

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).

2014 IL App (4th) 130409-U

NO. 4-13-0409

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

February 4, 2014

Carla Bender

4th District Appellate

Court, IL

PRINCE A. STEVENSON,,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Morgan County
THE COUNTY OF MORGAN, STATE OF ILLINOIS,)	No. 11MR62
Defendant-Appellee.)	
)	Honorable
)	Richard T. Mitchell,
)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Holder White and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly dismissed plaintiff's complaint seeking funds seized by Morgan County as barred by *res judicata*.

¶ 2 Plaintiff, Prince A. Stevenson, appeals *pro se* the trial court's dismissal of his *pro se* complaint, by which he seeks the return of funds seized by Morgan County in October 2008. Stevenson argues he is entitled to the funds because Morgan County lacked probable cause to withhold the money. Morgan County disagrees, contending Stevenson's claims were resolved in 2009 and are barred by *res judicata*. We agree with Morgan County and affirm.

¶ 3 I. BACKGROUND

¶ 4 On October 31, 2008, Stevenson was a victim of a hit-and-run and was transported to a hospital. While Stevenson was receiving medical care, a police officer took

possession of \$1,093.78 of Stevenson's money. In March 2009, these funds were declared forfeited pursuant to the Drug Asset Forfeiture Procedure Act (Act) (725 ILCS 150/1 to 14 (West 2008)).

¶ 5 On December 1, 2011, plaintiff filed a complaint seeking the return of those funds. Eleven days later, Stevenson filed two *pro se* motions seeking the same. In his complaint and motions, Stevenson asserted he sent three motions to the courthouse and one to the Jacksonville chief of police. Stevenson alleged Morgan County's attorney refused to return his money, telling him it had been forfeited. Stevenson further alleged Morgan County had no probable cause to seize his money and he was not arrested or charged with a crime on October 31, 2008.

¶ 6 On January 10, 2012, Morgan County moved to dismiss Stevenson's complaint. Morgan County asserted Stevenson's funds were seized pursuant to the Act and Stevenson was notified of the pending forfeiture on December 15, 2008. According to the motion, Stevenson was also told he had 45 days to contest the pending forfeiture. Stevenson did not contest the forfeiture, and the funds were declared forfeited on March 5, 2009. Stevenson did not seek to appeal the forfeiture or seek its reversal until his December 2011 filings. The State argued Stevenson's claim was barred by *res judicata*.

¶ 7 On January 20, 2012, Stevenson filed a *pro se* response. Stevenson asserted Morgan County did not prove Stevenson was served with a forfeiture notice in 2008, and he did not know he needed to post bond on his seized property. Stevenson alleged he was under the false impression the federal government had the money. Stevenson concluded *res judicata* did not apply because he did not have notice of the claim.

¶ 8 Attached to Stevenson's response was a police report by Officer Thompson, a report by Detective Andy Coop, and a letter from the Morgan County circuit clerk. According to Officer Thompson's report, Officer Thompson went to Passavant Hospital in response to a report of a hit-and-run. Stevenson was awaiting helicopter transport to another hospital. When the helicopter arrived, "they" informed Officer Thompson they would not take possession of Stevenson's money. Officer Thompson took possession of the money and logged it into the evidence bin. In his report, Detective Coop reported Stevenson, 43 years old, had exited his apartment and was run over. He had surgery and was in "fair condition." His most severe injury was to his arm. In a November 4, 2011, letter, the circuit clerk stated she had received defendant's motion for return of funds. She reported she checked her records, but she did not find a case regarding seized funds in his name.

¶ 9 On February 23, 2012, Morgan County filed its response. Morgan County attached copies of a receipt for the certified-mail delivery of the "Notice of Pending Forfeiture," sent to Stevenson on December 16, 2008, and of a signed confirmation-of-delivery card. The printed name under the signature reads "Prince Stevenson." The printed "date of delivery" next to the printed name reads "12/17." The "Notice of Pending Forfeiture," addressed to Stevenson, stated in all caps: "You are hereby notified that forfeiture proceedings are now pending against the following property." \$1,094.78 was listed in the description. According to the notice, the property was determined to be subject to forfeiture under section 505(a)(4) of the Illinois Controlled Substances Act (720 ILCS 570/505(a)(4) (West 2008)). The notice refers to an exhibit, in which Morgan County alleged the currency was used or received as a result of the delivery and sale of controlled substances.

¶ 10 In its response, Morgan County also asserted a declaration of forfeiture was sent to Stevenson on or about March 6, 2009. In support, Morgan County attached a signed return receipt with "Prince Stevenson" printed on the signature line.

¶ 11 On March 1, 2012, the trial court issued a docket order granting Morgan County's motion to dismiss. The court found *res judicata* barred Stevenson's claim.

¶ 12 Four days later, Stevenson filed a *pro se* motion opposing Morgan County's motion to dismiss. Stevenson alleged Morgan County misunderstood his claim. Stevenson argued his funds were illegally seized and he sued to retrieve them. On March 9, 2012, the trial court entered a docket order informing defendant Morgan County's motion had been granted and the case was closed.

¶ 13 From March 14 through March 29, 2012, Stevenson filed three additional *pro se* motions. In these motions, Stevenson sought copies of the evidence submitted by Morgan County and asked to reopen the case. Stevenson alleged he launched an investigation with the United States Postal Service (USPS) because the numbers on the certified mail and return receipts were not listed in the USPS tracking system. Stevenson denied signing the receipts.

¶ 14 On April 10, 2012, Stevenson filed a *pro se* notice of appeal. This court dismissed the appeal on jurisdictional grounds, finding Stevenson's posttrial motions remained pending. *Stevenson v. County of Morgan*, 2013 IL App (4th) 120338-U, ¶ 3.

¶ 15 In March 2013, a status hearing was held. Morgan County informed the trial court Stevenson was not present because he was in federal custody. The court denied Stevenson's motions.

¶ 16 This appeal followed.

¶ 17

II. ANALYSIS

¶ 18 Stevenson argues the seizure of his money was illegal. Stevenson contends Morgan County lacked probable cause to seize the funds as Stevenson was not arrested for or charged with a State crime.

¶ 19 Morgan County argues Stevenson's case is barred by section 14 of the Act (725 ILCS 150/14 (West 2008)) and *res judicata*. Morgan County emphasizes the funds were deemed forfeited in March 2009, and Stevenson's 2011 request far exceeded the 30-day limit set forth in section 14. Morgan County further maintains the March 2009 forfeiture order was a final determination the money was subject to forfeiture. This finding, not appealed, is according to Morgan County, *res judicata*.

¶ 20 In his reply brief, Stevenson replies he spoke to "Chris Reif" at the Morgan County courthouse on November 15, 2008, regarding the funds. Reif made a copy of Stevenson's "check stub." According to Stevenson, these facts show his request was not untimely. Stevenson further argues the signature on the return receipt was fraudulent.

¶ 21 Decisions granting motions to dismiss on *res judicata* grounds are reviewed *de novo*. See *Altair Corp. v. Grand Premier Trust and Investment, Inc.*, 318 Ill. App. 3d 57, 61, 742 N.E.2d 351, 354 (2000). Well-pleaded facts are taken as true and considered in the light most favorable to the nonmovant. *Id.*

¶ 22 Under the *res judicata* doctrine, "a final judgment on the merits rendered by a court of competent jurisdiction is conclusive as to the rights of the parties and their privies." *People ex rel. Burris v. Progressive Land Developers, Inc.*, 151 Ill. 2d 285, 294, 602 N.E.2d 820, 824-25 (1992). The essential *res judicata* elements are as follows: (1) a final judgment on the

