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ONE 1979 FORD PICKUP TRUCK
v. STATE
Cite as 293 Ark. 188 (1987)

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ONE 1979 BROWN FORD PICKUP TRUCK
v. STATE of Arkansas

87-77

736 S.W.2d 2

Supreme Court of Arkansas
Opinion delivered September 21, 1987

1. APPEAL & ERROR — ARGUMENTS NOT MADE DURING PROCEEDINGS ARE NOT CONSIDERED ON APPEAL — TOO LATE TO RAISE ISSUE IN MOTION FOR RECONSIDERATION AFTER COURT'S DECISION. — Arguments not raised during the proceedings will not be considered on appeal; it is too late to first raise an issue in a motion for reconsideration after the court's decision.

2. CONSTITUTIONAL LAW — FORFEITURE OF MOBILE PHONE — WHETHER PHONE WAS PART OF TRUCK NOT ADDRESSED — EVIDENCE PHONE USED IN THE DRUG DELIVERIES. — Where there was evidence the mobile phone was used in the drug deliveries, the court did not reach the issue of whether the phone was part of the truck.

Appeal from Columbia Circuit Court, Second Division;
John M. Graves, Judge; affirmed.

Hurst Law Office, by: *Q. Byrum Hurst*, for appellant.

Steve Clark, Att'y Gen., by: *J. Blake Hendrix*, Asst. Att'y Gen., for appellee.

DARRELL HICKMAN, Justice. This is an appeal of a forfeiture decision regarding John Glasgow's 1979 Ford pickup truck.

Glasgow was charged with four counts of delivering controlled substances. The state sought forfeiture of Glasgow's vehicle. The forfeiture proceeding was held before Glasgow's criminal trial. An undercover police officer testified that she bought amphetamines and marijuana from Glasgow. The officer also testified that Glasgow delivered the drugs in his truck and that one sale took place in the truck.

[1] Glasgow argues that holding the forfeiture proceeding prior to his criminal trial violates the Fifth Amendment to the U. S. Constitution. He claims that he could not testify at this proceeding without incriminating himself, since his testimony could be used against him at his trial. This argument was not raised during the proceeding, so we do not consider it on appeal. See *Novak v. State*, 287 Ark. 271, 698 S.W.2d 499 (1985). The appellant first raised this issue in a motion for reconsideration after the court's decision. That is too late. *Murray v. State*, 275 Ark. 46, 628 S.W.2d 549 (1982).

[2] A mobile phone installed in the truck was also seized. Glasgow argues that under *United States v. One 1978 Mercedes Benz Four Door Sedan*, 711 F.2d 1297 (5th Cir. 1983), the phone was not a part of the truck and should not have been part of the forfeiture order. We need not address the issue of whether the phone was indeed a part of the truck, because there was evidence that the phone was used by Glasgow in the drug deliveries.

Affirmed.
