

STATE OF MICHIGAN
COURT OF APPEALS

TRAVIS L. WOLFORD,

Plaintiff-Appellant,

v

SHIAWASSEE COUNTY PROSECUTOR,

Defendant-Appellee.

UNPUBLISHED

January 12, 2006

No. 263844

Shiawassee Circuit Court

LC No. 05-002321-CF

Before: Bandstra, P.J., and Fitzgerald and White, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting summary disposition for defendant pursuant to MCR 2.116(C)(4) (lack of subject matter jurisdiction) in this action arising out of the forfeiture of defendant's vehicle under the relevant controlled substances provisions of the Public Health Code, MCL. 333.7521 *et seq.* We affirm.

We review the trial court's summary disposition ruling de novo. *Sun Communities v Leroy Twp*, 241 Mich App 665, 668; 617 NW2d 42 (2000). The issue of subject matter jurisdiction is a question of law also subject to review de novo. *W A Foote Memorial Hosp v Dep't of Public Health*, 210 Mich App 516, 522; 534 NW2d 206 (1995). MCL 600.605 provides that the circuit courts have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state.

As the forfeiture statute sets forth, property that has been legally seized may be administratively forfeited by a government agency. *In re Return of Forfeited Goods*, 452 Mich 659, 665, 550 NW2d 782 (1996). Before the forfeiture can take place, the government must give notice to the owner of the property that it has been seized and that the government seeks its forfeiture. MCL 333.7523(1)(a). Within twenty days after receiving notice, if the owner wishes to contest the forfeiture, a claim and bond must be filed. MCL 333.7523(1)(c). If no claim is filed within the twenty-day period, in rem forfeiture proceedings are not instituted. Instead, the automatic forfeiture provision is triggered. MCL 333.7523(1)(d). If a claim is filed, the prosecuting attorney must commence forfeiture proceedings at the expiration of the twenty-day period. *In re Return of Forfeited Goods*, *supra* at 667. This is the *only* means by which the statute confers jurisdiction on the circuit court. *Id.* (emphasis in original.) Because plaintiff was duly notified of the intended forfeiture but failed to file a claim contesting forfeiture and post a

bond in accordance with the statute, the trial court correctly concluded that it did not have jurisdiction to review the matter. *In re Return of Forfeited Goods*, *supra* at 667-668; *Hollins v Detroit Police Dep't*, 225 Mich App 341, 347; 571 NW2d 729 (1997).¹

Affirmed.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Helene N. White

¹ We note that plaintiff has not been deprived of a forum for raising challenges to the constitutionality of the seizure or the statute. Such challenges can be raised in the in rem forfeiture proceedings contemplated by MCL 333.7523. See, e.g., *In re Forfeiture of United States Currency*, 164 Mich App 171; 416 NW2d 700 (1987). The statutory procedure affords an adequate remedy to ensure due process. *Derrick v City of Detroit*, 168 Mich App 560, 563; 425 NW2d 154 (1988). Plaintiff simply failed to pursue the statutory procedure for challenging the forfeiture after being duly advised of his right to do so.