

08-1738-CD
Comm of PA vs \$848.00 US Currency

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA

v.

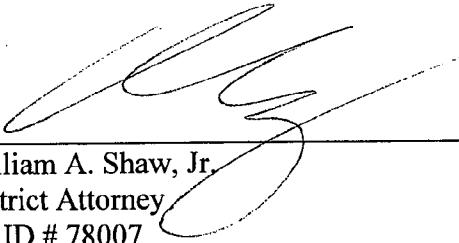
No. 08-1738-CD

\$848.00 U.S. CURRENCY

To: Heather L. Mighells
119 Lloyd Street, Apartment 8
Altoona, PA 16601

NOTICE TO ANSWER PETITION FOR FORFEITURE AND CONDEMNATION

TO THE CLAIMANT WITHIN DESCRIBED PROPERTY: YOU ARE REQUIRED
TO FILE AN ANSWER TO THIS PETITION, SETTING FORTH YOUR TITLE IN, AND
RIGHT TO POSSESSION OF, SAID PROPERTY WITHIN THIRTY (30) DAYS FROM THE
SERVICE HEREOF, AND YOU ARE ALSO NOTIFIED THAT, IF YOU FAIL TO FILE
SAID ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION WILL BE
ENTERED AGAINST SAID PROPERTY.


William A. Shaw, Jr.
District Attorney
PA ID # 78007
District Attorney's Office
230 East Market Street, Suite 210
Clearfield, PA 16830
(814) 765-2641, Ext. 5990
(814) 765-6792 (fax)

Original
upstairs

FILED 5CC
01/11/07/08 DA Shaw
SEP 16 2008
No Fee (County)
William A. Shaw
Prothonotary/Clerk of Courts

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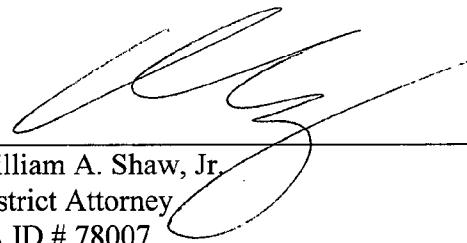
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01/11/07 8:34 AM DA Shaw
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
v. : No. CP-17-CD-____-2008
: :
\$848.00 U.S. CURRENCY : :

PETITION FOR FORFEITURE AND CONDEMNATION

AND NOW comes the Commonwealth of Pennsylvania, by and through its representative, William A. Shaw, Jr., District Attorney of Clearfield County, Pennsylvania, pursuant to and under authority of the provisions of the Judicial Code, Chapter 68, Controlled Substances Forfeitures Act, § 6801-6802, 42 Pa. C.S.A. § 6801, et seq (hereinafter referred to as "Act") and petitions this Honorable Court setting forth a right of possession in and requesting an Order of Forfeiture for \$848 U.S. Currency, and in support thereof avers as follows:

1. Your Affiant is Officer Kenneth Kiehlmeier of the Sandy Township Police Department.
2. The defendant/property is \$848.00 U.S. Currency, seized by the Commonwealth, pursuant to the "Act".
3. The defendant/property was seized on or about August 1, 2004 at approximately or directly thereafter 1955 hours.
4. The defendant/property was seized in the Wal-Mart Parking Lot located in Sandy Township, Clearfield County, Pennsylvania.
5. The owner of the defendant/property, \$848.00 U.S. Currency, based upon all information currently available, is Heather L. Mighells, 119 Lloyd Street, Apartment 8, Altoona, PA 16601.

6. At the time of the seizure, on the date and place of the seizure, hereinbefore mentioned, the defendant/property, \$848.00 U.S. Currency, was in the possession of Heather L. Mighells, 119 Lloyd Street, Apartment 8, Altoona, PA 16601.

7. The defendant/property is subject to forfeiture and condemnation and no legal right, title, or interest exists in it by any owners or possessors of it pursuant to § 6801 (a) of the "Act", 42 Pa. C.S.A. § 6801 (relating to loss of property rights to the Commonwealth), based upon the following averment of material facts:

a. On August 1, 2004, at approximately 1955 hours, Officer Kenneth Kiehlmeier and Sergeant Kris Kruzelak, both of the Sandy Township Police Department, were dispatched to the Wal-Mart Store in Sandy Township, Clearfield County, Pennsylvania, to investigate a retail theft which had occurred at the store. A similar incident had also occurred at the Wal-mart Store in Lawrence Township, Clearfield County, Pennsylvania, of which Officer Kiehlmeier had knowledge of, involving a red Buick with a white stripe on the side.

b. Upon entering the Wal-Mart parking lot, a red Buick with a white stripe was leaving the parking lot at a high rate of speed. The officers followed the vehicle and initiated a stop approximately ½ mile away. The driver was detained. The driver notified the officers that he had a syringe in his right front cargo pants pocket, prior to the search of his person for weapons being conducted. Also located with the syringe was three small packets made with wax paper. The officers saw in plain view several packages of electronic equipment were lying on the backseat of the vehicle. The driver identified himself as Joshua Park with a date of birth of August 30, 1979.

c. The officers were then notified by dispatch that a female was in custody at

Wal-Mart and was getting agitated. Officer Kiehlmeier and Officer Ward of the DuBois City Police Department responded to Wal-Mart. There they spoke with Officer Jason Runyon of Wal-Mart Loss Prevention, who stated that he and his manager had known of the retail theft at the Wal-Mart Store in Lawrence Township, Clearfield County, Pennsylvania. An employee noticed a female loading up a gym bag with merchandise in a shopping cart. When she was approached by Officer Runyon and the manager, she went into another aisle and emerged without the gym bag. The female was using a two way radio to speak with someone before she was approached. They approached her and asked her to go with them to their office so that they could call the police. The total of the merchandise in the gym bag was \$1515.33. The female, later identified as Heather Mighells with a date of birth of September 20, 1979 and a Social Security Number of 167-66-5967 was placed under arrest for retail theft by Officer Kiehlmeier.

d. Ms. Mighells was transported to the Sandy Township Police Department for questioning, as was Mr. Park. After both were read and signed Miranda warnings, she stated that she picked up Mr. Park in Altoona and drove first to Clearfield to the Wal-Mart (actually located in Lawrence Township, Clearfield County, Pennsylvania) where she went into the store and used the two way radio to fill an order that Parks dictated over the radio. Ms. Mighells then dropped the bag where Mr. Park told her to and left the store and got into the car. Mr. Park then entered the store and grabbed the bag then contacted Ms. Mighells via radio to see if the coast was clear. Mr. Park then exited the building through a fire exit. Ms. Mighells stated that they then got onto the interstate and stopped at the DuBois Wal-Mart (actually located in Sandy Township, Clearfield County, Pennsylvania) where she did the same thing but got caught.

e. Mr. Park was interviewed by Sergeant Kruzelak who gave the same story as Ms. Mighells did. Mr. Park also stated that Ms. Mighells had a whole gym bag full of heroin in the back seat of the car. Mr. Park said that he saw the heroin when he went in the bag to get candy for Ms. Mighells. Sergeant Kruzelak then asked Ms. Mighells for permission to search the bag. Ms. Mighells signed a consent to search form. When the bag was searched, several little wax paper envelopes were found in the red gym bag, along with the \$848.00 and personal belongings of Ms. Mighells. The envelopes' contents were field tested and tested positive for heroin. The envelopes were then sent to the Erie Crime Lab for testing. A spoon used for cooking heroin and two syringes were also found. All evidence was packaged and placed in the Sandy Township Police Department property room.

f. Officer Houser of the Lawrence Township Police Department then arrived and conducted and interview with both Ms. Mighells and Mr. Park regarding the retail theft at the Wal-Mart Store in Lawrence Township, Clearfield County, Pennsylvania. The electronic items that were found in the back seat of the red Buick bearing Pennsylvania Registration Number FJG-4736 were identified as belonging to the Wal-Mart Store located in Lawrence Township, Clearfield County, Pennsylvania. Both Ms. Mighells and Mr. Park were then transported for arraignment.

8. The defendant/property, \$848.00 U.S. Currency, was furnished or intended to be furnished by any person in exchange for a controlled substance, in violation of the Controlled Substance, Drug, Device and Cosmetic Act, or, is proceeds traceable to such an exchange, or used or intended to be used to facilitate any violation of said Act, or is otherwise subject to forfeiture under the "Act".

WHEREFORE, the Commonwealth, through the District Attorney of Clearfield County, prays that this Honorable Court issue an Order that the \$848.00 U.S. Currency, defendant/property be condemned and adjudged forfeited to the Commonwealth and that all right, title, or interest in the defendant/property, except that vested in the District Attorney of Clearfield County, be declared null and void and that the property be used or disposed of in accordance with law.

Respectfully Submitted,

William A. Shaw, Jr.
District Attorney

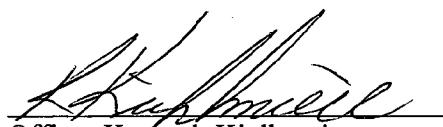
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AFFIDAVIT

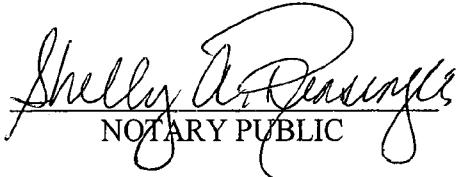
Personally appeared before me a Notary Public in and for the said Commonwealth and County, Officer Kenneth Kielhmeier, who being duly sworn according to law, deposes and says that he is an officer with the Sandy Township Police Department and stated that the facts averred in the foregoing petition are true and correct to the best of his personal knowledge or information and belief.



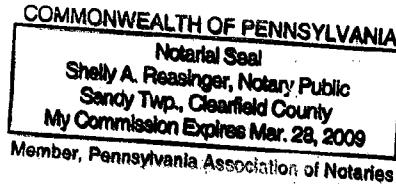
Officer Kenneth Kielhmeier
Sandy Township Police Department

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 11
DAY OF September, 2008



NOTARY PUBLIC



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

COMMONWEALTH OF PENNSYLVANIA :
v. : No. 08-1738-CD
: :
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ORDER

AND NOW, this _____ day of _____, 2008, upon
consideration of the foregoing petition and after hearing, it is ORDERED and DECREED as
follows:

The Prayer of the Petition is granted.

All claims of right, title, or interest of Heather L. Mighells, and any other claimants in the
defendant/property are hereby declared to be terminated, revoked and rendered null and void.
The \$848.00 U.S. Currency is hereby condemned and forfeited to the Commonwealth of
Pennsylvania, District Attorney of Clearfield County, pursuant to the Judicial Code, Chapter 68,
Controlled Substances Forfeiture, § 6801-6802, 42 Pa.C.S.A. § 6801 et. seq., for use or
disposition in accordance with law.

BY THE COURT

Honorable Fredric J. Ammerman
President Judge

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RULE TO SHOW CAUSE

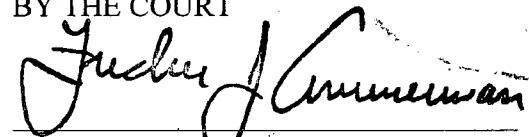
AND NOW, this 17th day of September, 2008, a rule is issued upon Heather L. Mighells, owner and/or possessor of the within defendant/property, to show cause why the prayer and order of the attached Petition for Forfeiture should not be granted.

Rule returnable, for the purpose of filing an Answer only, within thirty (30) days from the date of service of the attached Petition upon Heather L. Mighells, owner and/or possessor.

Failure to Answer this Petition within 30 days of service hereof will result in an Order of Forfeiture being entered against said property, any law or rule of Court to the contrary notwithstanding.

Notice shall be given in accordance with law.

BY THE COURT



Honorable Fredric J. Ammerman
President Judge

FILED 500
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SEP 18 2008

William A. Shaw
Prothonotary/Clerk of Courts

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