

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:	13-00823
Plaintiff	:	
	:	
vs.	:	CIVIL ACTION
	:	
ONE 2006 CHEVROLET MALIBU SEDAN	:	
VIN# 1G1ZT538X6F194211 and \$110.00 U.S.	:	
CURRENCY	:	
	:	FORFEITURE
	:	NON-JURY VERDICT

Reputed Owner: Tirrell Williams, a/k/a Tyrell Williams

OPINION and VERDICT

In this matter, the Commonwealth seeks a forfeiture of property seized from Tirrell Williams on November 16, 2012. The Court held a non-jury trial on April 16, 2015. The Court hereby enters a verdict in favor of the Commonwealth and against Tirrell Williams and the property; the property at issue is forfeited.

I. Findings of Fact

1. On September 16, 2014, Tirrell Williams was sentenced to state prison following a jury verdict of guilty to a count of possession with intent to deliver heroin and a count of possession with intent to deliver cocaine.
2. At the time of his arrest Williams was driving the 2006 Malibu while in possession of the contraband for which he was found guilty of possessing with the intent to deliver, and a guest passenger also was carrying additional contraband.
3. Mr. Williams possessed the contraband while in the 2006 Malibu with the intent to sell it.
4. At the time of his arrest, Williams possessed \$110.00 of cash.

5. The Court finds that Williams did not lawfully possess or acquire the currency.
6. Tirrell Williams' testimony was not credible.¹
7. Ion testing established that the currency had more than 3 times the state average amount of cocaine particles on the bills.
8. Sgt. Thornburg credibly testified that this confirms that the currency was recently next to cocaine.
9. The arresting officer Justin Snyder credibly testified that Williams possessed the contraband.

II. Conclusions of Law

1. Williams utilized the 2006 Malibu to transport contraband in violation of 42 Pa. C.S. §6801(a)(4).
2. The evidence established a nexus between the contraband and Mr. Williams' vehicle and currency.
3. No credible testimony supported that Mr. Williams lawfully acquired the currency or that the currency was not unlawfully used or possessed by Mr. Williams.

III. Discussion

The Commonwealth filed a petition for forfeiture of Mr. Williams' 2006 Chevrolet Malibu Sedan and the \$110 found in his possession when Mr. Williams was arrested on November 16, 2012. The Controlled Substances Forfeiture Act (Forfeiture Act), 42 Pa.C.S. §§ 6801-6802, provides that a vehicle used for transportation or facilitation of the sale, receipt, possession or concealment of illegal drugs is forfeitable. 42 Pa. C.S. §6801(a)(4). The Forfeiture Act further provides that money traceable to an exchange, or exchanged or intended to

¹ Williams had two prior *crimen falsi* convictions. See Comm. Ex. 8-9; Pa.R.E. 609(a).

be exchanged for illegal drugs, or used or intended to be used to facilitate² a violation of The Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101, *et. seq.*, is forfeitable. 42 Pa. C.S. §6801(6)(i)(A) and (B). For forfeiture, the Commonwealth must establish a nexus between the money and the illegal activity by a preponderance of the evidence. Once that nexus is established, 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); Commonwealth v. \$6,425.00 Seized from Esquilin, 583 Pa. 544 (Pa. 2005) see, The Fofeiture Act, 42 Pa.C.S. § 6802 (j).

In the present case, the Malibu was used to transport cocaine and heroin. In addition, the Malibu was being used to facilitate the possession of the cocaine and heroin with intent to sell it. The jury verdict rendered on September 16, 2014, with the credible testimony of Officer Snyder, and with Mr. Williams's prior history of selling illegal drugs, and the lack of any device necessary for personal use of the drugs, provides convincing evidence that Mr. Williams possessed the heroin and cocaine while driving the Malibu with the intent to sell the heroin and cocaine. It follows that Mr. Williams used the Malibu in the transportation and facilitation of his intent to possesses and sell the drugs.

In addition, the Commonwealth established the nexus between the money and Mr. Williams' illegal drug activity. The cash was on Mr. Williams' person at the same time he possessed heroin and cocaine with the intent to sell. This nexus is further bolstered by Mr. Williams' conviction, his prior history of selling drugs, and the ion scan results which confirmed that the currency was recently next to cocaine.

² "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)

Since the nexus was established, Mr. Williams bore the burden to 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) Mr. Williams failed to establish that he lawfully acquired the funds or that the funds were not unlawfully used or possessed by him. Although Mr. Williams presented some evidence of having been employed, he never testified that that the funds were acquired from that employment. There was no testimony as to what the funds were to be used for. Furthermore, Mr. Williams failed to respond to discovery requests which requested pay stubs and tax returns. The failure to respond and the failure to present any documents at trial creates an inference that there are no pay stubs or documents to establish that funds had been from employment.

Accordingly, the Court enters the following Order.

ORDER

AND NOW, this 17th day of **April, 2015** following a non-jury trial in the above-captioned matter held on April 16, 2015, it is hereby ORDERED and DIRECTED as follows:

1. The relief requested in the Commonwealth’s complaint to forfeit property is GRANTED; the 2006 CHEVROLET MALIBU SEDAN (VIN #:1G1ZT538X6F194211) AND \$110 U.S. CURRENCY are hereby forfeited to the Commonwealth of Pennsylvania.
2. All claims of right, title or interest of Tirrell Williams, a/k/a Tyrell Williams, and any other claimants in the defendant/property are hereby declared to be terminated, revoked and rendered null and void. The are hereby condemned and forfeited to the Commonwealth 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.

BY THE COURT,

April 17, 2014
Date

Richard A. Gray, J.

cc: District Attorney's Office – Martin Wade, Esquire
Tirrell Williams
HN4266, SCI- Albion, 10745 Route 18, Albion, PA 16475-0001