

Cite as 2024 Ark. App. 42  
**ARKANSAS COURT OF APPEALS**  
DIVISION III  
No. CV-23-80

DETRAVEONE SIMMONS		Opinion Delivered January 24, 2024
	APPELLANT	APPEAL FROM THE DREW COUNTY CIRCUIT COURT [NO. 22CV-22-29]
V.		
STATE OF ARKANSAS		HONORABLE ROBERT B. GIBSON III, JUDGE
	APPELLEE	AFFIRMED

---

**RITA W. GRUBER, Judge**

This appeal arises from a civil-forfeiture case involving items seized pursuant to the Arkansas Uniform Controlled Substances Act. On February 26, 2022, police officers seized \$4,260 in U.S. currency and a Ford Ranger pickup truck after they had stopped the vehicle for expired tags. Detraveone Simmons was the driver and sole occupant. On March 10, 2022, the State filed its complaint for civil forfeiture of the currency and the truck. A separate criminal case involved six grams of cocaine that was seized along with the other items; in a negotiated plea of September 2022, appellant pled guilty to possessing methamphetamine or cocaine with purpose to deliver. At the conclusion of a forfeiture hearing on October 25, 2022, the circuit court ordered forfeiture of the \$4,260 in U.S. currency. Simmons, who is incarcerated, brings this pro se appeal from the order for civil forfeiture of \$4,260.

At the hearing, the State introduced a sentencing order that reflected Simmons's September 2022 guilty plea for possession of methamphetamine or cocaine with purpose to deliver. The State also presented testimony by Monticello Police Department officers and a department employee who was a drug task force agent. Testifying for the defense were Chasity Clary, who owned the Ford Ranger; Simmons; and his mother.

The basic facts of this case are not disputed. Sgt. Shiloh Jordan made a traffic stop for expired tags on the Ford Ranger. Simmons pulled into his cousin's driveway, got out, and walked from the carport into the house, despite being directed to stand in front of the police vehicle. Sergeant Jordan observed Simmons come from an area of the kitchen that led to the living room in the house. Sergeant Jordan took him outside, searched him, and found \$4,260 in his left-front pocket. Officer David Minotti searched the house and found crack cocaine in a baggie under a couch cushion.

Simmons's mother testified that appellant regularly worked and gave her \$400 to save from his Sonoco paycheck. She stated that she did not put his money in a bank, and on February 26, 2022, she gave him \$4,260 so he could buy a car. Simmons's testimony mirrored that of his mother. He added that he had made \$13,455 the previous year and used \$200 of the car money on February 26 to buy six grams of crack cocaine for personal use. He explained that it was cheaper to buy the cocaine in bulk. His 2021 tax returns, which reflected his income, were introduced into evidence.

At the conclusion of the case, the circuit court found that Simmons failed to rebut the statutory presumption in Arkansas Code Annotated section 5-64-505(a)(7)(A) (Supp.

2021) that money found in close proximity to a forfeitable controlled substance should be forfeited. Thus, it ordered forfeiture of the \$4,260.<sup>1</sup>

Simmons raises one point on appeal, challenging the sufficiency of the evidence to support a violation of the Arkansas Uniform Controlled Substances Act. He argues that the State did not prove he sold drugs to acquire the \$4,260; that the drugs were for personal use only; and that his guilty plea does not give rise to, or create evidence of, forfeitability of the money. His arguments are unavailing.

Property is subject to forfeiture if it was “used, or intended to be used, to facilitate any violation” of the Uniform Controlled Substances Act. *See* Ark. Code Ann. § 5-64-505(a)(6)(A) (Supp. 2021). Any money found in close proximity to a forfeitable controlled substance is presumed to be forfeitable. Ark. Code Ann. § 5-64-505(a)(7)(A). A party claiming the property has the burden of proof to rebut this presumption by a preponderance of the evidence. Ark. Code Ann. § 5-64-505(a)(7)(B).

Forfeiture is an in rem civil proceeding independent of any pending criminal charge, to be decided by a preponderance of the evidence. *King v. State*, 2014 Ark. App. 554, at 3, 447 S.W.3d 126, 128. The circuit court’s decision to grant forfeiture will not be set aside unless it is clearly erroneous. *Id.* A decision is clearly erroneous when, although there is evidence to support it, the appellate court, after reviewing the entire evidence, is left with a definite and firm conviction that a mistake has been made. *Id.* Credibility determinations

---

<sup>1</sup>The circuit court found that the truck was not forfeitable.

are left to the circuit court, and we will not reweigh the evidence on appeal. *Blasingame v. Ark. Dep't of Hum. Servs.*, 2018 Ark. App. 71, at 6, 542 S.W.3d 873, 876-77.

Simmons argues that the \$4,260 was money he had saved and that his mother had given to him shortly before the traffic stop. The court was not required to believe the testimony of Simmons and his mother regarding the source of the money. The court noted Simmons's recent guilty plea and conviction for possession with purpose to deliver cocaine connected to the incident of February 26 as well as his testimony to the court that he had purchased the six grams of cocaine on that date. It viewed his admission that he had purchased crack cocaine and his conviction as evidence that the drugs and money were in close proximity to each other, facts to which the officers testified. The circuit court held that Simmons did not overcome the rebuttable presumption that the cocaine and money were in close proximity to each other.

Simmons's arguments go to the credibility and weight of the evidence, which are not matters for the appellate court. The court's determination was not clearly erroneous; we therefore affirm.

Affirmed.

THYER and BROWN, JJ., agree.

*Detraveone Simmons*, pro se appellant.

*Tim Griffin*, Att'y Gen., by: *Brooke Jackson Gasaway*, Ass't Att'y Gen., for appellee.