

No. 1-14-0677

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>IN RE</i> THE MATTER OF THE PEOPLE OF THE)	Appeal from the
STATE OF ILLINOIS,)	Circuit Court of
)	Cook County.
Plaintiff-Appellee,)	
)	
v.)	No. 2010 COFO 316
)	
\$23,400 U.S.C., \$11,909 U.S.C., \$4,000 U.S.C.,)	
\$58,020 U.S.C., and \$160 U.S.C.,)	Honorable
)	David Skryd,
Defendants-Appellants.)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Hoffman and Justice Hall concurred in the judgment.

ORDER

¶1 *HELD:* In this forfeiture action, the State sufficiently proved a nexus of probable cause between the seized currency and illegal drug activities. Claimants did not rebut this presumption by a preponderance of the evidence. As a result, the trial court’s judgment was not against the manifest weight of the evidence on either issue.

¶2 Following a bench trial, the court entered a judgment of forfeiture against claimants, Martha Espinoza, Silvestre Espinoza, and Antonio Espinoza, in the amount of \$97,489. On appeal, claimants contend that the trial court erred: (1) by denying their request for a directed verdict where the State failed to demonstrate a sufficient nexus of probable cause between the currency and illegal drug activities; and (2) in finding they failed to demonstrate by a preponderance of the evidence that the money was not subject to forfeiture. Based on the following, we affirm the judgment of the trial court.

¶3

I. BACKGROUND

¶4 On July 10, 2010, the State filed a complaint for forfeiture pursuant to the Drug Asset Forfeiture Procedure Act (Forfeiture Act) (725 ILCS 150/1 *et seq.* (West 2010)), seeking the forfeiture of \$97,489. The currency was seized following a search conducted at 1008 North Wood Street, in Chicago, Illinois. The State alleged that on or about April 1, 2010, the currency was found in connection with illegal drug activities.

¶5 At a bench trial, Chicago Police Officer DiFranco¹ testified that he was the case officer of the surveillance operation of the 1008 North Wood Street residence. He had 15 years of experience as an officer. The house was a two-flat that had been under surveillance for a number of days as of March 31, 2010. Martha and Silvestre Espinoza lived on the first floor. Nelson Arroyo lived on the second floor with his wife and son. Nelson's wife was the daughter of Martha and Silvestre. Nelson and his wife rented the apartment from Martha and Silvestre. Vanessa Arroyo was Nelson's daughter. She did not live in the two-flat.

¹ Officer DiFranco's first name was not included in the record.

¶6 At approximately 2 p.m. on May 31, 2010, Officer DiFranco watched the residence while Officer Gonzalez, an undercover buy agent, called Vanessa. The purpose of this phone call was to set up a meeting to purchase cannabis. At the time of the call, Officer DiFranco testified that Vanessa was on the porch of the building. Vanessa was talking to Nelson, a suspected drug dealer with prior convictions for the delivery of narcotics, and an unknown male individual. After Vanessa received the phone call from Officer Gonzalez, she entered the second floor unit of the building. Meanwhile, Nelson went inside the first floor apartment and opened a window to briefly talk with the unidentified male on the front porch. The unidentified male then left the area. Five minutes later, Nelson and Vanessa exited the apartment through the front door. Nelson was carrying a large plastic bag at the time.

¶7 Officer DiFranco testified that he followed Nelson and Vanessa to a parking lot. Nelson and Vanessa met Officer Gonzalez there and, after moving to another location, performed a drug transaction. Officer DiFranco stated that he was in contact with Officer Gonzalez after the drug transaction. Officer DiFranco learned that Nelson gave Officer Gonzalez the plastic bag and Officer Gonzalez gave \$950 to Vanessa. Inside the plastic bag was a brick of cannabis that weighed 454.4 grams. The brick of cannabis was packaged “cartel style” and had a cartel logo on the packaging.

¶8 According to Officer DiFranco, following the cannabis transaction, the police obtained two search warrants, one for the first floor apartment and one for the second floor apartment. Officers performed the search the next day, April 1, 2010. At the time of the officers’ arrival, no one answered either door so the police forcefully entered the apartments.

¶9 Police conducted a search of the second floor and found .1 grams of cocaine, 1.8 grams of cannabis, envelopes, and a grinder. No money was found on the second floor. On the first

floor, police found the money in question. In the first bedroom searched, they found \$160 on top of a metal can on the dresser, \$4,000 in a dresser drawer, and \$23,400 inside a safe, which Silvestre had opened upon arriving home during the search. The police also discovered a .38 revolver containing five live rounds located in the same dresser drawer as the \$4,000. In the second bedroom, police found \$11,909 in a filing cabinet and \$58,020 in a jewelry box within another filing cabinet. According to Officer DiFranco, the officers were unable to verify whether any of the recovered money included the \$950 used during the prearranged drug transaction from the prior day because of the vast amount recovered in the house. The officers also seized a bulletproof vest from the first floor rear porch. Officer DiFranco testified that, in his experience, body armor is normally associated with narcotics trafficking or other criminal activity.

¶10 Officer DiFranco testified that he asked Silvestre how much money Silvestre had in the house. Silvestre answered \$30,000 to \$40,000. Officer DiFranco seized Silvestre's revolver because Silvestre was a convicted felon and as such he was not allowed to own a firearm of any kind. Silvestre had arrests for unlawful gun possession and not having a FOID card.

¶11 According to Officer DiFranco, the police officers transported the seized money to the station. Officer DiFranco testified that a canine unit was called in to test the currency for the presence of narcotics. When the canine unit arrived, all officers left the test room and the canine performed a sweep. After the initial sweep yielded no positive results, the sergeant placed a bag containing the money into a cabinet. The canine unit performed a second sweep. This time, the canine positively alerted to the cabinet where the seized money was located. According to Officer DiFranco, this indicated the presence of narcotics on the money.

¶12 Nelson was brought into the police station on the night of April 1, 2010. Officer DiFranco testified that Nelson agreed to cooperate with the police officers in return for his

release. That night, Nelson aided in a police investigation that lead to the arrest of another individual. Nelson was released on the condition that he would assist with at least three more investigations. Officer DiFranco testified, however, that Nelson stopped returning the officers' calls and was believed to have fled to one of the properties in Texas that Martha and Silvestre owned.

¶13 After the trial court denied claimants' motion for a directed finding, they testified. Martha testified that she and Silvestre owned two family restaurants and had been in the restaurant business for 30 to 32 years. They ran the two restaurants under the name of DePasada Corporation. However, it was unclear from Martha's testimony whether Martha and Silvestre still ran the corporation. Martha stated that her son took over the business and her daughter took over the other restaurant seven years prior.

¶14 Martha testified that she and Silvestre lived at the 1008 North Wood Street home for 23 to 24 years. The couple also owned four apartment buildings and a house in Texas, as well as one other house in Chicago. Martha testified that her mortgage of \$2,800 a month was paid electronically through one of their bank accounts. Martha additionally testified that at one point in the past the couple had a certificate of deposit valued at over \$20,000 at one of the banks. Martha testified that she believed there was either \$30,000 to \$40,000 in the safe in her home or \$40,000 to \$45,000. Martha testified that, when her daughter took over one of the restaurants, she took \$30,000 to \$35,000 from that restaurant's safe and put it into their safe at home.

¶15 Martha further testified that the money found in the second bedroom was from her social security proceeds, Nelson and her daughter's rent money, and the money that she regularly collected from one of the restaurants. Martha said that she would cash her social security checks, spend what she needed, and put the rest back in the same envelope and into the jewelry box

found in the cabinet. Martha then read the value of the 16 envelopes that had been seized.²

Martha testified, however, that she had never counted the money. Martha additionally testified that the rent money included payments of either \$750 or \$850 from her daughter. According to Martha's testimony, she brought \$4,000 to \$5,000 home per week from one of the restaurants. However, on cross-examination, Martha testified that she brought home \$5,000 to \$6,000 a week and then, when later asked again, instead stated \$4,000 to \$5,000. It was then revealed that Martha said in her deposition that she took home \$3,000 a week. Martha testified that the money from the restaurant was used to pay for taxes, payroll, and other restaurant expenses. Martha said that she took the money home and put it in the filing cabinet, and then deposited the money in their business account at the bank every two to four weeks.

¶16 The State then presented the DePasada Corporation tax returns, which showed that the company had a net profit of \$15,211 in 2009. However, in 2010, the corporation showed a loss of \$29,835, in 2007 a loss of \$6,480, and in 2006 a loss of \$26,809.

¶17 Silvestre testified that at one point he and Martha had \$300,000 in the bank, which allowed him to write a \$160,000 check for the construction of their four apartments in Texas. Silvestre also testified he was aware that he was earning interest off of the money in the bank. According to Silvestre, the couple shared several bank accounts at two separate banks. Five years ago, he and Martha refinanced a loan for \$300,000 with a 7.25 percent interest rate.

¶18 Silvestre testified that the money in the safe was his and Martha's money, but he never counted it. Silvestre also testified that Antonio, his brother, originally gave him \$12,000 to keep

² The amount totaled \$7,618, which was \$50,582 less than the \$58,200 that Officer DiFranco testified was in the drawer at the time of the search.

in Silvestre's home, but then needed \$2,000 for a trip. Silvestre stated at the time of the seizure there was \$10,000 belonging to Antonio in an envelope in his safe. However, Silvestre admitted that he never counted the money Antonio gave him. During Silvestre's testimony, he was asked about the bulletproof vest that was found in the rear porch of the first floor apartment. Silvestre said that he did not know the bulletproof vest was in his home and he was under the impression that Martha did not know about it either. When Silvestre was questioned about the illegal firearm being in his apartment, he said that he bought the firearm.

¶19 Antonio testified that in 1993 he became disabled and could no longer work. In Antonio's direct examination, he claimed that in 1998 he received approximately \$19,000 in social security benefits and gave \$12,300 to Silvestre to keep in his safe. Later, however, on cross-examination, Antonio stated that he received \$17,000 in social security benefits and gave Silvestre \$10,000 to keep in his safe. Antonio admitted that he never saw Silvestre put the money in the safe.

¶20 Maria, Martha and Silvestre's daughter, testified that her mother told her the bulletproof vest, recovered by the police, had been in their house for over 20 years. Maria, however, maintained that the bulletproof vest did not belong to Silvestre.

¶21 The trial court found in favor of the State and entered a judgment of forfeiture for the currency that was seized. The trial court stated that it made its final judgment based on the totality of the circumstances and the credibility of the witnesses, which played a large role in its decision. The trial court found the testimony of Martha, Silvestre, and Antonio to be incredible, evasive, and lacking in useful knowledge. In contrast, the trial court found Officer DiFranco's testimony to be clear and credible. The court concluded that the evidence presented at trial, namely, that Nelson was on the first floor before the cannabis transaction, he and Vanessa left the first floor before the transaction, the proceeds from the search warrants for both the first and

second floor of the apartment, the positive dog sniff of the currency, and the seizure of the handgun and body armor, taken together, established a nexus of probable cause between the currency and the illegal drug activity. The trial court then found that the claimants did not rebut the nexus of probable cause by a preponderance of the evidence. Again, the trial court found all three claimants to be incredible. The trial court further found that there were discrepancies in the origin of the money, amount of the money, and who owned the money that could not be ignored. Based on the totality of the circumstances, the trial court ordered the money forfeited.

¶22 Claimants then filed a motion for reconsideration that the trial court denied. This timely appealed followed.

¶23 **II. ANALYSIS**

¶24 “The Illinois General Assembly passed the Forfeiture Act to establish uniform procedures for the seizure and forfeiture of drug-related assets.” *People v. \$280,020 United States Currency*, 372 Ill. App. 3d 785, 791 (2007). Generally, forfeitures are disfavored at law and courts will construe forfeiture statutes in a manner that is favorable to the person whose property is seized, as far as the statute will allow. *People v. A Parcel of Property Commonly Known As 1945 North 31st Street*, 217 Ill. 2d 481, 497 (2005). However, the General Assembly has stated that the Forfeiture Act should be liberally construed as to effect its remedial purpose. (725 ILCS 150/13 (West 2010)).

¶25 “Where the State has seized real property or, as is the case here, non-real property that exceeds \$20,000 in value, the Forfeiture Act mandates that a civil, *in rem* judicial proceeding be initiated.” *People v. \$174,980 United States Currency*, 2013 IL App (1st) 122480, ¶ 21; 725 ILCS 150/9 (West 2010). The proceeding involves a two-step process. The first step requires the State to show probable cause for the forfeiture. *\$174,980 United States Currency*, 2013 IL App

(1st) 122480, ¶ 22. If the State satisfies its burden, the burden shifts to the claimant to show by a preponderance of the evidence that the claimant's interest in the property is not subject to forfeiture. *Id.* ¶ 24.

¶26 A trial court's decision in a forfeiture case will not be reversed unless it is against the manifest weight of the evidence. *A Parcel of Property Commonly Known As 1945 North 31st Street*, 217 Ill. 2d at 508. "A judgment is against the manifest weight of the evidence only if the opposite conclusion is apparent or when findings appear to be arbitrary, unreasonable, or not based on the evidence presented at trial." *Fox v. Heimann*, 375 Ill. App. 3d 35, 446 (2007). A reviewing court must give the trial court deference with regard to findings of fact; this is particularly true of credibility determinations. *Zaderaka v. Illinois Human Rights Commission*, 131 Ill. 2d 172, 180 (1989). Deference must be afforded because the trial court is in a superior position to observe the witnesses while they testify, determine the witnesses' credibility, and apply its observations and determinations in making its final judgment. *Eychaner v. Gross*, 202 Ill. 2d 228, 270-71 (2002).

¶27 A. "Nexus of Probable Cause"

¶28 Claimants first allege that the trial court erred in finding the State established a sufficient nexus of probable cause between the currency found on the first floor apartment and illegal drug activities.

¶29 The initial proceeding of a forfeiture hearing requires the State to present evidence showing probable cause for the forfeiture of the property. 725 ILCS 150/9(G) (West 2010). The court must receive and consider all relevant hearsay evidence and information during the initial proceeding. 725 ILCS 150/9(B) (West 2010). The court may rely on circumstantial evidence in

determining whether probable cause exists. *People v. \$5,970 United States Currency*, 279 Ill. App. 3d 583, 588 (1996).

¶30 To satisfy the probable cause requirement under the Forfeiture Act, the State need only show a probability or substantial chance of a nexus between the currency and illegal drug activities. *A Parcel of Property Commonly Known As 1945 North 31st Street*, 217 Ill. 2d at 505. The Forfeiture Act does not require an actual showing. *Id.* Probable cause is to be determined after looking at the totality of the circumstances, not each piece of evidence individually. *Id.* The State may have less than *prima facie* proof, but must have more than a mere suspicion that a nexus exists to establish probable cause. *Id.* In addition, the State's evidence "need not exclude other plausible hypotheses" regarding the source of the seized property. *Id.* Probable cause can be established if the State shows that a presumption exists. *People v. \$111,900 United States Currency*, 366 Ill. App. 3d 21, 28 (2006). Currency found in close proximity to forfeitable substances or distribution paraphernalia shall give rise to a presumption that the currency was furnished or intended to be furnished in exchange for substances in violation of the Illinois Controlled Substances Act or the Cannabis Control Act and is forfeitable under the Forfeiture Act. 725 ILCS 150/7(1) (West 2010).

¶31 In this case, based on the totality of the circumstances, the State established a sufficient nexus between the money seized and illegal drug activities. Officer DiFranco testified that the first floor apartment, where the currency was seized, was involved in a significant drug transaction the day before. Nelson was observed entering the first floor apartment after Vanessa received the phone call from undercover Officer Gonzalez. Five minutes later, Nelson and Vanessa were seen leaving the front door with a bag that ultimately tested positive for over 450 grams of cannabis in drug cartel packaging. While it is true that the drug transaction took place at

another location, the origin of the cannabis was the building searched. Moreover, one day later, within the first floor apartment, officers seized a total of over \$97,000 in cash loosely packaged and hidden in various places throughout the apartment. While the two apartments were described as separate, it is apparent from the testimony of Officer DiFranco that Nelson was able to enter the first floor apartment as he pleased. There was also an illegal firearm located in the same drawer as some of the currency, a bulletproof vest located on the first floor, and the currency positively tested for narcotics pursuant to canine testing. In addition, in the upstairs apartment, police uncovered small amounts of cocaine, cannabis, and a grinder.

¶32 The evidence presented by the State in this case to overcome its initial burden of establishing probable cause has been recognized by Illinois courts as probative to demonstrate a nexus between seized property and an illicit source. More specifically, large amounts of currency in close proximity to drugs or trafficking paraphernalia has been used as evidence to establish a sufficient nexus of probable cause between the currency and illegal drug activities. *\$5,970 United State Currency*, 279 Ill. App. 3d at 589. In addition, trained canine units that positively alert to currency signifying that it contains narcotics is proper and probative evidence to suggest a nexus exists between the currency and illegal drug activities. *\$174,980 United States Currency*, 2013 IL App (1st) 122480, ¶ 42. Furthermore, Illinois courts have held that firearms, in certain circumstances, can be labeled as drug trafficking paraphernalia. *People v. De Cesare*, 190 Ill. App. 3d 934, 941 (1989). Also, with regard to Officer DiFranco's testimony that body armor, in his experience, has been associated with narcotics; "[t]he observations and reasonable beliefs of a police officer trained and experienced in narcotics trafficking may be considered in the context of determining probable cause, both generally and in the specific context of forfeiture proceedings." *\$174,980 United States Currency*, 2013 IL App (1st) 122480, ¶ 42.

¶133 We find claimants' reliance on *People v. United States Currency \$3,108* is misplaced. 219 Ill. App. 3d 441 (1991). In that case, currency was seized from the claimant's room along with a scale, grinder, and a white powdery substance. *Id.* at 442. The white powdery substance was found not to be cocaine. *Id.* at 442. The police officers also seized cocaine that was found in a common area of the home. *Id.* at 442. Our present case differs from *People v. United States Currency \$3,108* in several ways. The money in that case did not test positive for narcotics; whereas, in our case it did. Moreover, the trial judge in *\$3,108* did not find the officer's testimony depicting the scale, grinder, and white powdery substance as drug paraphernalia to be credible; whereas, in our case the trial court found Officer DiFranco's testimony regarding the presence of large amounts of money, the handgun, the body armor, and again, the positive presence of narcotics on the money to be credible. In addition, in *\$3,108*, the State was required to establish a preponderance of the evidence for the forfeiture instead of probable cause as was the standard in our case.

¶134 Finally, we note that, claimants point out that there have been no criminal charges brought against any party. However, it has been held that civil forfeiture proceedings do not require prior criminal convictions or even a prior criminal proceeding. *People v. \$52,204 United States Currency*, 252 Ill. App. 3d 778, 781 (1993).

¶135 In sum, contrary to claimants' argument, the evidence sufficiently connected the currency to the illegal drug activities. The currency's close proximity to illegal drug activities was evidenced by: (1) the significant drug transaction that occurred less than 24 hours before the search; (2) Nelson's presence on the first floor five minutes before the drug transaction; (3) the large amount of currency that was recovered in close proximity to trafficking paraphernalia; (4) a portion of the currency being in the same drawer as the illegal firearm; (5) the body armor vest

being found on the first floor; and (6) the positive dog sniff indicating the presence of narcotics on the bills.

¶36 We, therefore, conclude that based on the totality of the circumstances, the manifest weight of the evidence established a nexus of probable cause between the currency and illegal drug activities.

¶37 **B. Rebutting the Presumption**

¶38 Claimants next contend the trial court erred in finding they failed to demonstrate by a preponderance of the evidence that the money was not subject to forfeiture. Specifically, claimants allege they presented evidence of the legal origin of the currency that the trial court ignored.

¶39 As stated, if the State establishes probable cause, the claimants then must show, by a preponderance of the evidence, that their interest in the property is not subject to forfeiture. 725 ILCS 150/9(G) (West 2010). After the State's case-in-chief, the laws of evidence relating to civil actions shall apply. 725 ILCS 150/9(B) (West 2010). Claimants must demonstrate by a preponderance of the evidence that their property interest is exempt from forfeiture by proving they are "not legally accountable for the conduct giving rise to the forfeiture, did not acquiesce in it, and did not know and could not reasonably have known of the conduct or that the conduct was likely to occur." 725 ILCS 150/8 (West 2010). If claimants are unable to establish an interest in the property that is exempt under Section 8, the court shall order the property forfeited to the State. *A Parcel of Property Commonly Known As 1945 North 31st Street*, 217 Ill. 2d at 500. Claimants have the burden of proving that the currency was innocently obtained and prove it was from a source other than narcotics. *People ex rel. Daley v. \$9,403 United States Currency*, 131 Ill. App. 3d 188, 191 (1985). A trial court may, after finding that a witness's testimony is

incredible, reject the witness's explanation as evidence of the source of the currency. *A Parcel of Property Commonly Known As 1945 North 31st Street*, 217 Ill. 2d at 509. "It is axiomatic that a reviewing court may not reweigh the evidence or substitute its judgment for that of the trier of fact." *Id.* Claimants that are unable to provide evidence of a legitimate or credible source of the funds in question provide circumstantial evidence that the currency in question is subject to forfeiture. *United States v. \$87,118 United States Currency*, 95 F.3d 511, 514 (7th Cir. 1996).

¶40 In our case, the trial court explicitly stated that it did not believe claimants' testimony regarding the origins of the currency and that its credibility determination played a large role in its final judgment. The trial court did not ignore the testimony. Instead, it found the innocent explanation of the currency unreliable and insufficient to overcome the State's *prima facie* case. *People v. \$5,970 United States Currency* is on point with this issue. In that case, the appellate court rejected claimant's contention that the trial court's judgment was against the manifest weight of evidence. 279 Ill.App.3d at 588. Much like in our case, the trial court in that case determined the claimant's innocent explanation of the origin of the currency seized did not rebut the State's *prima facie* case. *Id.* The trial court made this determination by assessing the credibility of the claimant and rejecting its explanation. *Id.* A reviewing court must not disturb such a finding unless it is against the manifest weight of the evidence. *Id.*

¶41 Turning first to claimants' alleged innocent explanation for the currency found in the apartment, the trial court found the money that was seized was more than what the claimants could legitimately source. The testimony regarding who owned the restaurant corporation and who actually had an interest in the money seized was unclear. Moreover, claimants' assertion that they did not trust banks was discredited. In fact, the evidence demonstrated that Martha and Silvestre had multiple bank accounts and used bank services frequently. Martha testified that her

mortgage was taken directly from her bank account and at one point the couple had a certificate of deposit valued at over \$20,000. In addition, Silvestre testified the couple had \$300,000 in the bank and used that money to invest in the construction of four apartment buildings in Texas. Silvestre stated he was aware his money was accruing interest. These facts demonstrate a routine use of banks. Contrary to claimants' attempted innocent explanation of the currency; these are not the actions of a couple that do not trust banks. Further, the fact that Martha and Silvestre have been in the restaurant business for years does not help their case when considered in light of the fact that Martha said she deposited all the restaurant money into their business account at least once a month. Therefore, the couple would not have a stockpile of restaurant money accumulating throughout the years. The social security envelopes also do not help as that would only account for a fraction of the money found in the home.

¶42 In addition, claimants failed to testify credibly. Importantly, neither Martha nor Silvestre were able to accurately account for money found in the home. They testified there was between \$30,000 and \$45,000 in the house, but now claim ownership of the entire \$97,489 seized. Moreover, the trial court found Martha's testimony to be in direct contradiction with itself and her previous deposition. Martha stated at trial that she took home \$4,000 to \$5,000 a week, but on cross-examination stated \$5,000 to \$6,000 and in her deposition said \$3,000. Moreover, Martha testified that she regularly deposited the restaurant proceeds with the bank. Martha also provided inconsistent testimony related to the rent paid by her daughter and Nelson, vacillating between \$850 and \$750. The trial court additionally found Antonio's testimony to be unhelpful and lacking in any useful knowledge. Antonio was unable to answer questions regarding his social security benefits. Silvestre then testified inconsistently regarding Antonio's money and

what remained in Silvestre and Martha's home. Finally, Martha, Silvestre, and Maria provided evasive testimony regarding the bulletproof vest found on the back porch of the house.

¶43 We find *People ex rel. Waller v. 1989 Ford F350 Truck*, 162 Ill. 2d 78 (1994), a case relied upon by claimants, distinguishable from the set of facts that were presented in our case. In that case, police seized \$55.99 in cash from the claimant. *People ex rel. Waller v. 1989 Ford F350 Truck*, 162 Ill. 2d at 85 (1994). The State was able to show a nexus of probable cause between the currency and illegal drug activities. *Id.* However, claimant was able to rebut the presumption by showing that the amount of money was in an amount ordinarily carried on his person. *Id.* The court held that the amount of money was insignificant and claimant's explanation credible. *Id.* Our case differs in two ways. The amount of money totaling over \$97,000 was significant and the trial court did not find claimants' explanations credible.

¶44 Ultimately, we conclude that the trial court's decision to discredit the claimants' testimony and enter a judgment against them was not against the manifest weight of the evidence. The trial court assessed the credibility of the witnesses and determined that their innocent explanation of the source of the currency was without merit. The trial court's judgment that claimants failed to rebut the State's presumption by a preponderance of the evidence, therefore, is affirmed. To hold otherwise would be to substitute our judgment for that of the trial court.

¶45

III. CONCLUSION

¶46 Based on the foregoing, we affirm the judgment of the trial court.

¶47 Affirmed