

NOTICE
Decision filed 05/22/15. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2015 IL App (5th) 140169-U

NO. 5-14-0169

IN THE

APPELLATE COURT OF ILLINOIS

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

FIFTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Effingham County.
)	
v.)	No. 09-CF-56
)	
UCHE P. MORDI,)	Honorable
)	J. Marc Kelly,
Defendant-Appellant.)	Judge, presiding.

JUSTICE CHAPMAN delivered the judgment of the court.
Justices Welch and Goldenhersh concurred in the judgment.

ORDER

¶ 1 *Held:* Where the circuit court did not have jurisdiction to decide the defendant's motion to return his property, the judgment of the circuit court is affirmed.

¶ 2 The defendant, Uche P. Mordi, appeals the denial of his motion to reconsider the circuit court's ruling that it did not have jurisdiction to return the defendant's property to the defendant. For the reasons that follow, we affirm.

¶ 3 **BACKGROUND**

¶ 4 On March 18, 2009, the defendant was indicted on charges of possession with intent to deliver more than 400 but less than 900 grams of cocaine in case number 09-CF-14. On May 4, 2009, the State's charge was nol-prossed when the defendant was indicted

on federal charges arising from the same incident. The defendant subsequently pled guilty to the federal charges and was sentenced to 120 months in federal prison.

¶ 5 Five years later, the defendant filed a motion in the circuit court for the return of his property, arguing that the property seized when he was arrested should have been returned to him when the State's criminal charges were nol-prossed. The defendant claimed that there was an automobile, \$7,662 in cash, a laptop, a camcorder, and other miscellaneous items that were seized from him upon his arrest. The State moved to dismiss the defendant's motion, arguing that because the State charge against the defendant was nol-prossed, there was no pending litigation against the defendant in the state criminal court, and therefore, the circuit court did not have jurisdiction to rule on the defendant's motion for return of property. The circuit court dismissed the defendant's motion, agreeing with the State that it did not have jurisdiction as case number 09-CF-14 had been dismissed years earlier.

¶ 6 The defendant then filed a motion to reconsider, arguing that he had received a letter in 2014 from an appellate prosecutor regarding administrative forfeiture proceedings instituted in 2009. The letter, which had been written at the behest of Judge Kelly, stated that the circuit court did not have jurisdiction. The circuit court denied the defendant's motion to reconsider. The defendant appeals, arguing that the circuit court still has jurisdiction in the criminal case because "[a] trial court that has disposed of a criminal charge that involved the seizure of property must also be authorized to adjudicate the disposition of the seized property."

¶ 7

ANALYSIS

¶ 8 We review the granting of a motion to dismiss for lack of subject matter jurisdiction *de novo*. *Shirley v. Harmon*, 405 Ill. App. 3d 86, 90 (2010). Forfeiture proceedings are civil in nature and do not require a prior criminal conviction or proceeding. *People v. Koy*, 2014 IL App (2d) 130906, ¶ 27. The dismissal of criminal charges does not prevent forfeiture proceedings. *People v. 1995 Ford Van*, 348 Ill. App. 3d 303, 306 (2004). According to section 505 of the Illinois Controlled Substances Act (720 ILCS 570/505 (West 2012)), items, including vehicles, which were used to transport or in any manner facilitate the transportation, sale, receipt, possession, or concealment of a controlled substance are subject to forfeiture.

¶ 9 Here, after the State nol-prossed the charges against the defendant, the circuit court lost jurisdiction, as the forfeiture proceedings were civil in nature and not contingent upon the defendant's underlying criminal charges. The defendant lost his right to the property as result of the civil administrative forfeiture proceeding, not criminal case number 09-CF-14. We therefore agree with the circuit court that it was without jurisdiction to hear the defendant's motion.

¶ 10 The defendant also argues that he was denied due process when his property was seized. The defendant was given notice about the forfeiture proceedings in 2009. He was personally served with the notice. If the State had held the property without going through forfeiture proceedings, then there would have been a due process violation. See *People v. Hermann*, 150 Ill. App. 3d 224, 230 (1986). Thus, as the State actually did

conduct forfeiture proceedings and the defendant was given notice of those proceedings, no due process violation occurred.

¶ 11

CONCLUSION

¶ 12 For the foregoing reasons, the judgment of the circuit court of Effingham County is affirmed.

¶ 13 Affirmed.