

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LONNIE LEE FINNEY,

Defendant-Appellant.

UNPUBLISHED

August 1, 1997

No. 188392

Midland Circuit

LC No. 94-007157-FH

Before: Smolenski, P.J., and Kelly and Gribbs, JJ.

PER CURIAM.

Defendant appeals by right from a plea of guilty to a charge of possession with the intent to deliver between 50 and 225 grams of cocaine, MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii). After his arraignment and before he entered his plea, some of defendant's property, including two parcels of real property, was forfeited in a civil procedure pursuant to MCL 333.7521 *et seq.*; MSA 14.15(7521) *et seq.* Defendant was later sentenced in this criminal matter to eight to twenty years' imprisonment. We affirm.

Defendant contends that he was subjected to double jeopardy when he was sentenced to eight to twenty years' imprisonment for drug trafficking after a parcel of real property that was unrelated to defendant's drug trafficking was forfeited. There is no merit to this issue. The constitutional protections against double jeopardy that are afforded by the United States and Michigan Constitutions guarantee against separate prosecutions for the same offense and against multiple punishments for the same offense. *People v Sturgis*, 427 Mich 392, 398; 397 NW2d 783 (1986). In rem forfeiture is not punishment for double jeopardy purposes. *United States v Ursery*, 518 US ____; 116 S Ct 2135, 2149; 135 L Ed 2d 549 (1996); *People v Acoff*, 220 Mich App 396; __ NW2d __ (1996). It is instead a separate civil sanction that is remedial in nature and was "designed primarily to confiscate property used in violation of the law, and to require disgorgement of the fruits of illegal conduct." *Id.* at 2142, 2145. Here, the forfeiture was part of a civil proceeding and was not so punitive or excessive that it cannot be legitimately viewed as civil.

Michigan's civil forfeiture provision provides that a defendant's property, used as a container for or to facilitate drug trafficking or obtained from drug trafficking proceeds, is subject to forfeiture. MCL 333.7521; MSA 14.15(7521). Defendant raises several claims that his property was forfeited improperly. However, defendant failed to challenge the civil judgment. Except as it applies to double jeopardy issues or the question of excessive fines, defendant's challenge to the civil forfeiture is not properly raised in this criminal appeal

Affirmed.

/s/ Michael R. Smolenski

/s/ Roman S. Gibbs