FILED
OCT 28 1993
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-607 / 92-177

IN THE MATTER OF PROPERTY SEIZED FROM LAODIS HIGHTOWER,

LAODIS HIGHTOWER,

Appellant.

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Appeal from the Iowa District Court for Black Hawk County, Robert Mahan, Judge.

The defendant appeals the district court's determination that an automobile titled in his name was forfeitable. **AFFIRMED.**

John W. Ackerman of the Ackerman Law Office, Waterloo, for appellant.

Bonnie J. Campbell, Attorney General, and Karen Doland, Assistant Attorney General, for appellee State.

Considered by Oxberger, C.J., and Schlegel and Sackett, JJ. Donielson, J., takes no part.

SCHLEGEL, J. 000212

The defendant, Laodis Hightower, appeals the district court's determination that an automobile titled in his name was forfeitable. He claims the district court erred in its determination because the State failed to produce sufficient evidence to prove the automobile was purchased with the proceeds from drug sales.

On July 13, 1990, Laodis Hightower purchased a white Camaro Z28 from a Chevrolet dealership in Waterloo. Hightower paid $8000 cash in denominations of twenties and fifties for the automobile. On September 15, 1990, Officer Mark Meyer stopped Hightower pursuant to an outstanding warrant for failure to appear. At the time of his arrest, Officer Meyer found $541 on Hightower's person and a bag of rock cocaine in his mouth.

Subsequently, Hightower allegedly told Officer Meyer he had sold cocaine for one and one-half to two years, he had saved $10,000, and he had purchased a Chevrolet Camaro with money he received from selling drugs. Hightower denied having made such statements to Officer Meyer. A background investigation indicated that Hightower had been arrested seven times between July of 1989 and October of 1990 and that each time Hightower claimed he was unemployed.

Thereafter, the State seized Hightower's white Chevrolet Camaro. Three days later, the State served notice of the forfeiture on Hightower. Subsequently, both Hightower and his mother, Alice Jefferson, filed claims

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alleging ownership of the Camaro. At a hearing on the matter, Jefferson claimed the $8000 in cash used to purchase the Camaro was a gift from her late husband. She claimed her husband gave the cash to Hightower who then handed it over to the salesman.

The State produced the testimony of Officer Meyer. Meyer testified about Hightower's statements after the September 15 arrest concerning his drug-related activities. The State also produced evidence of Hightower's background investigation which revealed he had no legitimate income during the time he purchased the Camaro.

The district court then determined the Camaro should be forfeited and that title should be transferred to the State. Hightower appeals claiming his mother was the true owner of the vehicle because her late husband provided the cash for its purchase. He also argues the automobile was never used to transport drugs.

Our scope of review is for the correction of errors at law. Iowa R. App. P. 4.

> Forfeiture is a civil proceeding. At the hearing the burden is on the state to prove by a preponderance of the evidence that the property is forfeitable. However, forfeiture is not dependent upon a prosecution for, or conviction of, a criminal offense and forfeiture proceedings are separate and distinct from any related criminal action.

Iowa Code section 809.11 (1991).

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To determine the merit of Hightower's sufficiency of the evidence claim, we must apply the well-known standard of review for factual findings in an action at law:

> [This court will] view the evidence in the light most favorable to sustaining the district court judgment. The trial court's findings are construed liberally in order to support its result. A finding is supported by substantial evidence if it may be reasonably inferred from the evidence. If supported by substantial evidence and justified under the law, the findings are binding on us and the judgment will not be disturbed on appeal. . . .
>
> The possibility of drawing inconsistent conclusions from the same body of evidence does not prevent a finding from being supported by substantial evidence.

In re Property Seized from Rush, 448 N.W.2d 472, 477 (Iowa 1989).

Iowa Code section 809.1(2) (1991) provides:

> "Forfeitable property" means any of the following:
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> a. Property which is illegally possessed.
> b. Property which has been used or is intended to be used to facilitate the commission of a criminal offense or to avoid detection or apprehension of a person committing a criminal offense.
> c. Property which is acquired as or from the proceeds of a criminal offense.
> d. Property offered or given to another as an inducement for the commission of a criminal offense.

The dispositive question in the present case is whether substantial evidence exists in the record to support the district court's conclusion that the 1986 Chevrolet Camaro is forfeitable under the provisions of section 809. Having thoroughly reviewed the record, we conclude substantial evidence supports the conclusion that the automobile is

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forfeitable pursuant to section 809.1(2)(c). Here, the district court determined Officer Meyer's testimony about Hightower's admission that he purchased the automobile with the proceeds from drug sales was more credible than Hightower's denial of this admission. See also In re Property Seized from Rush, 448 N.W.2d at 477 (Substantial evidence supported the trial court's order of forfeiture of a cashier's check as being related to drug sales proceeds where a probation officer testified that defendant told him that the money in the bank account, from which the cashier's check was issued, resulted from drug sales.)

The record further indicates that Hightower is the individual who purchased the automobile in denominations of twenties and fifties on July 13, 1990. This fact is confirmed by an examination of the "Motor Vehicle Purchase Agreement" (plaintiff's exhibit 2) and the automobile's title (plaintiff's exhibit 6), indicating that Laodis Hightower is the registered owner of the vehicle. Accordingly, we affirm the district court's order of forfeiture.

AFFIRMED.