

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN *ex rel*  
JOHN D. O'HAIR, WAYNE COUNTY  
PROSECUTING ATTORNEY,

Plaintiff-Appellee,

v

\$2,690 IN UNITED STATES CURRENCY,

Defendant,

and

EUGENE UNDERWOOD,

Claimant-Appellant.

UNPUBLISHED  
July 23, 1996

No. 180879  
LC No. 94-449061 CF

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PEOPLE OF THE STATE OF MICHIGAN *ex*  
*rel* JOHN D. O'HAIR, WAYNE COUNTY  
PROSECUTING ATTORNEY,

Plaintiff-Appellee,

v

\$7,023 IN UNITED STATES CURRENCY,

Defendant,

and

EUGENE UNDERWOOD,

Claimant-Appellant.

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No. 180878  
LC No. 93-349380 CF

Before: Doctoroff, C.J., and Wahls and Smolenski, JJ.

PER CURIAM.

In docket number 180879, claimant appeals as of right the circuit court's judgment of forfeiture of \$2,690. In docket number 180878, claimant appeals as of right the circuit court's judgment of forfeiture of \$7,023. We affirm.

First, claimant argues that the trial court erred in finding that he had no standing to bring the claim because, according to claimant, a challenge to standing must be made by a motion for summary disposition. We disagree.

Forfeiture proceedings pursuant to MCL 333.7521; MSA 14.15(7521) are in rem proceedings. *In re Forfeiture of \$30,632.41*, 184 Mich App 677, 678; 459 NW2d 99 (1990). Forfeiture actions are a "legal anomaly that proceed[ ] on an archaic theory that inanimate objects themselves can be guilty of wrongdoing." *Id.* Since the forfeiture statute does not provide specific rules for forfeiture proceedings, the rules of civil procedure apply. *In re Forfeiture of 301 Cass*, 194 Mich App 381, 384-386; 487 NW2d 795 (1992). While forfeitures are generally not favored in the law, the forfeiture statute for drug-related offenses must be liberally construed to effectuate its purpose of promoting the health, welfare and safety of Michigan citizens. *In re Forfeiture of One 1987 Chevrolet Blazer*, 183 Mich App 182, 184; 454 NW2d 201 (1990).

Claimant's argument fails in the first instance in that it misconprehends his relationship to the forfeiture proceedings. In the forfeiture action, the money itself was the defendant and the purpose of the hearing was to determine whether the money itself was subject to the penalty of forfeiture. *In re Forfeiture of \$30,632.41, supra*, 184 Mich App 678. The determination of whether the money was proceeds of drug trafficking was coextensive with a determination of whether the money was alternatively derived from claimant's employment. Therefore, while the court's finding that the money was subject to forfeit necessarily involved a rejection of claimant's ownership claim, the nature of the court's ruling was a finding that the defendant money itself was guilty and subject to penalty, rather than a ruling that claimant lacked standing. *Id.* Furthermore, claimant's asserted construction of the court rules is based on no authority and is otherwise, unpersuasive. As such, we conclude that the lower court did not err in its finding that claimant was not the owner of the subject funds.

Claimant next argues that there was insufficient evidence to support the trial court's judgments of forfeiture. We disagree.

Findings of fact of a trial court will not be set aside on appeal absent a determination that the findings were clearly erroneous. *In re Forfeiture of \$18,000*, 189 Mich App 1, 4; 471 NW2d 628 (1991). The findings are clearly erroneous when despite evidence to support the findings, the reviewing court is left with a firm and definite conviction that a mistake has been made. *Id.*

By statute, Michigan law provides that “anything of value that can be traced to an exchange for a controlled substance is subject to forfeiture . . . .” *In re Forfeiture of \$1,159,420*, 194 Mich App 134, 146; 486 NW2d 326 (1992) (citing MCL 333.7521[1][f]; MSA 14.15[7521][1][f]). The party bringing a forfeiture proceeding bears the burden of proving its case by a preponderance of the evidence. *Id.* The trial court must find a substantial connection between the asset to be forfeited and the underlying criminal activity in order for the asset to be ordered forfeited. *Id.* The connection does not have to be related to a specific incidence of drug dealing; rather, the assets only need to be traceable to drug trafficking in general. *Id.*, 147. However, if the asset has only an incidental or fortuitous connection to the criminal activity, forfeiture is not warranted. *Id.*, 146. A finding that the assets are subject to forfeiture requires facts which would lead “a fair-minded person of average intelligence to believe the statute was violated.” *In re Forfeiture of \$10,780*, 181 Mich App 761, 765; 450 NW2d 93 (1989).

With respect to the funds forfeited in docket number 180878, we conclude that the trial court did not clearly err in finding that those funds were the proceeds of drug trafficking. The contents of the apartment strongly indicate that drug trafficking was being conducted out of the premises. The packaging and denominations of the currency tended to support a finding that it was derived in exchange for controlled substances. The presence of cocaine residue on the money was further evidence of its connection to a controlled substance. Finally, the lack of evidence that the money came from a legitimate source supported the conclusion that it was proceeds of drug transactions. See *In re Forfeiture of \$1,159,420, supra*, 194 Mich App 147.

As for the funds forfeited in docket number 180879, we again conclude that the trial court did not clearly err in ordering forfeiture. The fact that neither claimant nor his nephew could present a legitimate source for the money was a proper factor in determining whether the money was earned pursuant to drug dealing. *Id.* In addition, the previous instance evidencing the nephew’s involvement in the drug trade, combined with the evidence regarding the characteristics of the bundles of money, tend to indicate that the money was derived from drug trafficking.

Affirmed.

/s/ Martin M. Doctoroff  
/s/ Myron H. Wahls  
/s/ Michael R. Smolenski