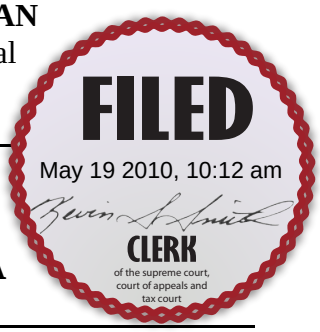
ATTORNEY FOR APPELLANT:

D. ERIC NEFF
Crown Point, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

GEORGE P. SHERMAN
Deputy Attorney General
Indianapolis, Indiana



IN THE COURT OF APPEALS OF INDIANA

LEN HUYNH,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 64A04-0904-CR-208
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE PORTER SUPERIOR COURT
The Honorable Mary R. Harper, Judge
Cause No. 64D05-0703-FC-2114

May 19, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Len Huynh appeals her convictions for three counts of Welfare Fraud,[1] one as a class C felony and two as class D felonies. She presents the following restated issues for review:

1. Was Huynh entitled to discharge pursuant to Indiana Criminal Rule 4(C)?

2. Did the trial court improperly allow Ruth Baumgartner's evidentiary deposition into evidence when said deposition addressed acts committed in another county?

3. Did the State present sufficient evidence to support each conviction?

4. Did the trial court err in admitting evidence obtained as the result of a warrantless search of Huynh's person and vehicle and subsequent search of her apartment pursuant to a warrant?

5. Do Huynh's convictions violate principles of double jeopardy in light of the initial freezing of her bank accounts as a result of a separate forfeiture action brought by the State at the time of her arrest?

We affirm.

The facts favorable to the convictions are that during 2004 through the summer of 2006, Huynh had approximately $150,000 to $160,000 in accounts at Teachers Credit Union.[2] Despite her significant liquid assets, Huynh applied for Medicaid (based on medical disability) and food stamps in January 2005 in Vanderburgh County.[3] She began receiving food stamps in January of that year but was initially denied Medicaid on July 28, 2005 due to medical ineligibility. At no time did Huynh reveal the assets she held at Teachers Credit Union. In fact, she indicated during redetermination interviews and on applications that her

[1] Ind. Code Ann. § 35-43-5-7 (West, Westlaw through 2009 1st Special Sess.).

[2] In July 2006, Huynh closed her accounts at Teachers Credit Union and transferred her funds into various accounts at Centier Bank.

[3] The resource maximum for food stamps and Medicaid is $2000 and $1500, respectively.

liquid resources were less than $100.[4]

Sometime in the late summer or early fall of 2005, Huynh moved to Porter County without notifying the Division of Family Resources. As a result, her Indiana food-stamp benefits lapsed in September. On October 5, 2005, Huynh went to the Porter County Division of Family Resources office to reinstate her receipt of food stamps, which the office did in an expedited manner. Although she also requested Medicaid on that date, Huynh refused to execute a medical release and quickly withdrew her request in writing, indicating that she wanted to think about this further.

On November 29, 2005, Huynh requested an appeal of the denial of her initial application for Medicaid that had been filed in Vanderburgh County. Though not timely sought, the appeal was allowed because she had not received notice of the denial due to her relocation. Huynh represented herself at the March 21, 2006 hearing before the administrative law judge. As a result of the appeal, Medicaid benefits were approved retroactive to December 2004.

In March 2005, Huynh applied for Social Security Disability and specifically indicated that she did not want Social Security Supplemental Income (SSI). Her request was denied, and in June, she appealed. At the time of her appeal, Huynh also applied for Social Security Supplemental Income (SSI), a needs-based program (unlike Social Security Disability) with a resource limit of $2000. Upon receiving the SSI denial in June 2005, Huynh appealed and

[4] Between January 2005 and September 2006, Huynh had six interviews with the Division of Family Resources, during which she was required to provide/update her financial information.

requested a hearing. She obtained a reversal in June 2006. The decision was forwarded to a local field office, and Huynh was again interviewed for SSI in July 2006 in Porter County. During the process, Huynh was informed numerous times of the resource limit and her duty to report.

State benefits were terminated when investigators determined in 2006 that Huynh had assets far exceeding the resource limits. Notices of overpayment were sent and information was requested in late 2006, but Huynh failed to cooperate. In sum, the State paid $3886.77 in Medicaid benefits for Huynh's 2005 and 2006 medical claims. Huynh also received $3035 in food-stamp benefits from the State between January 2005 and October 2006. She was not entitled to any of these State benefits, nor was she entitled to the $1544 in federal SSI that she received.

An investigation ensued and, on March 8, 2007, Huynh was arrested and charged as follows: Count I, class C felony welfare (food stamps) fraud; Count II, class C felony welfare (Medicaid) fraud; Count III, class C felony forgery; Count IV, class D felony welfare (SSI) fraud; and Count V, class D felony theft. The State later amended Count II to a class D felony and sought dismissal of counts Counts III and V, relating to an alleged textbook scam.

Following a number of delays, Huynh's jury trial commenced on February 9, 2009 and concluded on February 18. She was convicted as charged of the remaining counts of welfare fraud, Counts I, II, and IV. The trial court subsequently sentenced Huynh to an aggregate term of five years in prison. Huynh now appeals. Additional facts will be provided below as necessary.

1.

Huynh initially argues that she was entitled to discharge pursuant to Criminal Rule 4(C). "That Rule provides that a defendant may not be held to answer a criminal charge for greater than one year unless the delay is caused by the defendant, emergency, or court congestion." *Pelley v. State*, 901 N.E.2d 494, 497 (Ind. 2009).[5] In this case, the Rule 4(C) period was triggered by Huynh's March 8, 2007 arrest. Although the trial was not held until February 9, 2009, nearly two years later, much of the delay was caused by Huynh. She does not dispute this fact but claims she was not brought to trial until the 369th day attributable to the State.

Our Supreme Court has made clear that a defendant "waives [her] right to be brought to trial within the period by failing to raise a timely objection if, during the period, the trial court schedules trial beyond the limit." *Id*. at 498-99. As set forth below, we find Huynh's Rule 4(C) claim waived.

On October 16, 2008, due to the sudden unavailability of an essential witness, the State moved for a continuance of the trial set to begin on October 20. Huynh objected on a number of grounds, including a preemptive argument that "the granting of the continuance

[5] The full text of Rule 4(C) is:

> No person shall be held on recognizance or otherwise to answer a criminal charge for a period in aggregate embracing more than one year from the date the criminal charge against such defendant is filed, or from the date of his arrest on such charge, whichever is later; except where a continuance was had on his motion, or the delay was caused by his act, or where there was not sufficient time to try him during such period because of congestion of the court calendar; provided, however, that in the last-mentioned circumstance, the prosecuting attorney shall file a timely motion for continuance as under subdivision (A) of this rule. Provided further, that a trial court may take note of congestion or an emergency without the necessity of a motion, and upon so finding may order a continuance. Any continuance granted due to a congested calendar or emergency shall be reduced to an order, which order shall also set the case for trial within a reasonable time. Any defendant so held shall, on motion, be discharged.

would be in violation of Criminal Rule 4(C) and the Defendant objects to any trial setting beyond the time limits proscribed therein." *Appellant's Appendix* at 248.

At a hearing on the State's motion, the trial court specifically asked the parties about the Rule 4(C) timeline and what continuances were attributable to each party. Huynh offered virtually no assistance to the court on this matter, with defense counsel noting, "I did not bring my entire file with me." *Id*. at 257. After the State provided specifics and indicated there were at most eight months attributable to the State,[6] the court stated:

> Right. The time that I can see from the CCS allocated to you would be from the – would be the first, of course, filing the charges from the initial hearing to the first trial setting. *Every Motion to Continue thereafter has been to the Defense.* I did allocate the time period on July 14th to the State.

Id. at 258 (emphasis supplied). At the hearing, Huynh did not challenge this statement or argue, as she does now on appeal, that certain continuances should have been attributed to the State.[7] Further, when the court proceeded to offer a specific trial setting of January 26, Huynh did not object and, in fact, indicated a preference for a later trial setting, February 9. On this record, Huynh cannot now be heard to complain that her February 9 trial was outside the limits of Rule 4(C).

2.

Huynh claims the trial court abused its discretion by allowing Ruth Baumgartner, an employee of the Indiana Division of Family and Social Services of Vanderburgh County, to testify (via an evidentiary deposition) about Huynh's application for benefits in Vanderburgh

[6] In a somewhat ambiguous context, defense counsel stated, "we do not have the exact number of days, but it's somewhere between eight and nine months." *Id*. at 257.

County. Directing us to the charging information, Huynh argues that she was specifically charged with acts committed between January 2005 and September 2006 in Porter County, with no mention of Vanderburgh County. Thus, she argues that admission of evidence regarding acts in Vanderburgh County, which she terms extra-jurisdictional acts, violates Indiana Evidence Rule 404(b).

> Evid. R. 404(b) provides in part:
> Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, intent, preparation, plan, knowledge, identity, or absence of mistake or accident….

Here, we are not dealing with *other* crimes, wrongs, or acts.[8] Rather, the welfare fraud charges relating to Huynh's procurement of food stamps and Medicaid benefits clearly encompassed the time period that she lived in Vanderburgh County, which is where she initially applied for these benefits from the State. Further, evidence presented at trial established that Huynh was engaged in a continuing criminal enterprise and her acts in both counties constituted a continuous chain of related events. We find no error in admitting evidence regarding the commencement of Huynh's fraud against the State. Cf. *Davis v. State*, 520 N.E.2d 1271, 1273 (Ind. 1988) ("a crime beginning in one county and ending in another county is committed in both counties").

3.

---

[7] At a hearing on July 3, 2008, Huynh acknowledged that all continuances prior to that date had been sought by and were attributable to the defense.

[8] In support of her argument on this issue, Huynh directs us to *Ware v. State*, 816 N.E.2d 1175 (Ind. Ct. App. 2004), a case involving convictions for sexual misconduct with a minor. In that case, there was no dispute that the out-of-state sexual misconduct constituted 404(B) evidence. Rather, the State argued that such evidence was admissible for the limited purpose of showing the defendant's knowledge of the minor's age. We fail to see how *Ware* is applicable in any way to the case at bar.

Huynh challenges the sufficiency of the evidence supporting her convictions. We will address each in turn.

Our standard of review for challenges to the sufficiency of evidence is well settled.

> When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder's exclusive province to weigh conflicting evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict, and "must affirm 'if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.'" *Id*. at 126 (quoting *Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

Gleaves v. State, 859 N.E.2d 766, 769 (Ind. Ct. App. 2007).

In relevant part, I.C. § 35-43-5-7 provides:

> (a) A person who knowingly or intentionally:
> (1) obtains public relief or assistance by means of impersonation, fictitious transfer, false or misleading oral or written statement, fraudulent conveyance, or other fraudulent means;
> ***
> commits welfare fraud, a Class A misdemeanor, except as provided in subsection (b).
>
> (b) The offense is:
> (1) a Class D felony if:
> (A) the amount of public relief or assistance involved is more than two hundred fifty dollars ($250) but less than two thousand five hundred dollars ($2,500)…
> (2) a Class C felony if the amount of public relief or assistance involved is two thousand five hundred dollars ($2,500) or more, regardless of whether the person has a prior conviction of welfare fraud under this section….

In the instant case, Huynh initially claims the evidence was insufficient to support her conviction for class C felony welfare fraud based upon her receipt of food stamps in the amount of $3035. To get to that amount, Huynh claims, "the State had to use the testimony

of Ruth Baumgartner because Huynh started receiving benefits for food stamps in Vanderburgh County in January of 2005 through July of 2005". *Appellant's Brief* at 20. As we have already determined, this evidence was properly admitted at trial and, therefore, properly considered by the jury. Further, contrary to her representations on appeal, the evidence favorable to the verdicts establishes that Huynh's fraud against the State was one continuous act that spanned from one county to another, with at most a one-month lapse in benefits.

With respect to this conviction, Huynh also asserts that she used only $781 out of the $3035 in food stamp benefits she received. Huynh's focus is misplaced. For conviction as a class C felony, the welfare fraud statute requires simply a showing that "the amount of public relief or assistance involved" is at least $2500. I.C. § 35-43-5-7(b)(2). That amount was clearly met here, where Huynh fraudulently obtained $3035 in food stamps, regardless of how much she actually used.[9]

Huynh next challenges her conviction for class D felony Medicaid fraud. In her brief argument on this issue, Huynh acknowledges that she applied for and was denied Medicaid

[9] The case of *Balls v. State*, 725 N.E.2d 450 (Ind. Ct. App. 2000), *trans. denied*, cited by Huynh, is inapposite, as it addressed the issue of restitution, not the sufficiency of the evidence regarding the amount of food stamps involved in the fraud.

benefits in Vanderburgh County. When she moved to Porter County, she sought Medicaid benefits once again in October 2005, but then, in writing, immediately rescinded her request, noting that she wanted to think about it further. While a successful appeal of the original denial of Medicaid benefits eventually ensued in Porter County, Huynh argues that the State presented no evidence of a written request from Huynh to initiate said appeal. Regardless, the evidence establishes that Huynh pursued the appeal and represented herself at the March 21, 2006 hearing. Further, on the day of the hearing, Huynh signed Part 3 of an application for Medicaid assistance, which included a certification and assignment of rights to medical support and payment for medical care. Huynh's apparent claim that Medicaid benefits were unwillingly thrust upon her is unsupported by the record and without merit.

Finally, regarding her conviction for class D felony welfare fraud, Huynh makes a similar claim that SSI benefits were thrust upon her despite a clear indication on her initial application for disability benefits, in March 2005, that she did not want SSI benefits. There is evidence in the record, however, that indicates that in June 2005 Huynh subsequently applied for SSI benefits and then requested a hearing when SSI benefits were initially denied. Further, once her appeal was successful, Huynh continued with her failure to disclose monetary assets amounting to over $150,000 during her pre-effectuation review interview, despite numerous advisements regarding resource limits.

The State presented sufficient evidence with respect to each of Huynh's convictions, and we refuse her requests to reweigh the evidence.

4.

Huynh challenges the admission of evidence seized as the result of a warrantless search of her person and her vehicle on February 15, 2007 and the subsequent resulting search of her apartment (pursuant to a warrant) on March 8, 2007.

The standard used to review rulings on the admissibility of evidence is effectively the same whether the challenge is made by a pretrial motion to suppress or by a trial objection. *Burkes v. State*, 842 N.E.2d 426 (Ind. Ct. App. 2006), *trans. denied*. We review for abuse of discretion and reverse only where the decision is clearly against the logic and effect of the facts and circumstances. *Joyner v. State*, 678 N.E.2d 386 (Ind. 1997). We will not reweigh the evidence, and we consider the conflicting evidence most favorable to the trial court's ruling. *Burkes v. State*, 842 N.E.2d 426. We will, however, also consider any uncontradicted evidence to the contrary. *Id*. We will affirm the decision if it is supported by substantial evidence of probative value. *Id*.

The facts relevant to this issue follow. On February 15, 2007, Huynh drove her vehicle to a scheduled meeting at a Nationwide Insurance office in Porter County and parked legally in the agency's private lot. Prior to said meeting, Princess Spencer, the individual with whom Huynh was meeting, had contacted the Indiana State Police (ISP) regarding the meeting. Spencer believed Huynh was attempting to commit insurance fraud, and Nationwide investigators had determined she had an active arrest warrant. ISP Sergeant Scott Stockton verified that there was an active warrant for Huynh's arrest out of

Vanderburgh County.[10] Therefore, Stockton and other officers went to the insurance office to arrest Huynh following the meeting.

Huynh was arrested as planned and taken to the local jail in preparation for her transfer to Vanderburgh County. Under the circumstances, specifically regarding the extradition and bad weather, Stockton believed Huynh's vehicle would be abandoned for several days. Stockton was advised by Nationwide that it did not want Huynh's vehicle left in its small parking lot, so Stockton contacted a wrecker service to tow the vehicle. The officers conducted an inventory of the vehicle, pursuant to ISP standard operating procedures, prior to it being towed.

At the Porter County Jail, Huynh was searched by police and her property was inventoried. Among other items, Huynh had in her possession at the time of her arrest a black bag, which contained a large amount of cash. Officers counted the money and placed it in a secure vault.

Following the warrantless searches and Huynh's transfer to Vanderburgh County, Stockton continued the ISP investigation of Huynh with respect to the textbook scam, as well as welfare fraud. Stockton eventually used evidence discovered during the above searches, along with other evidence, to obtain a search warrant for Huynh's apartment, which was executed on March 8, 2007.

As set forth above, at trial, Huynh sought the exclusion of any evidence obtained

[10] Huynh was no stranger to ISP officers in Porter County. Since the fall of 2006, Huynh had been under investigation by the ISP as a suspect in a textbook scam.

during the search of her apartment, her vehicle, and her bag. Over her objection, the trial court allowed said evidence.

We turn first to the warrantless inventory search of Huynh's vehicle. Huynh does not dispute that an inventory search of a lawfully impounded vehicle is a well-established exception to the warrant requirement. *See Fair v. State*, 627 N.E.2d 427 (Ind. 1993). She argues, however, that the impoundment was not proper under the facts of this case, where the vehicle was parked legally in a private parking lot. Specifically, Huynh contends that her vehicle "did not pose any threat or harm to the community or was itself imperiled in any way", asserting that it was "simply an inconvenience to Nationwide" that should have been dealt with privately by Nationwide. *Appellant's Brief* at 27.

We initially observe that impoundment was justified by the fact Nationwide had specifically requested removal of the vehicle from its small private parking lot. *See Fair v. State*, 627 N.E.2d 427 (observing that the community caretaking function has been implicated where an arrest resulted in the vehicle being left on private property and the owner of the property requested removal). Moreover, the record indicates that Huynh would not have been able to retrieve her vehicle from Nationwide's property for several days, at least. *See id*. at 434 ("the length of time the impounding officer perceived the car would be unattended is important", as well as "the degree to which the property upon which the vehicle is situated was under the control of the defendant"). Under the circumstances, the impoundment of Huynh's vehicle was proper under the Fourth Amendment of the United

States Constitution.[11]

With respect to her challenge of the search of her black bag at the Porter County Jail on Fourth Amendment grounds, Huynh directs us to no legal authority and provides little argument. Her argument appears to be simply that the search of her bag should have been limited to a quick search for weapons. This argument is without merit. In addition to protecting police from danger, the interests supporting inventory searches are protection of the police against claims and disputes over lost or stolen property and protection of the owner's property while it remains in police custody. *See Collins v. State*, 549 N.E.2d 89 (Ind. Ct. App. 1990), *trans. denied.*

Stockton testified at the suppression hearing that it is standard police procedure to inventory a person's property at the jail prior to incarceration. Further, it is well-established that under the Fourth Amendment, "[a]n inventory of a defendant's property prior to incarceration is a valid search and an accepted administrative procedure to protect both prisoner and police officer. Opening a container and searching its contents during an inventory search is a reasonable search." *See Spindler v. State*, 555 N.E.2d 1319, 1322 (Ind. Ct. App. 1990) (citing *Illinois v. Lafayette*, 462 U.S. 640 (1983)).

---

[11] In denying Huynh's motion to suppress, the trial court explained in part:

> [B]oth officers testified that an employee of Nationwide Insurance told them that Nationwide did not want Huynh's car left on their private parking lot. In addition Detective Nash testified that Huynh's vehicle would be left alone in the parking lot for over 48 hours because Huynh was going to be transported to Vanderburgh County, located in southern Indiana. It is clear that none of the arresting officers made the decision to impound Huynh's car in order to search for contraband or other illegal items. Instead, they had the vehicle towed because Nationwide requested it, and because the car was going to be abandoned for an indeterminable amount of time subject to theft, vandalism, and the harsh Indiana winter.

Appellant's Appendix at 188.

Huynh also challenges the search of her bag under article 1, section 11 of the Indiana Constitution. In this regard, Huynh relies exclusively on *State v. Lucas*, 859 N.E.2d 1244 (Ind. Ct. App. 2007), *trans. denied*. In *Lucas*, officers stopped a van that had been reported stolen, and the occupants of the van were subsequently arrested. The officers proceeded to search the interior of the van. Among other items, the officers discovered a locked metal box, which they forced open with a pocketknife. On appeal, another panel of this court affirmed the trial court's ruling that the warrantless search of the locked metal box was unreasonable under the Indiana Constitution, explaining simply:

> As the trial court aptly noted, the officers "had control of the locked box and could have easily obtained a search warrant to open it, just as they did to investigate the contents of the cell phone and computer diskettes five days after the Defendants' arrest." We agree. Under these facts and circumstances, we conclude that the warrantless search of the locked metal box was unreasonable under Article I, Section 11 of the Indiana Constitution.

Id. at 1251 (record citation omitted).

We agree with the trial court that the facts and legal analysis in *Lucas* are wholly inapplicable to this case. Although Huynh's bag was within her possession at the time of her arrest, it was not searched at the site of her arrest. Rather, it was searched, along with her other personal effects, in connection with her book-in to the jail pursuant to standard operating procedures. Another significant distinction is that there is no indication the bag was locked, which was a focal point of the *Lucas* decision. *Cf. George v. State*, 901 N.E.2d 590 (Ind. Ct. App. 2009) (tablets in closed pill bottle were lawfully removed and seized during inventory search), *trans. denied*. Under the totality of the circumstances, we find that the inventory search of Huynh's bag was reasonable.

Huynh's challenge to the search of her apartment is contingent upon her above claims, as she contends the search warrant was based upon illegally obtained evidence and, thus, the fruit of the poisonous tree. Because we have determined that the prior warrantless searches were legal, her final suppression argument necessarily fails.

5.

Finally, Huynh challenges her convictions on double jeopardy grounds, claiming she was twice put in jeopardy for the same criminal acts. She contends that her criminal convictions were foreclosed by the forfeiture action, which was filed in a separate court within hours of the criminal charges.[12] On that date, March 8, 2007, the State sought and obtained, without a hearing, an initial freeze of Huynh's accounts at Centier Bank. On March 13, the day bond was set in the instant case, Huynh filed in the forfeiture action a motion to release funds. The forfeiture court granted the motion in large part on March 29, releasing two accounts that totaled approximately $190,000 and keeping frozen one account totaling about $10,000.[13] As a result of the release of the great majority of Huynh's funds, she was able to post bond.

---

[12] Huynh has failed to provide us with any of the record from the forfeiture action, as well as her motion to dismiss and memorandum in support filed in the instant action. All we have before us is the trial court's order denying Huynh's motion to dismiss. As a result, our review is clearly hindered and waiver is appropriate. We will exercise our discretion, however, and briefly address the legal issue set forth, while accepting the facts as set out in the trial court's order.

[13] In its order, the forfeiture court wrote:

> "The total amount of funds obtained by Defendant on [her pending criminal charges]…is $8,465. As to other funds [in her bank accounts], Sergeant Stockton's affidavit opines that they have been obtained through deceptive criminal practices which are currently under investigation. That is not sufficient evidence to show that they are presently traceable as proceeds of the violation of a criminal statute. At some point, after further investigation, they may be. But for now, the vast majority of the funds frozen have not been shown to be so traceable."

Appellant's Appendix at 242-43 (as quoted in trial court's order denying Huynh's motion to dismiss).

The federal double jeopardy clause[14] provides: "nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb." U.S. Const. amend. V. Relevant to this case, the clause prohibits the government from attempting a second time to punish criminally for the same offense. *$100 v. State*, 822 N.E.2d 1001.

Huynh acknowledges that our legislature intended forfeitures under Ind. Code Ann. § 34-24-1-1 (West, Westlaw through 2009 1st Special Sess.) to be civil in nature. She claims, however, that the forfeiture proceedings were so punitive in form and effect as to render them criminal despite our legislature's intent to the contrary. Specifically, she notes that accounts totaling over $200,000 were frozen, when the allegations were that she had fraudulently obtained less than $10,000. In light of these circumstances, she asserts, "the case at bar is so extreme and divorced from the State's damages as to render it punishment." *Appellant's Brief* at 31.

The party challenging a civil forfeiture must provide the clearest proof that the forfeiture proceedings were "so punitive in form and effect as to render them criminal" despite legislative intent to the contrary. *Davis v. State*, 819 N.E.2d 863, 869 (Ind. Ct. App. 2004), *trans. denied*. Huynh has wholly failed to make such a showing. There appears to be no dispute that over $200,000 of Huynh's funds was temporarily affected by the initial freeze of her bank accounts, which was some twenty times more than the damages alleged by the State. As found by the trial court, however, the specific amounts in Huynh's various accounts at the time of her arrest was not known and the freeze was used "as a remedial

[14] Although Huynh also asserts a double jeopardy violation under our state constitution, she provides no separate argument and cites cases discussing only federal law. Therefore, she has waived her argument under

measure to increase the probability that the total amount in all bank accounts added up to [the amount] allegedly owed to the State." *Appellant's Appendix* at 245. Once the forfeiture court learned that the amounts affected were far in excess of the State's damages, the court lifted the freeze on the bulk of Huynh's funds. Thus, to the extent any funds were actually forfeited, the amount was commensurate to the State's damages. The trial court properly denied Huynh's motion to dismiss.

Judgment affirmed.

KIRSCH, J., and ROBB, J., concur.

---

the Indiana Constitution. *See $100 v. State*, 822 N.E.2d 1001 (Ind. Ct. App. 2005), *trans. denied*.