

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff- Appellee,

v

SINGLE FAMILY RESIDENTIAL DWELLING
AND REAL PROPERTY LOCATED 5773
MARBLE DRIVE IN THE CITY OF TROY,
COUNTY OF OAKLAND, STATE OF
MICHIGAN, et al.,

Defendants,

and

CHESTERFIELD CHARTER TOWNSHIP,

Claimant- Appellant.

Before: Jansen, P.J., and Doctoroff and Gage, JJ.

PER CURIAM.

Claimant appeals as of right from an order of the Oakland Circuit Court distributing forfeited property between two Oakland County entities, the Troy and Hazel Park Police Departments, and one Macomb County entity, the Chesterfield Township Police Department. We affirm.

The facts surrounding the seizure of the property in question were set out in *In re Forfeiture of Certain Personal Property*, 441 Mich 77, 79-80; 490 NW2d 322 (1992) and will not be recounted herein. After the property was seized by the Chesterfield Township Police Department, all of the police departments involved claimed that if the property were to be forfeited, they were entitled to it. The Oakland County departments claimed that they were entitled to an equitable distribution. The Chesterfield Township Police Department claimed that it was entitled to all of the property because it

was the seizing agency. It is uncontested that the Oakland County entities were not involved in the actual, physical seizure of the property at issue.

This Court previously heard an appeal with regard to which county, Oakland or Macomb, would have jurisdiction over the forfeiture matter, and whether the Oakland County entities even had standing to claim part of the property that was seized by the Chesterfield Township Police Department. *In re Forfeiture of Suitcases*, 193 Mich App 132; 483 NW2d 650 (1992). This Court held that Macomb County had jurisdiction over the matter, but that the Oakland County entities could participate in an equitable distribution of the assets pursuant to MCL 333.7524(1)(b)(ii); MSA 14.15(7524)(1)(b)(ii), which allows any agency that is substantially involved in effecting the forfeiture to participate in a distribution. *Id.* at 136. The Supreme Court reversed this Court's holding with regard to which county had jurisdiction over the matter. *In re Forfeiture of Certain Personal Property*, *supra* at 87. In doing so, however, it affirmed that if the trial court determined that the property at issue was subject to forfeiture, the Oakland County agencies were entitled to partake in the distribution if they were "substantially involved in effecting the forfeiture." *Id.* at 87-88.

In February 1993, the defendant in the underlying criminal case, Robert Darcy, was convicted of conspiracy to deliver and possession with intent to deliver more than 650 grams of cocaine, MCL 333.7401(2)(a)(i); MSA 14.15(7401)(2)(a)(i); MCL 750.157a; MSA 28.354(1). On January 7, 1994, the trial court entered an order determining that Darcy's property was subject to forfeiture pursuant to MCL 333.7521(c), (f); MSA 14.15(7521)(c), (f). This Court affirmed that order in *People v Single Family Dwelling and Robert Darcy*, unpublished opinion per curiam of the Court of Appeals, issued September 6, 1996 (Docket No. 176817). The trial court subsequently entered an order awarding the Hazel Park and Troy Police Departments 90% of the property seized by the Chesterfield Township Police Department, with the remaining 10% being awarded to Chesterfield Township. Claimant does not contest the actual 90/10 distribution, but rather argues that the Oakland County entities should not have been entitled to share in the forfeited property at all.

As was previously discussed, this Court and the Supreme Court have already held that pursuant to MCL 333.7524(1)(b)(ii); MSA 14.15(7524)(1)(b)(ii), an agency that is substantially involved in effecting the forfeiture is entitled to participate in an equitable distribution of it. Therefore, the issue is whether the Hazel Park and Troy Police Departments were substantially involved in effecting the forfeiture even though they were not the seizing agencies.

In interpreting a statute, the first goal is to "attempt to give effect to the intent of the Legislature as expressed in the statute." *People v Lee*, 447 Mich 552, 557; 526 NW2d 882 (1994). The specific language of the statute is reviewed, *People v Hawkins*, 181 Mich App 393, 396; 448 NW2d 858 (1989), and the words are to be defined by their plain and ordinary meanings, given the context within which they are used, *Lee, supra* at 557-558. If the statutory language is clear and unambiguous, judicial interpretation to vary the plain meaning of the statute is precluded. *Fraiser v Model Coverall*, 182 Mich App 741, 744; 453 NW2d 301 (1990). The statute must be enforced as written and it is presumed that the Legislature intended the meaning as plainly expressed. *Id.*

The word “substantially” means essentially or materially. Black’s Law Dictionary (5th ed), p 1281. The word “effect” means to produce or bring to pass or accomplish. Black’s Law Dictionary (5th ed), p 461. To substantially effect forfeiture of property, an entity must materially bring the forfeiture to pass. In order to obtain a forfeiture, the prosecution has the burden of proving by a preponderance of the evidence that the property should be forfeited. *In re Forfeiture of 301 Cass Street*, 194 Mich App 381, 384; 487 NW2d 795 (1992). Items are subject to forfeiture if there is a substantial connection between them and the underlying illegal activity. *In re Forfeiture of One 1978 Sterling Mobile Home*, 205 Mich App 427, 430; 517 NW2d 812 (1994).

In this case, there is no question the Oakland County entities demonstrated a substantial connection between Darcy’s property and drug trafficking such that the property was subject to forfeiture. The cities of Hazel Park and Troy conducted criminal investigations which were the bases for grand jury indictments against Darcy and Robert Jessman. Chesterfield Township police officers on routine patrol apprehended Darcy and Jessman, and seized a suitcase containing \$580,000 in cash, jewelry and gold coins. Officers from the Oakland County jurisdictions then arrested Darcy and Jessman pursuant to the indictments. Darcy’s criminal trial was conducted solely by the Oakland County Prosecutor’s Office. Claimant concedes that it did not participate in the criminal investigations or indictments. Rather, its sole role with regard to this property was seizing it. Clearly, the Hazel Park and Troy Police Departments and the Oakland County prosecutor essentially brought the forfeiture to pass by demonstrating that the property was related to illegal activity. Without such a showing, there would be no property for Chesterfield Township to claim. The Hazel Park and Troy Police Departments were therefore entitled to partake in an equitable distribution of the property even though they did not actually, physically seize it. To hold otherwise would be contrary to this Court’s prior interpretation of the statute and contrary to the plain meaning of the terms “substantially involved in effecting the forfeiture.” Accordingly, the court did not err in awarding the seized properties to these entities.

Affirmed.

/s/ Kathleen Jansen
/s/ Martin M. Doctoroff
/s/ Hilda R. Gage