

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Commonwealth of Pennsylvania	:	
	:	
v.	:	No. 1919 C.D. 2010
	:	SUBMITTED: January 28, 2011
Lamont Murray, \$270.00	:	
U.S. Currency	:	
	:	
Appeal of: Lamont Murray	:	

**BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge  
HONORABLE PATRICIA A. McCULLOUGH, Judge  
HONORABLE JOHNNY J. BUTLER, Judge**

**OPINION NOT REPORTED**

**MEMORANDUM OPINION BY  
PRESIDENT JUDGE LEADBETTER**

**FILED: April 13, 2011**

Lamont Murray appeals, *pro se*, from the order of the Court of Common Pleas of York County, which denied his request for the return of forfeited property, specifically \$270 in cash. We affirm.

After a traffic stop on January 1, 2008, Murray was arrested based on outstanding warrants. A subsequent search revealed a quantity of cocaine in the vehicle and \$270 in cash on Murray's person. Murray was charged with possession of cocaine with intent to deliver. Murray filed a motion to suppress the cocaine and cash seized after the traffic stop, but that motion was denied by common pleas. However, the case was later dismissed due to a violation of Rule

of Criminal Procedure 600, which requires a trial to commence no later than 270 days after a complaint is filed against a defendant. Murray is currently incarcerated in an unrelated matter.

Concurrent with the criminal case, civil forfeiture proceedings relating to the seized cash also took place. In April 2008, the Commonwealth filed and served upon Murray a petition for forfeiture, pursuant to Section 6801 of the Judicial Code, which establishes that money found in close proximity to controlled substances is rebuttably presumed to be proceeds from the sale of controlled substances that is subject to forfeiture. 42 Pa. C.S. § 6801(a)(6)(ii). The Commonwealth's filing included a notice informing Murray he had 30 days to file a response.<sup>1</sup> When, after thirty days, no such response was received, the Commonwealth moved for judgment. When no response to that motion was received, common pleas granted the forfeiture. No appeal from this decision was taken. On June 22, 2010, over two years after judgment became final, Murray filed a Motion for the Return of Property, pursuant to Rule of Criminal Procedure 588.

Common pleas denied Murray's motion, holding that Rule 588 was not applicable to this case and that Murray's filing was too late to contest the forfeiture. An appeal to this court followed.

On appeal, Murray argues that the Commonwealth did not meet the burden required to prevail in a forfeiture action. We do not reach the merits of this

---

<sup>1</sup> At points in his brief, Murray appears to contend that he was never served with the petition for forfeiture. However, he also states that "[i]t is unclear whether [Murray] was served with a Petition for Forfeiture since he was incarcerated at the York County Prison and has no record of him receiving [it]." Brief for Appellant at 6. The record, however, contains a signed certificate of service attesting that a copy of the petition was sent to Murray at the York County Prison, and common pleas found as a fact that Murray was served.

argument, however, because common pleas correctly held that Murray waived his right to contest the forfeiture when he failed to respond to the Commonwealth's petition or file an appeal from common pleas' decision. When the owner of property fails to contest a forfeiture action, the petition is granted by the court, and no appeal is taken, the forfeiture becomes final, and the doctrine of *res judicata* prevents the matter from being subsequently reopened. *Commonwealth v. Perez*, 941 A.2d 778 (Pa. Cmwlth. 2008); *Commonwealth v. One 1990 Dodge Ram Van*, 751 A.2d 1235 (Pa. Cmwlth. 2000).

For this reason, we affirm.<sup>2</sup>

---

**BONNIE BRIGANCE LEADBETTER,**  
President Judge

---

<sup>2</sup> We also note that Murray's use of Rule of Criminal Procedure 588 was inappropriate. Proceedings for return of property are distinct from forfeiture proceedings. *Commonwealth v. Johnson*, 931 A.2d 781 (Pa. Cmwlth. 2007). Rule 588 can be used to reclaim seized property that has not been subject to a forfeiture action, but it has no application in the forfeiture context. *See Boniella v. Commonwealth*, 958 A.2d 1069 (Pa. Cmwlth. 2008).

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Commonwealth of Pennsylvania	:	
	:	
v.	:	No. 1919 C.D. 2010
	:	
Lamont Murray, \$270.00	:	
U.S. Currency	:	
	:	
Appeal of: Lamont Murray	:	

**ORDER**

AND NOW, this 13th day of April, 2011, the order of the Court of Common Pleas of York County in the above-captioned matter is hereby AFFIRMED.

---

**BONNIE BRIGANCE LEADBETTER,**  
President Judge