

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

111 South Michigan Avenue, Saginaw, Michigan 48602 | Phone: (989) 790-5470

People of the State of Michigan,

Plaintiff;

v.

A Quantity of Marijuana; et al;

Defendants;

v.

Gerald Ostipow; et al;

Claimants.

Case No. 08-900017-CF

Hon. James T. Borchard (P27015)

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Prosecuting Attorney

FINAL JUDGMENT

Plaintiff filed a complaint seeking forfeiture of various items of personal and real property. Gerald Ostipow and Royetta Ostipow filed a claim/answer with the Court asserting innocent ownership of a majority of the property for which forfeiture was sought.

A trial was held in this matter on March 20, 2012 and March 29, 2012. At trial, the issue before the Court was to determine in the first instance whether Plaintiff could establish a factual basis for forfeiture under the civil forfeiture section of the Public Health Code, MCL 333.7521 *et seq.* Once and if established, the Court was required to then consider the claimants' assertion of innocent ownership. Following trial, the Court found that certain items of property were to be forfeited to Plaintiff under the Public Health Code and others were not. Following a final judgment incorporating those findings, the claimants appealed the Court's ruling to the Michigan Court of Appeals. The Michigan Court of Appeals reversed a portion of the Court's findings and remanded the matter back for entry of a new conforming final judgment. Therefore, and pursuant to the opinion and order of the Michigan Court of Appeals (*In re A Quantity of Marijuana*, unpublished opinion per curiam of the Court of Appeals, issued October 22, 2013 (Docket No. 310106)) and trial court's subsequent orders, the following shall be the final judgment of the Court:

A. As to the real property commonly known as 3551 East Allen Road, Owosso, Michigan and the personal property contained therein and upon its curtilage:

- i. Gerald Ostipow's entire interest in the real property shall be forfeited in favor of Plaintiff.
- ii. Royetta Ostipow's interest is not forfeited and she shall be entitled to compensation for her dower interest as described in the opinion and order of the Michigan Court of Appeals (*In re A Quantity of Marijuana*, unpublished opinion per curiam of the Court of Appeals, issued October 22, 2013 (Docket No. 310106)) and trial court's subsequent orders.

- iii. All personal property located in the residence building shall be forfeited in favor of Plaintiff. This includes, but is not limited to: furniture, fixtures, contents, marijuana, and paraphernalia related to drug manufacture.
- iv. All personal property contained in the real property's curtilage and numerous outbuildings, with the exception of property located in a shed where drug manufacture equipment was found, is not forfeited in favor of Plaintiff. Property located within the outbuildings to which the claimants maintain a full ownership interest of includes but is not limited to: a 1965 Chevrolet Nova (VIN 118375N149268) and its trailer; a collection of tools and equipment; and other personal effects.
- v. However, Stephen Ostipow's Ski-Doo snowmobile (VIN 2BPS1673X1V000014) located in one of the real property's outbuildings is forfeited in favor of Plaintiff.

B. As to the real property commonly known as 3996 East Allen Road, Owosso, Michigan and the personal property contained therein and upon its curtilage:

- i. Plaintiff did not seek forfeiture of the real property and it is not forfeited in favor of Plaintiff.
- ii. The following weapons are not forfeited in favor of Plaintiff and by stipulation of the parties were already returned to the claimants:
 - i. one Remington Model 1187 shotgun (seizure item T2/68);

- ii. one Remington Model 700, .243 caliber (seizure item U2/69);
 - iii. one Remington 20 gauge shotgun (seizure item V2/70);
 - iv. one New England Arms .243 rifle (seizure item W2/71);
 - v. one CVA muzzleloader (seizure item X2/72);
 - vi. one CVA muzzleloader (seizure item Y2/73);
 - vii. one Wards Western Field shotgun (seizure item Z2/74);
 - viii. one CVA muzzleloader (seizure item AA2/75);
 - ix. one Savage Model 99 rifle (seizure item BB2/76);
 - x. one Remington shotgun (seizure item CC2/77); and
 - xi. one Mossberg shotgun (seizure item DD2/78).
- iii. At trial, Plaintiff sought forfeiture of the following weapons and related equipment owned by the claimants but the Court declined to forfeit them in favor of Plaintiff:
- i. all seized ammunition;
 - ii. all seized firearm cases;
 - iii. all seized scopes;

- iv. a Ruger 10/22 rifle (SCSD Item 57);
- v. a Remington .22 rifle (SCSD Item 58);
- vi. a Remington rifle with scope (SCSD Item 59);
- vii. a Savage .223/12 gauge rifle/shotgun combo (SCSD Item 60).

The claimants maintain their full ownership interest in the above property.

- iv. The Court found only one weapon could be forfeited in favor of Plaintiff which was the sole firearm owned by Stephen Ostipow, that being a:
 - i. a .25 caliber semi-automatic handgun.
- v. The following personal property owned by Stephen Ostipow located at the real property is forfeited in favor of Plaintiff:
 - i. \$360.00 in U.S. currency; and
 - ii. various drug ledgers.
- vi. No other personal property located at the real property was forfeitable in favor of Plaintiff. The claimants maintain full ownership interest of that personal property.

C. With the exception of the property listed as forfeited above, no other item seized by Plaintiff or its agents are forfeited in favor of Plaintiff. The claimants maintain their full ownership interest in such property.

D. This is a final order and closes the case pursuant to MCR 2.602.

IT IS SO ORDERED:

Dated: 8-2, 2016

James T. Borchard

P27015

HON. JAMES T. BORCHARD (P27015)
Circuit Judge

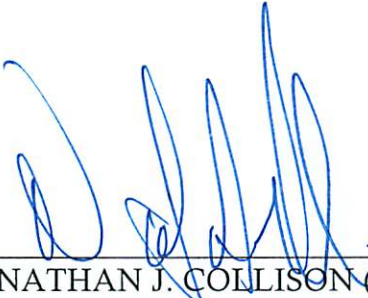
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SUSAN KALTENBACH, CLERK

DRAFTED BY:

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I stipulate to entry of this order and waive notice of its entry:

Dated: 8/2/2016, 2016



NATHAN J. COLLISON (P76031)
Assistant Prosecuting Attorney

Dated: 8/2/2016, 2016



MATTHEW E. GRONDA (P73693)
Attorney for Claimants