

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FOUR THOUSAND DOLLARS,

Defendant,

and

DORTHY LEGGETT,

Defendant,

and

RUBY FELTON,

Claimant-Appellant.

UNPUBLISHED

July 30, 1996

No. 181918

LC No. 94-449318-CF

Before: Hood, P.J., and Griffin and J. F. Foley,* JJ.

PER CURIAM.

In this forfeiture proceeding, claimant Ruby Felton appeals as of right an administrative judgment ordering the forfeiture of \$4,000. We affirm.

Defendant Dorothy Leggett was arrested by Detroit police officers for possession with intent to deliver 50-225 grams of cocaine. Subsequently, claimant Ruby Felton furnished \$4,000 in cash to pay defendant's bail. Thereafter, the currency offered by claimant was presented to a canine trained in detecting the scent of controlled substances. The canine reacted positively, indicating the presence of a controlled substance on the money. The prosecution then obtained an order freezing the bail money. In addition, the prosecutor sought the forfeiture of the bail money pursuant to MCL 333.7521; MSA

* Circuit judge, sitting on the Court of Appeals by assignment.

14.15(7521), MCL 333.7522; MSA 15.15(7522), and MCL 333.7524; MSA 14.15(7524). Claimant was then served with notice of intent to forfeit bond, but made no attempt to claim the bail money or post the requisite bond until after the statutory deadline had expired. See MCL 333.7523(1)(c); MSA 14.15(7523)(1)(c). Subsequently, claimant moved for summary disposition, seeking the return of the seized bond money. The circuit court denied claimant's motion.

On appeal, claimant contends that the lower court erred in ordering the seizure of the bond money without a prior hearing. Plaintiff further contends that there was no probable cause to warrant the seizure of the bond money. We disagree with both arguments. According to MCL 333.7523(1)(a); MSA 14.15(1)(a), the government must notify the owner of seized property that it intends to seek forfeiture. Any person claiming an interest in the property may file a claim with the government within twenty days after receiving the notice. If no claim is filed within the twenty-day period, the property is automatically forfeited pursuant to MCL 333.7523(1)(d); MSA 14.15(7523)(1)(d). See *In re Forfeiture of one 1983 Cadillac*, 176 Mich App 277, 281; 439 NW2d 346 (1989).

Here, plaintiff admits to receiving notice that the government was seeking forfeiture of the posted bail. She also admits to being informed of the twenty-day period in which to file a claim for the seized property. However, plaintiff failed to file a claim against the money within the twenty-day statutory period. Accordingly, claimant waived her right to a hearing on whether there existed sufficient evidence to justify the forfeiture of the money, as well as the other due process guarantees set forth in MCL 333.7523; MSA 14.15(7523); see generally *In re Forfeiture of 301 Cass Street*, 194 Mich App 381; 487 NW2d 795 (1992).

Further, even if claimant had preserved her right to a hearing by posting a claim within the statutory period, we conclude that there was probable cause to seize the \$4,000. A positive indication from a canine trained in detecting controlled substances constitutes probable cause to seize money. See *Florida v Royer*, 460 US 491, 506; 103 S Ct 1319; 75 L Ed 2d 229 (1983); *US v Glover*, 957 F2d 1004, 1013 (CA 2, 1992); *US v Waltzer*, 682 F2d 370, 372-373 (CA 2, 1982). Accordingly, we conclude that seizing the posted bail money without a prior hearing did not violate claimant's due process rights. See *Calero-Toledo v Pearson Yacht Leasing Co*, 416 US 664; 94 S Ct 2080; 40 L Ed 2d 452 (1974), compare *United States v Good Real Property*, ___ US ___; 114 S Ct 492; 126 L Ed 2d 490 (1993).

Affirmed.

/s/ Harold Hood
/s/ Richard Allen Griffin
/s/ John F. Foley