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STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0188

Evan Andrew Lautigar,
Appellant,

vs.

$42,830.00 in U.S. Currency,
Respondent.

Filed December 23, 2019
Affirmed
Peterson, Judge[*]

St. Louis County District Court
File No. 69DU-CV-17-2531

Craig E. Cascarano, Minneapolis, Minnesota (for appellant)

Mark S. Rubin, St. Louis County Attorney, Nora Christie Sandstad, Assistant County Attorney, Duluth, Minnesota (for respondent)

Considered and decided by Florey, Presiding Judge; Cleary, Chief Judge; and Peterson, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

PETERSON, Judge

This appeal challenges the district court's determination that it lacked subject-matter jurisdiction over an administrative-forfeiture proceeding because appellant failed to properly serve a demand for judicial determination of forfeiture. We affirm.

FACTS

On September 16, 2017, appellant Evan Andrew Lautigar was pulled over by the state patrol for a traffic violation in Anoka County and arrested for driving with a canceled license. During an inventory search of Lautigar's car, officers discovered $42,830 in cash, which was seized by local law enforcement. On September 20, 2017, Lautigar received from the St. Louis County Attorney a notice of seizure and intent to forfeit property, which stated that the money found in Lautigar's car during the traffic stop in Anoka County is subject to forfeiture.

On October 19, 2017, Lautigar electronically filed in St. Louis County District Court a demand for judicial determination of forfeiture, which alleged that the $42,830 was unconstitutionally seized and was not derived from or used in any illegal activity. On October 23, 2017, Lautigar mailed to the St. Louis County Attorney a copy of the demand for judicial determination of forfeiture. On November 19, 2018, Lautigar moved the district court to dismiss the administrative forfeiture for lack of subject-matter jurisdiction[1] because (1) the money was seized in Anoka County and the action was being pursued in

[1] Lautigar's motion to dismiss appears to be based on the premise that the St. Louis County Attorney initiated an action by serving a notice of seizure and intent to forfeit property.

St. Louis County; and (2) the forfeiture was being pursued in bad faith when there were no controlled substances seized.[2]

On November 20, 2018, St. Louis County moved the district court to dismiss Lautigar's action for lack of subject-matter jurisdiction because Lautigar failed to mail a notice and acknowledgment of service with the demand for judicial determination of forfeiture. Lautigar did not contest that he failed to mail a notice and acknowledgment of service but argued that the district court should still consider his claim because St. Louis County had actual knowledge of his filing in the district court.

The district court determined that it lacked subject-matter jurisdiction to consider Lautigar's demand for judicial determination because Lautigar failed to comply with the requirements for effective service. The district court granted the county's motion and dismissed Lautigar's demand. The district court made no determination on the merits of Lautigar's arguments that the forfeiture was improper. This appeal follows.

D E C I S I O N

Lautigar appeals the district court's decision to dismiss his demand for judicial determination of forfeiture for lack of subject-matter jurisdiction. We review the question of whether a district court has subject-matter jurisdiction de novo. *Strange v. 1997 Jeep Cherokee*, 597 N.W.2d 355, 357 (Minn. App. 1999). We also review the question of

[2] Money found in proximity to "forfeitable records of manufacture or distribution of controlled substances" is presumed to be subject to administrative forfeiture. Minn. Stat. § 609.5314, subd. 1(a)(1)(iii) (2016). In the district court, St. Louis County argued that Lautigar's funds were seized in proximity to cell phones that contained records of drug distribution.

whether service of process was effective de novo. *Shamrock Dev., Inc. v. Smith*, 754 N.W.2d 377, 382 (Minn. 2008).

Under the statutory administrative-forfeiture procedure, within 60 days from when property that does not exceed $50,000 in value is seized, all persons known to have an ownership, possessory, or security interest in the property must be notified of the seizure and the intent to forfeit the property. Minn. Stat. § 609.5314, subd. 2(a) (2016).[3] But service of a notice does not initiate a judicial action.

Instead, within 60 days after service of notice, "a claimant may file a demand for a judicial determination of the forfeiture." Minn. Stat. § 609.5314, subd. 3(a) (2016). "The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority for that county." *Id.* "The claimant may serve the complaint on the prosecuting authority by any means permitted by court rules." *Id.* A district court's jurisdiction to hear a demand for judicial determination attaches when a claimant makes a timely demand that meets statutory requirements. *Kokosh v. $4657.00 U.S. Currency*, 898 N.W.2d 284, 287 (Minn. App. 2017), *review denied* (Minn. Aug. 8, 2017). "Strict compliance is required, and if the owner of the affected property fails to properly serve the demand for judicial determination, no forfeiture

[3] If notice is not sent, "the appropriate agency shall return the property to the person from whom the property was seized, if known." Minn. Stat. § 609.5314, subd. 2(c) (2016).

action is commenced, and the district court lacks subject-matter jurisdiction to address the matter." *Id.*

The Minnesota Rules of Civil Procedure permit service of a complaint by: (1) personal service and (2) publication. Minn. R. Civ. P. 4.03-04.[4] The rules also permit service by mail. Minn. R. Civ. P. 4.05. To effectuate service by mail, a party must "mail[] a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to be served, together with two copies of a notice and acknowledgment conforming substantially to Form 22 and a return envelope, postage prepaid, addressed to the sender." *Id.* If the sender does not receive acknowledgment of service within the time that the defendant is required to serve an answer, the service by mail is ineffectual. *Id.*

Because there is no dispute that Lautigar failed to mail an acknowledgment of service with his demand for judicial determination, his attempted service by mail did not comply with the requirements of the forfeiture statute and, therefore, did not commence a forfeiture action. Lautigar argues, however, that, because St. Louis County had actual knowledge that he filed the demand for judicial determination, the district court erred when it dismissed his demand for judicial determination. Lautigar contends that this court should determine that St. Louis County's actual knowledge of his filing is sufficient to satisfy the service requirements.

[4] The district court applied the former version of Minn. R. Civ. P. 4.05, which was recently amended to be "more straightforward." Minn. R. Civ. App. P. 4.05 2018 advisory comm. cmt. Because the amended rule became effective on July 1, 2018, and was not in effect when Lautigar attempted to serve the St. Louis County Attorney, we apply the rule that was in effect prior to the amendment.

We are not persuaded. The supreme court has concluded that "[s]ervice of process in a manner not authorized by the [Minnesota Rules of Civil Procedure] is ineffective service." *Tullis v. Federated Mut. Ins. Co.*, 570 N.W.2d 309, 311 (Minn. 1997). Because strict compliance with rule 4.05 is required and Lautigar's failure to include an acknowledgment of service clearly violated the rule, it is irrelevant whether St. Louis County had actual notice of Lautigar's demand. *Jaeger v. Palladium Holdings, LLC*, 884 N.W.2d 601, 609-11 (Minn. 2016).

We therefore conclude that the district court did not err when it dismissed Lautigar's demand for judicial determination for lack of subject-matter jurisdiction. Because the district court properly dismissed Lautigar's demand, we do not address Lautigar's remaining arguments.

Affirmed.