

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-11-1304

Appellee

Trial Court No. CR0200802949

v.

Kevin R. Baldwin

DECISION AND JUDGMENT

Appellant

Decided: February 15, 2013

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Brenda J. Majdalani, Assistant Prosecuting Attorney, for
appellee.

Kevin R. Baldwin, pro se.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Lucas County Court of Common Pleas, which denied appellant's motion for forfeiture discovery, for a forfeiture hearing, and for return of a motor vehicle to appellant that was not owned by appellant. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant sets forth the following two assignments of error:

I. THE TRIAL COURT COMMITTED ERROR IN DENYING DISCOVERY REQUEST AND NOT ALLOWING APPELLANT TO PROCEED WITH A HEARING ON HIS MOTION TO RETURN UNLAWFUL [SIC] SEIZED PROPERTY.

II. THE TRIAL COURT ABUSES ITS DISCRETION IN NOT GRANTING THE RETURN OF PROPERTY AS THE RECORD, EXHIBIT A OF THE JUDGMENT CLEARLY ILLUSTRATES THE MATTERS REQUESTED IN A MORE DEFINITE STATEMENT AND PROPERTY INTEREST.

{¶ 3} The following undisputed facts are relevant to this appeal. In April 2008, a woman reported her 2000 white Cadillac stolen from a location in North Toledo. The stolen vehicle was subsequently recovered from appellant's used-car business, KB Auto Sales, located on Dorr Street in Toledo.

{¶ 4} On August 26, 2008, appellant was indicted on one count of grand theft of a motor vehicle, in violation of R.C. 2913.02, one count of a certificate of motor vehicle offense, in violation of R.C. 4505.19, and one count of intimidation of a crime victim, in violation of R.C. 2921.04.

{¶ 5} On March 11, 2009, appellee filed for joinder of multiple pending criminal cases against appellant in connection to the sale of motor vehicles from appellant's business without proper title documentation and unlawfully altered business records in

connection to the sales. On April 2, 2009, the cases in connection to the motor vehicle at issue in the instant case were dispensed with via nolle prosequi. However, appellant was convicted on other cases stemming from the illegal sales of vehicles and is incarcerated as a result of those convictions.

{¶ 6} On March 7, 2011, several years after the dismissal of the cases pertinent to the used Cadillac underlying this case, appellant filed a forfeiture motion for the return of the Cadillac to appellant. On April 4, 2011, appellant filed a motion for forfeiture based discovery and a hearing, also in connection to the Cadillac.

{¶ 7} On November 9, 2011, the trial court denied the motions. The trial court emphasized the absence of any objective, relevant evidence demonstrating an ownership interest by appellant in the Cadillac. In conjunction, the trial court noted that there had never been a forfeiture proceeding occurring in connection to the Cadillac. On the contrary, appellant was indicted for the theft of the vehicle from its owner of record. Appellant was seeking the forfeiture return of a vehicle to him that was not owned by him and was not the subject of forfeiture. This appeal ensued.

{¶ 8} In the first assignment of error, appellant contends that the trial court erred in denying appellant's discovery and forfeiture hearing request regarding the Cadillac. Appellant expressly bases his first assignment upon R.C. 2981.05, the law of civil forfeiture proceedings. We need not belabor our analysis of this argument. The record clearly reflects that no forfeiture proceeding ever occurred in connection to the Cadillac. On the contrary, the record shows that appellant was indicted for the theft of that vehicle

from its owner of record. Most importantly to the instant case, the record reflects that appellant furnished no evidence of an ownership interest in the vehicle.

{¶ 9} Based upon the foregoing, appellant lacks the requisite standing in support of the disputed discovery and forfeiture hearing request. The subject vehicle was not subjected to a forfeiture proceeding and is not owned by appellant. Appellant's first assignment of error is found not well-taken.

{¶ 10} In appellant's second assignment of error, he similarly asserts that the trial court erred in not granting his request for the Cadillac to be returned to him. Based upon our conclusions in response to the first assignment of error, we likewise find appellant's second assignment to be without merit. Appellant is not entitled to the return of a vehicle in which he never established an ownership interest. Appellant's second assignment of error is found not well-taken.

{¶ 11} On consideration whereof, the judgment of the Lucas County Court of Common Pleas is hereby affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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