

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CERTAIN REAL & PERSONAL PROPERTY,

Defendant,

and

JAMES ANDREW JANETSKI,

Claimant,

and

DAVID JANETSKI,

Claimant-Appellant.

UNPUBLISHED
February 13, 2007

No. 271701
Midland Circuit Court
LC No. 05-008426-PZ

Before: Fort Hood, P.J., and Smolenski and Murray, JJ.

PER CURIAM.

The claimant, David Janetski, appeals as of right from the trial court's order granting the prosecution's motion for summary disposition and denying his motion for partial summary disposition. We affirm.

The claimant owned a dwelling home, outbuildings, and approximately forty-seven acres of land with his brother, James Janetski. The deed executed to the brothers from Freeland State Bank provided that the conveyance was "as joint tenants." There was no express provision for rights of survivorship. After police received an anonymous tip, they lawfully discovered a large-scale marijuana growing operation in the basement of the home. Nearly five hundred marijuana plants were found growing in the basement. Additionally, processed marijuana and thousands of dollars in cash were also found in the home. A civil forfeiture action was filed against the claimant, his brother, and Jason Kabat, an occupant of the home who admitted to participating in the drug operation. A plea agreement was entered into between the claimant's brother, James Janetski, and the prosecutor's office. As a result of the plea agreement, James Janetski entered

into a consent judgment in the forfeiture action that surrendered his interest in the joint tenancy with the claimant.

After the plea agreement and consent forfeiture agreement were finalized, the claimant filed a motion to revise the consent agreement, asserting that the acreage of land was not substantially connected to the illegal drug activity, and therefore, it was not subject to forfeiture. It is important to note that James Janetski, the party to the consent forfeiture agreement, never filed a motion to protest the consent forfeiture agreement and also did not move to withdraw his plea agreement.¹ The trial court allowed the claimant and the prosecutor to engage in discovery, and these parties filed cross motions for summary disposition. The trial court granted the prosecutor's motion, and the claimant appeals as of right.

Appellate review of a summary disposition decision is de novo. *In re Capuzzi Estate*, 470 Mich 399, 402; 684 NW2d 677 (2004). The moving party has the initial burden to support its claim for summary disposition by affidavits, depositions, admissions, or other documentary evidence. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). The burden then shifts to the nonmoving party to demonstrate a genuine issue of disputed fact exists for trial. *Id.* To meet this burden, the nonmoving party must present documentary evidence establishing the existence of a material fact, and the motion is properly granted if this burden is not satisfied. *Id.* Affidavits, depositions, and documentary evidence offered in support of, and in opposition to, a dispositive motion shall be considered only to the extent that the content or substance would be admissible as evidence. *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999). Mere conclusory allegations that are devoid of detail do not satisfy the burden in opposing a motion for summary disposition. *Quinto, supra*.

In a standard joint tenancy, the right of survivorship may be destroyed by severance through an act of one of the parties. *Albro v Allen*, 434 Mich 271, 274-275; 454 NW2d 85 (1990). When a party conveys his interest to third party, the remaining joint tenant and the grantee become tenants in common and any element of survivorship is destroyed. *Id.* In the present case, James Janetski agreed to convey his joint tenant interest to the state as part of the plea agreement. This act destroyed any right of survivorship. Consequently, the claimant and the state became tenants in common, with each party holding rights to one-half of the property at issue.

The claimant asserts that there must be a substantial connection between the acreage and the illegal drug activity, in essence, claiming that severance is applicable. However, the trial court concluded that the claimant did not have standing to raise any such argument. On appeal, the claimant makes a blanket assertion that he has standing, but fails to cite any authority. This Court is not required to search for authority to sustain or reject a position raised by a party without citation to authority. *In re Reisman Estate*, 266 Mich App 522, 533; 702 NW2d 568

¹ Although originally charged with three felony counts, two counts of the information were dropped. James Janetski pleaded guilty to one felony count with the prosecution agreeing to a maximum sentence of twelve months. Ultimately, the trial court sentenced James to nine months in jail.

(2005). In any event, the trial court correctly concluded the claimant did not have standing to challenge James' conveyance to the state of his property interest. One must have a legally protected interest that is in jeopardy of being adversely affected in order to have standing. *People v Yeoman*, 218 Mich App 406, 419-420; 554 NW2d 577 (1996). When a party alleging error lacks standing, the appellate court need not review the issue. *Id.* In the present case, the claimant received all that he was entitled to under the joint tenancy, his half interest in the home, outbuildings, and dwelling house. He does not have standing to challenge the act by James that destroyed the joint tenancy and conveyed James' interest to the state. Accordingly, we need not address the substantial connection argument raised by the claimant. *Yeoman, supra.*

Affirmed.

/s/ Karen M. Fort Hood
/s/ Michael R. Smolenski
/s/ Christopher M. Murray