

IN THE SUPREME COURT OF THE STATE OF NEVADA

BILL FRANCISCUS JANSEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40916

FILED

MAR 05 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

This is a proper person appeal from a district court order denying appellant Bill Jansen's motion for the return of illegally seized property.

On December 24, 2001, the district court convicted Jansen, pursuant to a guilty plea, of one count of trafficking a controlled substance (felony). The district court sentenced Jansen to serve a term of 120 months in the Nevada State Prison with the possibility of parole in 24 months. No direct appeal was taken.

On December 10, 2002, Jansen filed a proper person motion for the return of illegally seized property in the district court. After conducting a brief hearing in which the district court heard arguments from the State, the district court issued an order summarily denying Jansen's motion. This appeal followed.

In his motion, Jansen contended that during his arrest, the State seized the following items: \$26,000.00 in United States currency; one portable safe; one laptop computer; one color television; one videogame with numerous game cartridges; one engraver; two digital scales; one

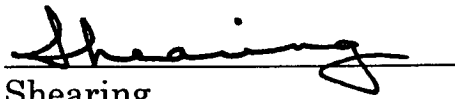
compact disc player with numerous compact discs; one radar detector; and other various items. Jansen contended that these items were not evidence of any crime and should be returned to him.

NRS 179.085 provides that a person aggrieved by an unlawful search and seizure in a criminal case may move the district court for the return of any illegally seized property.

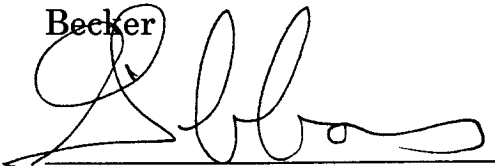
To support his motion, Jansen attached copies of reported casino winnings and his own un-notarized affidavit. These documents, however, did not show that any of the items listed in his motion were ever seized by the State. Although a police report mentions a small safe in which methamphetamine was located at the time of Jansen's arrest, there is no evidence in the record to support Jansen's contention that the items listed in his motion were ever seized by the State, let alone seized illegally. Moreover, the State informed the district court during a brief hearing on Jansen's motion that it had no indication that the items listed in Jansen's motion were ever seized. The State also informed the district court that no forfeiture proceedings had been initiated against these items. Given these considerations, Jansen failed to demonstrate that he was entitled to any relief.¹ Therefore, the district court did not improperly deny Jansen's motion.

¹If the State failed to properly document any seized items or to initiate any required forfeiture proceedings, we note that Jansen's remedy, if any, may rest in civil proceedings against the State.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Jansen is not entitled to relief, and that briefing and oral argument are unwarranted.² Accordingly, we ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Shearing


_____, J.
Becker


_____, J.
Gibbons

cc: Hon. Jackie Glass, District Judge
Bill Franciscus Jansen
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

²See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).