

IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS D. GUYER,	§
	§
Petitioner Below-	§ No. 577, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ C.A. No. 00M-11-030
Respondent Below-	§
Appellee.	§

Submitted: March 14, 2001

Decided: April 5, 2001

Before **VEASEY**, Chief Justice, **HOLLAND** and **STEELE**, Justices

ORDER

This 5th day of April 2001, it appears to the Court that:

(1) The defendant-appellant, Thomas D. Guyer, filed this appeal from an order of the Superior Court denying his motion for return of forfeited property. We find no merit to the appeal. Accordingly, we **AFFIRM**.

(2) In February 1982, Guyer pleaded guilty to Burglary in the Second Degree and Felony Theft. In August 1982, prior to sentencing, the State moved to forfeit property seized by the police. It was not until

November 2000, however, that Guyer initiated proceedings to recover the forfeited property.

(3) Delaware law provides that, once civil forfeiture proceedings begin, the defendant has one year in which to contest the forfeiture.¹ Guyer's claim is, therefore, time barred. Guyer argues that he should be excused for not pursuing his claim in a timely manner because he was not provided a hearing in 1982 and because he was incarcerated out-of-state. These arguments are without merit. The burden was on Guyer to demand a hearing² and there is no evidence to suggest that he ever did so. Guyer, therefore, is deemed to have waived his right to a hearing.³ Moreover, Guyer provides no legal support for his contention that he should be excused for not bringing a timely action because of his out-of-state incarceration.

¹10 *Del. C.* § 8115.

²*State v. Rossitto*, Del. Supr., 331 A.2d 385, 388 (1974); 11 *Del. C.* § 2311(a)(2).

³*Id.*

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice