

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Angela Y. Smith,
Appellant-Intervenor,

and

Dylan Williams and \$11,180 in
United States Currency,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner

July 24, 2023

Court of Appeals Case No.
22A-MI-2910

Appeal from the Marion Superior
Court

The Honorable Gary L. Miller,
Judge

Trial Court Cause No.
49D03-2009-MI-33278

Memorandum Decision by Judge Crone
Judge Kenworthy and Senior Judge Robb concur.

Crone, Judge.

Case Summary

- [1] Angela Y. Smith appeals the trial court’s order authorizing the forfeiture of \$11,180 in United States currency that the State seized during a search of Dylan Williams’s apartment. We affirm.

Facts and Procedural History

- [2] The facts most favorable to the trial court’s order are as follows. On September 18, 2020, Indianapolis Metropolitan Police Department Detective Ryan Graber assisted in a parole-related search of Williams’s apartment. Detective Graber observed narcotics, approximately \$7,600 in “banded-up” cash behind a TV in Williams’s bedroom, and approximately \$3,500 in cash in Williams’s wallet. Tr. Vol. 2 at 9. The cash was “in different denominations[,]” including \$10, \$50, and \$100 bills. *Id.* at 11; Ex. Vol. 3 at 9-13. The detective asked Williams about his employment and found no evidence that he was employed, such as “paystubs, work uniforms or anything like that[.]” Tr. Vol. 2 at 11. The State charged Williams with three drug-related crimes, and he pled guilty to one count of level 6 felony possession of a narcotic drug.
- [3] On September 24, 2020, the State filed a complaint against Williams seeking the forfeiture of \$11,180, alleging that the currency “had been furnished or was intended to be furnished in exchange for a violation of a criminal statute, or is

traceable as proceeds of a violation of a criminal statute[.]” Appellant’s App. Vol. 2 at 11 (citing Ind. Code § 34-24-1-1). Williams did not file an answer to the complaint. On October 9, 2020, Smith filed a motion to intervene, alleging that the currency was her “exclusive property[.]” *Id.* at 13. On October 13, 2020, the trial court granted Smith’s motion.

[4] On December 2, 2022, a bench trial was held on the forfeiture complaint. Williams failed to appear, and Smith appeared in person and by counsel. Detective Graber testified to the foregoing facts regarding the search of Williams’s apartment, and the State submitted photos of the cash that were taken in the apartment. The detective further testified that “[d]ifferent amounts of money banded up for easy access and for quick change to be made for when you’re trafficking narcotics is pretty common.” Tr. Vol. 2 at 12. Finally, the detective testified that he asked Williams about the source of the cash; apparently, Williams did not tell him that it came from Smith, because the detective did not become aware of Smith until the deputy prosecutor notified him about her claim.

[5] After the State rested its case, Smith’s counsel stated,

I think at this point in time ordinarily it would be appropriate for me to move request the Court find the State hasn’t met their burden. This is a little unique in that I have an Intervenor. I think that she has to testify to show her standing for the money. So, rather than make that Motion I think I’m just going to call [Smith], if that’s okay?

Id. at 17. Smith testified that she is Williams’s aunt; that she withdrew \$29,000 in cash from her bank account in June 2020 to “keep it from” her abusive boyfriend; that she gave \$15,000 of that money to Williams later that month at his mother’s house in Springfield, Illinois, and “asked him to hold it for [her]”; and that she was “a bit bothered” to learn that Williams did not have that sum in his apartment when it was searched in September 2020. *Id.* at 24, 22, 31. In support of her claim, Smith submitted bank records documenting a withdrawal of \$29,000 on June 10, 2020, and exhibits indicating that her boyfriend assaulted her in July 2021.

[6] In closing argument, the deputy prosecutor stated,

Now, about the source of this money ... it sounds like they’re going to, per Ms. Smith’s testimony, that there are two people in the world that know the source of that money, Mr. Williams and Ms. Smith. And Mr. Williams has clearly chosen not to be here to assist his aunt in the recovery of her money; I think the Court can, well come to the conclusion as to why that is.... [T]he idea that the money was sent to another city to be held in cash by her nephew is just, uh, doesn’t make sense.

Id. at 33-34.¹

[7] The trial court took the matter under advisement and ultimately issued an order finding that “the currency in question is subject to forfeiture in this case and the State has met its burden of proof by a preponderance of the evidence that the

¹ Contrary to Smith’s assertion in her reply brief, the State never conceded that the money belonged to her.

currency should be seized.” Appealed Order at 1. The court entered judgment for the State and against Williams and Smith. Smith now appeals.

Discussion and Decision

- [8] Our supreme court has stated that “[c]ivil forfeiture is a device, a legal fiction, authorizing legal action against inanimate objects for participation in alleged criminal activity, regardless of whether the property owner is proven guilty of a crime—or even charged with a crime.” *Serrano v. State*, 946 N.E.2d 1139, 1140 (Ind. 2011). In her brief, Smith frames the issue as follows: “The evidence was insufficient to support the forfeiture of the seized currency because the State failed to connect the currency to any criminal activity.” Appellant’s Br. at 9. But this argument presupposes that Smith has standing as the owner of the currency to raise it in the first place. *Cf.* Ind. Code § 34-24-1-4(b) (providing that court “shall order [seized] property released to the *owner*” if prosecutor fails to show by preponderance of evidence that property was subject to seizure under Ind. Code § 34-24-1-1) (emphasis added).
- [9] The State contends that the trial court necessarily rejected Smith’s claim that she owned the \$11,180, positing that if Williams had “merely been holding the money for [Smith], it would not have been subject to forfeiture as money ‘furnished or intended to be furnished in exchange for an act that is in violation of a criminal statute’ or ‘as proceeds of the violation of a criminal statute.’” Appellee’s Br. at 9 (quoting Ind. Code § 34-24-1-1(a)). We agree, and we note that the trial court was not obligated to believe Smith’s self-serving and largely

unsubstantiated testimony, even though it was uncontradicted. *See Thompson v. State*, 804 N.E.2d 1146, 1149 (Ind. 2004) (“As a general rule, factfinders are not required to believe a witness’s testimony even when it is uncontradicted.”).² On appeal, we neither reweigh the evidence nor assess witness credibility, and “[w]e will reverse only when we are left with a definite and firm conviction that a mistake has been made.” *Lipscomb v. State*, 857 N.E.2d 424, 427 (Ind. Ct. App. 2006). Smith has not left us with a definite and firm conviction that a mistake has been made here, so we affirm the trial court’s order.

[10] Affirmed.

Kenworthy, J., and Robb, Sr.J., concur.

² To state the obvious, absent any documentation of the serial numbers of the currency that Smith withdrew from her bank account, there is no way to definitively link that withdrawal to the currency found in Williams’s apartment.