

PRINCE GEORGE'S COUNTY, MARYLAND v. ANTHONY WILFRED VIEIRA
NO. 128, SEPTEMBER TERM, 1994

HEADNOTE:

FORFEITURE LAW - ART. 27, § 297(d)(2)(i) - The forfeiture petition for money or currency must include the filing of an executed show cause order, along with the complaint and affidavit, within ninety days of the date of final disposition of the criminal proceeding.

IN THE COURT OF APPEALS OF MARYLAND

NO. 128

SEPTEMBER TERM, 1994

PRINCE GEORGE'S COUNTY, MARYLAND

V.

ANTHONY WILFRED VIEIRA

Murphy, C. J.
Eldridge
Rodowsky
Chasanow
Karwacki
Bell
Raker

JJ.

OPINION BY BELL, J.
Murphy, C.J., and Raker, J.,
dissent.

FILED: November 29, 1995

At issue in this case is the meaning of Maryland Code (1957, 1992 Repl. Vol., 1994 Cum. Supp.), Art. 27, § 297(d)(2)(i). More particularly, we are asked to determine whether the reference in that subsection to "show cause order" is to a proposed order or one actually executed by a judge. Contrary to the ruling of the Circuit Court for Prince George's County, the Court of Special Appeals held that it was the latter. Vieira v. Prince George's County, 101 Md. App. 220, 645 A.2d 639 (1995). Aggrieved, Prince George's County, the petitioner, sought review of that decision by this Court. Recognizing the importance of the issue, we granted its petition for writ of certiorari. We now affirm the judgment of the intermediate appellate court.

I.

Anthony Wilfred Vieira, the respondent, was stopped by the Prince George's County police for running a red light on Maryland Route 197 at the Baltimore-Washington Parkway overpass. He was arrested when the officer seized drug paraphernalia he observed in the respondent's car. A search of the car uncovered additional paraphernalia and \$7,850.00 in cash, which also were seized. The respondent entered a guilty plea to a charge of possession of drug paraphernalia. Pursuant to a plea agreement, he was placed on probation before judgment pursuant to Article 27, § 641.

Eighty-nine days after the respondent was sentenced, on June 3, 1992, the petitioner filed in the Circuit Court for Prince George's County, a Complaint For Forfeiture of Currency. The

complaint consisted of four pages. Although the pages of the complaint are numbered three through six, the June 3 docket entry designates the complaint's page numbers as one through four. On the fourth page, separately captioned, is an affidavit by the County Director of Finance. The next docket entry is dated June 18, 1992, 15 days after the first entry. It states, "show cause order (Graydon McKee, III), F. D. CC given to the Atty for service. BJB." The show cause order referred to in the docket entry consists of two pages and is dated June 17, 1992, 103 days after the final disposition of the respondent's criminal case.¹th the relief or order sought."²

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² Perhaps proposed show cause order is not the proper term and motion for show cause order more appropriately and accurately describes the nature of the order sought