

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

COURT DEPARTMENT

DOCKET NO. _____

COMMONWEALTH

v.

COMMONWEALTH'S NOTICE OF INTENT TO SEEN FORFEITURE AND MOTION FOR FORFEITURE

NOW COMES the Commonwealth in the above-captioned matter, and states its intent to seek forfeiture under G.L.c. 94C, 47(a)(5), 47(b), or 47(d) of the following:

the sum of _____ Dollars (hereinafter "monies");

One (vehicle type) _____

VIN # _____ (hereinafter "vehicle");

Cellphone (type) _____ (hereinafter "cellphone") to the Office of the District Attorney of Norfolk County, an authorized law enforcement agency, for distribution in accordance with G.L. c. 94C, 47.

As grounds therefore, the Commonwealth states that the monies, vehicle(s) or cellphone(s) were (a) furnished or intended to be furnished by a person in exchange for a controlled substance in violation of G.L. c. 94C, and/or (b) are proceeds traceable to such an exchange and/or, (c) were used or intended to be used to facilitate any violation of G.L. c. 94C, 21, 32A-32-G, 32H-32J and /or 40.

The standard for forfeiture under G.L. c. 94C, 47(d) is probable cause. The burden is "similar to [the Commonwealth's] burden in seeking an indictment and less than its burden at a probable cause hearing to determine whether someone should be held for trial." Commonwealth v. Fourteen Thousand Two Hundred Dollars, 421 Mass. 1, 9 (1995). See also Commonwealth v. brown, 426 Mass. 475, 479 (1998) ; Commonwealth v. One 1986 Volkswagon GTI Auto., 417 Mass. 369 (1994). "The probable cause standard in 47 does not require the Commonwealth to establish a link between the money seized and a particular drug transaction. The Commonwealth must only show that the money was probably derived from illegal drug transaction." Commonwealth v. Brown, 426 Mass. At 479 (further citation omitted). The Commonwealth also only needs to demonstrate that the vehicle or cell phone was probably purchases with proceeds of an illegal drug transaction, was utilized or was going to be utilized in the purchase or sale of illegal narcotics or to facilitate an illegal drug transaction.

The Commonwealth asserts that probable cause exists to forfeit the subject monies, vehicle(s) or Cellphone(s).

CONCLUSION

For the above-stated reasons, the monies, vehicle(s) or cellphone(s) are subject to forfeiture to the Commonwealth under G.L. c. 94C, 47(a)(5), (b) or (d) and the Commonwealth intends to seek forfeiture A proposed order is attached.

Respectfully submitted,
For the Commonwealth,

MICHAEL W. MORRISSEY
DISTRICT ATTORNEY

By: _____
Assistant District Attorney