an answer to the complaint for forfeiture on December 16, 2013. A hearing was held in which Mr. Minnick testified via video from SCI Benner, a Pennsylvania correctional institution. Mr. Minnick testified that the vehicle was a gift from his cousin. During the hearing, Mr. Minnick conceded that there was "no argument to the car" because drugs were found in the car. However, Mr. Minnick contended that none of the money he possessed came from drugs. Mr. Minnick contended that \$700 was from working under the table at a local restaurant, and that the remainder of the money came from his grandmother and brother as a gift for his birthday and for his child's second birthday. Somewhat contradicting this testimony, Mr. Minnick later testified that the money was a gift for school clothes for kids.

The only evidence Mr. Minnick submitted was his own testimony. Mr. Minnick did not file tax returns and submitted no documentary proof as to the source of any of the funds. Mr. Minnick's grandmother, brother and cousin **did not testify**. Mr. Minnick stated that his grandmother was not going to miss work and drive all the way out here to testify. Minnick noted that his grandmother is 65 years old and claimed that there was short notice of the hearing. On cross examination Mr. Minnick admitted receiving notice of the hearing on June 10, 2014.

Mr. Minnick conceded that 110 bags of heroin were in the vehicle, but denied knowing the drugs were there. Mr. Minnick also admitted that he pled guilty to possession with intent to deliver and received a 2-4 year sentence. Mr. Minnick commented that he was forced to take the deal. Mr. Minnick conceded that he used some of his money to buy the drugs that were in his possession.

The Court finds that Mr. Minnick's testimony about how he obtained the money was not credible or plausible. Specifically the court does not believe that Mr. Minnick received \$4,093.25 in gift money from his grandmother and brother or that he earned \$700 of the money in his possession by working at a restaurant. Significantly, defendant pled guilty to possession with intent to deliver for an offense on September 6, 2014, the date that the \$4,793.25 and heroin was found on his person. On that same date, Mr. Minnick's vehicle contained 110 bags of heroin and 5.2 grams of marijuana and 2.7 grams of cocaine base in a hidden compartment. The reasonable inference is that the \$4,793.25 in defendant's possession on the date he manufactured/possessed drugs with intent to deliver was furnished or intended to be furnished in exchange for drugs, were proceeds traceable to a drug exchange or that the funds were used or intended to be used to facilitate any violation of the of The Controlled Substance, Drug, Device and Cosmetic Act.

Moreover, Defendant did not offer one witness or one document in support of his claims. His brother did not testify. No one from the restaurant testified. The mother of the two year old or the children whose clothes were to be purchased did not testify. The cousin who allegedly gave Mr. Minnick the car as a gift did not testify. The grandmother did not testify. There was no evidence suggesting that such generous gifts were affordable or common among his family and friends. Defendant's own explanation of the source of funds changed somewhat. First Mr.

Minnick claimed the funds were birthday gifts for himself and his two year old. Later on, Mr. Minnick testified that the funds were given to him to buy school clothes for kids. It is implausible that no testimony or documents could be obtained to substantiate any of the gifts. It also seems unlikely that Mr. Minnick's 65 year old grandmother could afford to give thousands of dollars to her grandson as a birthday gift but could not miss work to travel to testify on Mr. Minnick's behalf or make other arrangements to document the gift. The Court notes that there was no attempt to arrange for telephone testimony. And, Mr. Minnick did not respond to discovery that could have helped document his claims.

Based upon the evidence and all of the reasonable inferences from the evidence, the Court finds that the money found on Mr. Minnick's person was furnished or intended to be furnished in exchange for drugs, were proceeds traceable to a drug exchange or that the funds were used or intended to be used to facilitate any violation of the of The Controlled Substance, Drug, Device and Cosmetic Act. The Court also finds that the money was found in close proximity to drugs on Mr. Minnick's person and the drugs found in the vehicle owned by Mr. Minnick and in which Mr. Minnick was a passenger. The Court finds that the vehicle contained 110 bags of heroin and 5.2 grams of marijuana and 2.7 grams of cocaine base in a hidden compartment, that the vehicle was used to transport and conceal those drugs. The Court finds that Mr. Minnick was not credible in his assertion that he did not have knowledge of the presence of drugs in the vehicle. The drugs were concealed in a hidden compartment of his own vehicle on a date in which he was guilty of manufacture/possession of controlled substance with intent to deliver and when he possessed a wad of cash and heroin in his own pocket.

II. Conclusions of Law

1. The Controlled Substances Forfeiture Act (Forfeiture Act) provides in pertinent part the following:

(a) Forfeitures generally.--The following shall be subject to forfeiture to the Commonwealth and no property right shall exist in them:

(4) All conveyances, including aircraft, **vehicles** or vessels, which **are used or are intended for use to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of, property described** in paragraph (1) or (2) [including: drug paraphernalia, controlled substances or other drugs], except that:

* * *

(ii) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent, which absence of knowledge or consent must be reasonable under the circumstances presented;

* * *

(6) (i) All of the following:

(A) Money, negotiable instruments, securities or other things of value **furnished or intended to be furnished by any person in exchange** for a controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act, and **all proceeds traceable to such an exchange**.

(B) Money, negotiable instruments, securities or other things of value **used or intended to be used to facilitate any violation** of The Controlled Substance, Drug, Device and Cosmetic Act.

42 Pa. C.S. §6801(a)(4) & (6)(i)(A) and (B) (emphasis added).

2. Concealment of drugs in a vehicle and its use as transportation/facilitation of drugs makes the vehicle forfeitable. 42 Pa. C.S. §6801(a)(4)

3. To forfeit *funds* under the Forfeiture Act, the Commonwealth must establish by a preponderance of the evidence that the funds were furnished or intended to be furnished in exchange for drugs, were proceeds traceable to a drug exchange or that the funds were

used or intended to be used to facilitate any violation of the of The Controlled Substance, Drug, Device and Cosmetic Act.

4. The Court concludes that the Commonwealth established the nexus between the \$4,793.25 in currency and the CHEVROLET IMPALA, VIN # 2G1WT58K6694123984. Specifically drugs were found hidden in the vehicle along with Mr. Minnick's who had drugs and money in his pockets. Mr. Minnick did plead guilty to possession with intent to deliver for an offense on September 6, 2012 and received a 2-4 year sentence.
5. "The term "facilitate" as used in Section 6801(a)(6)(i)(B) broadly encompasses any use or intended use of the property which makes trafficking in contraband less difficult and laborious." Commonwealth v. Funds in Merrill Lynch Account, 777 A.2d 519, 525 (Pa. Cmwlth. 2001)(further citation omitted)
6. Since the Commonwealth established a nexus between the money and car and the illegal activity by a preponderance of the evidence, the burden shifts to the claimant to show that he or she owns the money, acquired it lawfully, and did not use it or possess it unlawfully. Commonwealth v. \$17,182.00 United States Currency, 42 A.3d 1217, 1220 (Pa. Cmwlth. 2012); see, The Fofeiture Act, 42 Pa.C.S. § 6802 (j).
7. "[T]o discharge this burden, the claimant must establish that: (1) he owned the money; (2) he lawfully acquired it; and (3) it was not unlawfully used or possessed by him." Commonwealth v. \$6,425.00 Seized from Esquilin, 583 Pa. 544, 556 (Pa. 2005)(further citations omitted)
8. In this case, the Court concludes that Mr. Minnick did not meet his burden of establishing that he lawfully acquired the property and that it was not unlawfully used or possessed by him.

III. Discussion

The Court concludes that the \$4,793.25 and Chevrolet Impala seized following a traffic stop on September 6, 2012 shall be forfeited pursuant to 42 Pa. C.S. §6801(a)(4) & (6)(i)(A) and (B). The Commonwealth met its burden to establish a nexus between the property and the drug activity.

The vehicle was used to transport and conceal drugs and therefore is subject to forfeiture. The Court finds that Mr. Minnick had knowledge that the vehicle was used to transport and conceal drugs. The Court believes it would be difficult to hide the drugs in such a hard to find compartment without the owner's knowledge. Furthermore, Mr. Minnick pled guilty to manufacture/possession of controlled substances occurring on the date the vehicle was seized. In addition, Mr. Minnick had over \$4,000 and heroin on his person and was a passenger in the vehicle at the time of the stop

Similarly, the Commonwealth established a nexus between the \$4,793.25 on Mr. Minnick's person where he was a passenger in the vehicle that contained 110 bags of heroin and 5.2 grams of marijuana and 2.7 grams of cocaine base and where he pled guilty to manufacture/possession with intent to sell controlled substances. Furthermore, Mr. Minnick did not provide a credible explanation of why he had over \$4,000 in cash. It is unlikely that wages from "under the table" work or his relatives and friends would provide such gifts. No documents or testimony corroborated his statements. There was not even evidence that his family or friends were affluent enough to make generous cash gifts to him.

The Court enters the following Order.

ORDER

AND NOW, this 10th day of July, 2014 following a non-jury trial in the above-captioned matter, it is hereby ORDERED and DIRECTED as follows:

1. The relief requested in the Commonwealth's complaint to forfeit property is GRANTED; the \$4,793.25 in U.S. currency and the Chevrolet Impala, VIN # 2G1WT58K6694123984 are hereby forfeited to the Commonwealth of Pennsylvania.
2. All claims of right, title or interest of George Minnick, and any other claimants in the defendant/property are hereby declared to be terminated, revoked and rendered null and void. The \$4,793.25 in U.S. currency and the Chevrolet Impala, VIN # 2G1WT58K6694123984 are hereby condemned and forfeited to the Office of Attorney General, pursuant to the Judicial Code, Chapter 68, Controlled Substances Forfeiture, Sections 6801-6802, 42 Pa. C.S.A. Section 6801 et. seq., for use of disposition in accordance with law.
3. The registration heretofore issued by the Commonwealth of Pennsylvania for said vehicle is hereby declared to be terminated and revoked and the Pennsylvania Department of Transportation is directed to reissue said registration in the name of the Pennsylvania Department of General Services for official use, sale or disposition by the Office of Attorney General.
4. Funds received from the sale of forfeited property and/or from forfeited cash shall be deposited into an interest-bearing account held by the Office of Attorney General and the interest generated therefrom shall be used in accordance with the Controlled Substances Forfeitures Act, 42 Pa.C.S.A. 6801 et. seq.

BY THE COURT,

July 10, 2014

Date

Richard A. Gray, J.

cc: Robert B. Stewart, III
Senior Deputy Attorney General
Office of Attorney General
2515 Green Tech Drive, Suite D
State College, PA 16803

George Minnick, Inmate No. LF0288 (regular and certified mail)
SCI Benner Township
301 Institution Drive
Bellefonte, PA 16823