

STATE OF INDIANA) IN THE MARION SUPERIOR COURT 4
)
COUNTY OF MARION) CASE NO: 49D04-2405-MI-020041

STATE OF INDIANA

V.

PATRICK H., HENRY MINH

ORDER ON CROSS MOTIONS FOR SUMMARY JUDGMENT

This case brings before the Court another example of the inherent tension between the State’s use of civil forfeiture and citizen’s rights and interests. This Court follows the direction set by our appellate courts and decides that “to ensure a proper balance, civil forfeiture actions must strictly comply with the laws our Legislature has carefully crafted.” *Smith v. State*, 232 N.E.3d 109, 111 (Ind. 2024) (footnote omitted). Accordingly, the Court DENIES Counterclaim Plaintiff Minh’s motion for summary judgment as to Counts 1,2,3, and 4; GRANTS Counterclaim Plaintiff Minh’s motion for summary judgment as to Count 5; and FINDS the Court’s ruling as to Count 5 renders Moot Counterclaims 6 and 7.

Procedural History

Plaintiff, the State of Indiana (hereinafter the “State”) filed a *Complaint for Forfeiture* against Defendants Henry Minh (correctly named as Henry Minh, Inc. hereinafter “Minh”) and Patrick H. (“Patrick”) on May 2, 2024. On April 26, 2024, law enforcement officers seized \$42,825.00 in currency from a Fed Ex facility in Marion County from a parcel sent by Minh to Patrick. The Complaint alleged the currency was either furnished or in exchange for a violation of a criminal statute or traceable as proceeds of a violation of a criminal statute, all in violation of Indiana law. The State requested the currency be forfeited by Defendants.

Defendants Patrick and Minh filed an Answer, Affirmative Defenses and Counterclaim along with a motion seeking class certification on their counterclaim for a Parcel Class and a Notice Class. On October 16, 2024, Minh filed a motion for partial summary judgment requesting judgment on the State’s claim for

forfeiture and that the \$42,825.00 seized by the State be returned to Minh. Thereafter, the State and Minh, entered into an agreement wherein the State returned \$42,825.00 to Minh and dismissed its forfeiture claim with prejudice.

Both the individual and putative-class counterclaims remain pending. (Agreed Order entered 11/15/24.) The Court granted Counterclaim-Plaintiff Henry Minh, Inc.'s motion for class certification. (Certification of Classes, order entered 07/21/2025.) The Court's order found the proposed Parcel Class represented persons for counterclaim counts 1,2,3, and 4. and the Notice Class represented persons for counts 5,6, and 7. The certified classes are:

The "Parcel Class":

All persons and entities who are or will be named as defendants in actions under Title 34, Article brought 24, Chapter 1, of the Indiana Code of (1) seeking the forfeiture of currency contained in parcels that were (a) in-transit via FedEx from an originating location outside Indiana to a destination location outside of Indiana and (b) seized at the FedEx Express Indianapolis Hub and (2) in which the complaint makes no allegation that the currency is connected to Indiana beyond the in-transit parcel's presence in Indiana when it was seized.

The "Notice Class":

All persons and entities who are or will be named as defendants in actions under Title 34, Article 24, Chapter 1, of the Indiana Code to forfeit currency alone, in which the Marion County Prosecutor's Office represents the State of Indiana and any other government plaintiff and in which the complaint does not identify the specific predicate crime it alleges supports the forfeiture.

Minh filed a motion for summary judgment on behalf of itself and the two certified classes on 03/31/26. As to the Parcel Class Counterclaim Plaintiff sought a declaratory judgment and a permanent injunction finding there is an insufficient connection between seized currency and Indiana. As to the Notice Class Counterclaim Plaintiff sought a declaratory judgment and a permanent injunction that the State's forfeiture filings fail to notify property owners of the crime and operative facts alleged to be the basis for the forfeiture. The State, as a Counterclaim Defendant, filed a motion on its behalf and on behalf of the Marion County Prosecutor seeking summary judgment. The Court heard oral argument on the pending summary judgment motions on July 20, 2026.

Standard of Review

The purpose of summary judgment is to terminate litigation about which there can be no factual dispute and which may be determined as a matter of law. *Sheehan Construction Co. v. Continental Casualty Co.*, 938 N.E.2d 685, 688 (Ind. 2010). Under Indiana Trial Rule 56(c), a motion for summary judgment is appropriate when the moving party shows there are no genuine issues of material fact with respect to a particular issue or claim. *5200 Keystone Ltd. Reality, LLC v. Filmcraft Labs., Inc.*, 30 N.E.3d 5, 11 (Ind. App. 2015).

Indiana's summary judgment procedure differs from federal summary judgment practice. *Jarboe v. Landmark Comty. Newspapers of Ind.*, 644 N.E. 2d 118 (Ind. 1994). A moving party carries the initial burden of affirmatively negating a non-moving party claim by demonstrating the absence of any genuine issue of fact as to a determinative issue. *Perkins v. Memorial Hosp. of S. Bend*, 141 N.E. 3d 1231 (Ind. 2020). At this stage of the litigation, the Court must determine whether a moving party has adequately met its initial burden of proving an absence of any genuine issue of material fact or of affirmatively negating at least one element of the non-moving party's claim. *Siner v. Kindred Hosp. Ltd. P'ship*, 51 N.E. 3d 1184, 1187 (Ind. 2016); *Mundia v. Drendall Law Office, P.C.*, 77 N.E.3d 846, 854 (Ind. Ct. App. 2017), trans. denied sub nom. *Mundia v. Drendall Law Office, PC*, 2017 WL 4050459 (Ind. Sept. 7, 2017). Thereafter, the burden shifts to the non-movant to come forward with contrary evidence showing an issue for the trier of fact. Ind. Trial Rule 56(C); *Hughley v. State*, 15 N.E.3d 1000, 1003 (Ind.2014).

When deciding whether summary judgment is proper, the trial court may only consider the evidence designated by the parties. *Knighten v. E.Chi. Hous. Auth.*, 45 N.E. 3d 788, 791 (Ind. 2015). All facts and reasonable inferences from those facts are to be drawn in favor of the non-movant. *Owens Corning Fiberglass Corp. v. Cobb*, 754 N.E. 2d 905, 909 (Ind. 2001); *Hudgins v. Bemish*, 64 N.E. 3d 923, 929 (Ind. Ct. App. 2016). Testimony based on conjecture or speculation is insufficient to support a claim. *Colen v. Pride Vending Serv*, 654 N.E.2d 1159, 1163 (Ind. Ct. App. 1995). The failure of an inference may occur as a matter of law when the intended inference can rest on no more than speculation or conjecture. *Wright Corp. v. Quack* (1988), Ind. App., 526 N.E.2d 216, 217. If no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law, then summary judgment should be granted. *Indiana University Medical Center, Riley Hospital for Children v. Logan*, 728 N.E.2d 855, 858 (Ind. 2000). Summary

judgment should not be granted when it is necessary to weigh the evidence. *Hughley v. State*, 15 N.E.3d 1000, 1005 (Ind. 2014).

Parties filing cross-motions for summary judgment do not alter the court's standard of review nor change the court's analysis. The Court must consider each motion separately to determine whether the moving party is entitled to judgment as a matter of law, construing the designated evidence and all reasonable inferences in favor of the non-movant. *Erie Ins. Exch. v. Estate of Harris by Harris*, 99 N.E.3d 625, 629 (Ind. 2018); *Erie Ins. Exch. V. State Farm Mut. Auto. Ins. Co.*, 265 N.E.3d 1011, 1016 (Ind. Ct. App. 2025).

Facts

The facts of this civil case are undisputed. The Parties agree law-enforcement officers with the Indianapolis Metropolitan Police Department visit the FedEx hub located at the Indianapolis airport, the second-largest FedEx hub in the nation. At that facility, parcels originating from outside Indiana are routed to destinations that are also outside Indiana. Officers may watch parcels as they pass and pull aside parcels they deem suspicious according to various indicators. Countercl.-Defs.' *Answer* ¶ 14 (filed Dec. 18, 2024); Miller Class Cert. Aff. Ex. C (filed Aug. 6, 2024) (sample of 50 probable-cause affidavits). Once pulled aside, the parcels are presented in a "parcel line-up" to a certified narcotics detection K-9 officer. *Affidavit for Probable Cause*, at 2 (filed May 2, 2024). If the dog alerts detectives to a parcel, detectives seek a search warrant authorizing them to open it. Countercl.-Defs.' *Answer* ¶ 21 (filed Dec. 18, 2024).

After receiving a search warrant, a suspect parcel is searched. If the officer finds currency, the detectives submit a signed probable cause affidavit to the Marion County Prosecutor's Office. The Prosecutor's Office has, in many cases, sued on behalf of the State of Indiana to forfeit the currency under the Civil Forfeiture Statute. Miller MSJ Aff. Ex. 2, at 2 (Countercl.-Defs.' Revised Resp. to Req. for Admission No. 37).

This protocol was followed in the instant case. Officers pulled Minh's package as suspicious noting several indicators, submitted the package to a narcotics detection K-9 sniff test, received a positive indicator, requested a search warrant and opened the parcel discovering \$42,845 in currency. The currency was submitted to a second sniff test with another certified narcotics K-9 officer in a "clean

room”. Upon receipt of a second narcotic positive indicator the officers submitted a probable cause affidavit to the Prosecutor’s office. *Complaint*, Probable Cause Aff. P. 3-4. Filed 5/02/2024.

Plaintiff, the State of Indiana by the Marion County Prosecutor’s Office, filed a Complaint seeking forfeiture of \$42,825.00 in currency seized from a parcel sent by Minh to recipient Patrick. The Complaint alleged,

3. The seized currency was furnished or was intended to be furnished in exchange for a violation of a criminal statute or is traceable as proceeds of a violation of a criminal statute, in violation of Indiana law, as provided in I.C. 34-24-1-1.

4. Henry Minh and Patrick H. are named herein so that they may respond as their interest may appear.

Complaint for Forfeiture, 49D04-2405-MI-020041, filed 5/02/2024. Accompanying the Complaint, the State filed a Motion for Probable Cause, a Search Warrant Affidavit granted by a Marion County Magistrate authorizing a parcel search, and a Probable Cause Affidavit filed in support of the State’s forfeiture complaint. The Court found probable cause.

In more than 130 instances since 2022, the parcel containing currency was seized while in-transit *from* a jurisdiction that is not Indiana *to* a jurisdiction that is not Indiana. Miller MSJ Aff. Ex. 1 (Prosecutor 30(B)(6) Dep. 11:9-11:15, 16:14-16:16); Miller Class Cert. Aff. Ex. B (filed Aug. 6, 2024). When suing to forfeit the currency, the Prosecutor’s Office might have no evidence that the currency is connected to Indiana. In none of the cases the Prosecutor has brought to forfeit currency from parcels en route from one state outside Indiana to another state outside Indiana did the Prosecutor have any evidence or any reason to believe that the sender or parcel recipient had an intention to route the parcel through Indiana or any control over the FedEx flight route. *Findings of Fact and Conclusions of Law Re: Certification of Classes*, p.4, filed 7/21/2025.

Minh designated uncontroverted evidence that complaints filed by the Prosecutor’s Office pursuant to I.C. 34-24-1-3¹ do not name any specific criminal offense or list any statutory citation as the basis for a currency seizure. (Minh, *Motion for Summary Judgment* Ex. 7, State’s Answers to Counter-Claim Plaintiff’s Third Requests for Admissions.) The forfeiture complaints do not supply the factual

¹ Forfeiture of Property Used in Violation of Certain Criminal Statutes (34–24–1–0.1 to 34–24–1–9), hereinafter “Civil Forfeiture Act”.

basis for forfeiture or the Indiana crime that serves as a legal predicate for forfeiture. *Findings of Fact and Conclusions of Law Re: Certification of Classes*, p.5, filed 7/21/2025. In addition the defendant named in a forfeiture action, including Minh in the instant case, is not served with the probable cause affidavit or motion for probable cause. *Id.* The motion and probable cause affidavit are filed ex parte.

I

Parcel Class

Issue Whether or not the State may bring a civil forfeiture action against Defendants named as currency owners for property seized in Marion County:

- For currency parcels in transit via Fed-Ex from a location outside of Indiana and sent to a destination outside of Indiana;
- when there is probable cause to believe the property is subject to seizure under the Forfeiture Statute;
- and, when the complaint fails to allege the currency is connected to Indiana apart from its presence in the state.

Minh/Parcel Class contends the Civil Forfeiture Statute must be strictly construed and authorizes forfeiture only when currency is connected to a violation of Indiana criminal law, and in addition, satisfies Indiana's territorial jurisdiction statute, I.C. 35-41-1-1.

The State contends it must comply with the unambiguous language of the Civil Forfeiture Statute and show by a preponderance of the evidence that seized property was within the definition of property subject to seizure under section 1 of the Statute.

Decision

The Court DENIES Minh/Parcel Class motion for summary judgment as to counterclaims 1,2,3 and 4.

In a forfeiture action, a trial court exercises in rem jurisdiction, which refers to the "court's power to adjudicate the rights to a given piece of property, including the power to seize and hold it." Black's Law Dictionary 982 (10th ed. 2014). "Forfeiture actions have characteristics of both civil and criminal actions; however, forfeiture is properly classified as civil in nature." *Katner v. State*, 655 N.E.2d 345, 347 (Ind. 1995). A forfeiture action begins with a seizure. "Indiana Code section 34-24-1-1 permits seizure of

property, including money, that meets certain criteria.” *Hodges v. State*, 125 N.E.3d 578, 581 (Ind. 2019). A seizure of property must be supported by probable cause. Thereafter, at a hearing the prosecuting attorney must show by a preponderance of the evidence that the property was within the definition of property subject to seizure under the forfeiture statute. Ind. Code § 34-24-1-4. As previously decided by our appellate courts, a conviction on the underlying criminal activity is not a prerequisite for forfeiture. *Katner v. State*, 655 N.E.2d 345, 347 (Ind. 1995).

Ind. Code 34-24-1-1(a)(2) , provides that money may be seized by the State if it was: (A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute; (B) used to facilitate any violation of a criminal statute; or (C) traceable as proceeds of the violation of a criminal statute. *Olympic Fin. Grp., Inc. v. State*, 176 N.E.3d 571, 577 (Ind. Ct. App. 2021). The plain language of the statute requires the State to prove that the money is directly related to some sort of criminal activity. Or, more precisely, the proper standard for the initial seizure of property under the forfeiture statutes requires probable cause to believe there is a nexus between the property and certain criminal activity. In each of the Parcel Class cases, there was a probable cause finding the property was subject to seizure under the civil forfeiture statute. Ind. Code 34-24-1-2(a)(3). Thereafter, the prosecuting attorney must file a probable cause affidavit with the court and requiring the prosecutor must show by a preponderance of the evidence at a hearing that the property “was within the definition of property subject to seizure under section 1 of this chapter.” Ind. Code § 34-24-1-4.

The Court declines the Parcel Class invitation to amend the civil forfeiture statute by reading into its plain language a requirement not included by the legislature. The Parcel Class, as Counterclaim Plaintiff, asks this Court to link the forfeiture requirements to Indiana’s territorial-jurisdiction statute. The Civil Forfeiture statute itself does not require a prosecutor to bring criminal charges against a person involved in the criminal activity underlying the seizure and any subsequent forfeiture. Instead, the focus of the statute and case law is the property itself, since a forfeiture action is separate from any criminal prosecution and is brought against the property as an *in rem* proceeding. *C.R.M. v. State*, 799 N.E.2d 555, 558 (Ind. Ct. App. 2003).² There is no requirement in the statute that the State must be able to prosecute

² Therefore, we hold an *in rem* forfeiture under Ind.Code § 34–24–1–1 is civil for purposes of the Fifth Amendment's Double Jeopardy Clause. See *Katner*, 655 N.E.2d at 347; see, e.g., *Ursery*, 518 U.S. at 292, 116 S.Ct. 2135. *C.R.M. v. State*, 799 N.E.2d 555, 561 (Ind. Ct. App. 2003)

people before seizing or seeking forfeiture of parcels traveling through Indiana. Consequently, the prosecutor is not violating the Civil Forfeiture statute by seeking forfeiture of such parcels.

“There is little doubt that our Legislature intended forfeiture proceedings pursuant to Indiana Code Article 34–24 to be civil proceedings.” *Willis v. State*, 806 N.E.2d 817, 821 (Ind. Ct. App. 2004). Indiana’s forfeiture statutes, although long considered civil in nature, are premised upon an unlawful use of property. *Steward v. State*, 180 Ind. 397, 103 N.E. 316, 320 (1913). Consequently, in these *in rem* actions when it becomes necessary for the judgment or decree to act upon the particular property or thing attacked, jurisdiction attaches to the thing itself. *Id.*

A finding that a search may reveal probable cause for the seizure of property does not dictate the outcome of a forfeiture proceeding where a different standard of review prevails. As our Court of Appeals has decided, “the General Assembly has reasonably decreed that for the State to seize cash and seek its forfeiture—or turnover—it must show a nexus between the cash and some sort of criminal activity.” *Lewis v. Putnam Cnty. Sheriff’s Dep’t*, 125 N.E.3d 655, 659 (Ind. Ct. App. 2019). Absent the State’s ability to prevail in this task, it would fail to meet its burden and the trial court would be obliged to deny the forfeiture motion.

The Court DENIES Minh/Parcel Class motion for summary judgment as to Counts 1, 2, 3, and 4 in all respects.

II

Notice Class

Issue- Whether a civil forfeiture complaint may fail to identify the criminal statute or operative facts upon which the forfeiture of currency rests?³

Minh’s Contentions The Prosecutor’s complaints do not provide the degree of notice required by the state civil-forfeiture statute and by the state and federal constitutions.

The State Forfeiture complaints filed by Marion County Prosecutor’s Office comply with the Forfeiture statute, which does not specify a complaint’s contents, and comply with the Indiana Trial Rules.

Decision

The Court GRANTS Minh/Notice Class motion for summary judgment, in part. The Court FINDS the State's civil forfeiture complaints seeking forfeiture of currency seized from a FedEx Facility fail to identify with sufficient particularity the operative facts upon which the forfeiture of currency rests under Indiana Trial Rules and the language of the Civil Forfeiture Act.

The Civil Forfeiture statute requires a county's prosecuting attorney to file a complaint in the jurisdiction where the seizure occurred. The statute does not otherwise dictate the contents of the complaint. The Indiana Rules of Civil Procedure provides,

“a pleading must contain:

- (1) a short and plain statement of the claim showing that the pleader is entitled to relief, and
- (2) a demand for relief to which the pleader deems entitled.

Ind. Trial Rule 8(A). “Therefore, under notice pleading the issue of whether a complaint sufficiently pleads a certain claim turns on whether the opposing party has been sufficiently notified concerning the claim so as to be able to prepare to meet it.” *J.M. v. Catucky Derby, Inc.*, 2026 WL 2294615, at *3 (Ind. Ct. App. Aug. 10, 2026). As this Court ruled under issue one, Indiana requires a nexus between the property and certain criminal activity. Our state requires more than an incidental or fortuitous connection between the property and the underlying offense. *Serrano v. State*, 946 N.E.2d 1139, 1143 (Ind. 2011). A complaint served upon “either the owner of the seized property or any person whose right, title, or interest is of record” (I.C. 34-24-1-3) fails to sufficiently notify the party as to the claim, absent an allegation between the property and the underlying offense. A complaint must contain a short and plain statement concerning the alleged unlawful use of property. See, *Steward v. State*, 180 Ind. 397, 103 N.E. 316, 320 (1913).

Mindful of the significant criminal and punitive characteristics, such as permitting the seizure of property absent a criminal charge and punishing those whose property is confiscated, the Court seeks to remedy the inherent tension between the State's use of civil forfeiture and citizens' rights and interests by requiring parties to strictly comply with the trial rules and the laws our Legislature has carefully crafted. See generally, *Smith v. State*, 232 N.E.3d 109, 112 (Ind. 2024). To this end, the Court FINDS forfeiture complaints filed by the county prosecutor that fail to identify the criminal statute or operative facts upon

which the forfeiture of currency rests provide inadequate notice to property owners when seeking forfeiture.

IT IS THEREFORE ORDERED:

1. The Court DENIES Counterclaim-Plaintiff Henry Minh, Inc., individually and on behalf of the certified Notice Class Motion for Summary Judgment as to Counts 1,2,3, and 4, otherwise identified as “A” request for class-wide declaratory judgment.
2. The Court GRANTS Summary Judgment in favor of Counterclaim-Plaintiff Henry Minh, Inc., individually and on behalf of the certified Notice Class, against Counterclaim-Defendants State of Indiana and Ryan Mears, in his official capacity as Marion County Prosecutor on Count 5 Counterclaim. Having granted summary judgment as to Count 5, the Court does not reach Counts 6 and 7, finding them Moot.
3. This Order resolves the Counterclaim and terminates the action as to all claims and all parties. The Court Denies all pending motions not expressly granted herein.

So ordered on this the 19th day of October, 2026.

Theresa Hannah. Magistrate
Judge/Magistrate
Marion Superior Court 4

Distribution: Parties of Record.