

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,	)	
	)	
	)	
v.	)	Cr. ID. Nos. 1201018253
	)	1202006406
	)	1402013417
DAVID YARBOROUGH,	)	
	)	
Defendant.	)	

Submitted: August 24, 2026

Decided: October 6, 2026

**COMMISSIONER’S REPORT AND RECOMMENDATION ON
DEFENDANT’S MOTION FOR RETURN OF PROPERTY**

Zachary Rosen, Deputy Attorney General, Delaware Department of Justice,
Wilmington, DE, Attorney for the State.

David Yarborough, James T. Vaughn Correctional Center, Smyrna, DE, *Pro se*.

O’CONNOR, Commissioner

On this 6th day of October, 2026, upon consideration of Defendant's Motion for Return of Property and the record in this matter, the following is my Report and Recommendation.

I. FACTUAL BACKGROUND

On or about April 2, 2012, Defendant David Yarborough ("Defendant") and his nephew, Kenneth Yarborough ("Kenneth") were charged with twenty-three theft-related charges including Burglary Second Degree, Theft (felony - greater than \$100,000.00), Theft by False Pretense, Selling Stolen Property, and Conspiracy Second Degree, and Theft of a Senior.¹ During the police investigation, both Defendant and Kenneth made incriminating statements to the Delaware State Police, detailing each other's participation in the crimes.²

On or about April 28, 2014, while the above-referenced charges were pending, Defendant attempted to hire an alleged "hitman" to assault his defense counsel and the prosecutor. Unbeknownst to Defendant, however, the "hitman" was an undercover police officer. During the solicitation, Defendant told the undercover

¹ *State v. David Yarborough*, Case No. 1201018253, Docket Item "D.I." 5, Indictment. Unless noted otherwise, all Docket Item numbers refer to the docket in Case No. 1201018253. Also see *State v. David Yarborough*, Case No. 1202006406, D.I. 4, Indictment.

² In Case No. 1202006406, the Adult Complaint and Warrant states: "[b]oth suspects provided confessions that they assisted one another during the commission of these crimes. Kenneth Yarborough also confessed that he had recently acquired a subscription to an internet search service called peoplesmart.com, Kenneth stated he had used the account to research the home addresses of several of his burglary victims. Kenneth stated he had obtained the names of potential [burglary] targets from Defendant, and Defendant had targeted these subjects because he believed them to be wealthy business owners."

officer he only had money to pay for the assault of one of the two targets, so Defendant directed the undercover officer to assault defense counsel so that his attorney would be “permanently in a wheelchair.”³ The State ultimately indicted Defendant for two counts each of Attempted Assault First Degree, Criminal Solicitation Second Degree, and Stalking.⁴

On or about April 9, 2015, Defendant pled guilty to two counts of Attempted Assault First Degree and two counts of Burglary Second Degree.⁵ On December 10, 2015, this Court sentenced Defendant to an aggregate sentence of thirty-six years Level V, suspended after serving twenty years Level V, followed by probation.⁶

II. PROCEDURAL BACKGROUND

Defendant has filed several motions for return of property related to the above police investigation and prosecution, the most recent received by this Court on May 27, 2025.⁷ In the pending Motion for Return of Property (“Motion”), Defendant asserts he and Kenneth were arrested by the Delaware State Police (“DSP”) on

³ See *State v. Yarborough*, 2019 WL 4954959, at *1 (Del. Super. Ct. Oct. 2, 2019), *adopted* 2020 WL 2026701 (Del. Super. Ct. Apr. 21, 2020), *aff’d* *Yarborough v. State*, 2020 WL 5033422 (Del. Aug. 25, 2020).

⁴ *State v. David Yarborough*, Case No. 1402013417, D.I. 4, Indictment. Defendant actually referenced his attempt to assault the former prosecutor, Deputy Attorney General David Favata, in this litigation, where, attempting to justify the return of the money to him, he argued “[t]he State gave me back over \$20,000.00 in a bank account, a \$30,000.00 car and even gave the money back to me that was used in the Criminal Solicitation case, where John Downs’ colleague, David Favata, was a victim. I am sure Mr. Favata would be upset with Mr. Downs if he knew.” *Id.*, D.I. 179.

⁵ *Yarborough*, 2019 WL 4954959, at *1.

⁶ D.I. 102, Case No. 1202006406, Sentence Order.

⁷ D.I. 204.

January 24, 2012.⁸ Defendant also asserts that “[d]uring the arrest, [the] Delaware State Police seized \$4,133.00 and \$174.22 from [him] and Kenneth.”⁹ On May 16, 2025, Defendant spoke to DSP Captain Don Coleman (“Captain Coleman”), who confirmed the seized money was being held in the DSP Troop 3 evidence locker.¹⁰ Defendant’s Motion offers no other facts to support his standing to assert a claim to the seized coins and currency.¹¹

On June 5, 2025, this Court requested that Deputy Attorney General (“DAG”) John Downs “contact the detective at Troop 3 referred to in Defendant’s Motion that the troop does, in fact, have the funds. If they do, please advise the Court of the State’s position. If they do not, simply advise of that fact.”¹²

⁸ *Id.*, ¶ 1.

⁹ *Id.*, ¶ 2.

¹⁰ *Id.*, ¶ 6.

¹¹ Defendant raised several incorrect and unsupported legal assertions. First, he argued that the State waived its right to seek forfeiture of seized property because it failed to do so within one year of seizure. *Id.*, ¶ 4. Second, he cited “Delaware Superior Court Rule 40” which he argued limited the State’s ability to seek forfeiture of “property of a person charged with a criminal offense pursuant to a statute authorizing a criminal forfeiture,” because the State would have been required to file a motion for forfeiture not later than twenty days before trial for the criminal offense. *Id.*, ¶ 5. But, the record reflects the State has never moved to forfeit the money in the evidence locker, so these assertions are irrelevant.

Third, Defendant claims that former commissioners of this Court granted Motions for Return of Property on January 16, 2018 and on March 5, 2018, and “the State unopposed the Defendant’s Motion then and must do so again.” *Id.*, ¶ 7. But the State’s lack of opposition to a prior motion does not operate as a waiver as to a future motion regarding an unrelated property claim. And Defendant has not identified any authority for the proposition that the State’s acquiescence to a prior return of property petition is a basis for waiver or estoppel here.

¹² D.I. 205.

On June 12, 2025, the State informed this Court that the Delaware State Police still had the funds in the evidence locker, and that the State opposed Defendant's Motion. DAG John Downs' letter to the Court read as follows:

Captain Donald Coleman advised that the Delaware State Police retained that money.

For the following reasons, the State opposes David Yarborough be given that money:

The money in question (\$4,133 and \$174.22) was seized by the Delaware State Police in the execution of a search warrant at the residence of Kenneth Yarborough, the co-defendant of David Yarborough in the burglary spree they were conducting.

The money was not seized from David Yarborough as he claims in the motion. Since the money was not seized from David Yarborough, he has no claim upon its return.

The Defendant claims the money was seized from him at the co-defendant at the time of arrest. It was not. The Defendant is either mistaken or attempting to misrepresent the facts to improve his argument. The money was recovered in the co-defendant's residence during the execution of a search warrant.

From the police investigative reports, Det. Coleman writes that on 1/24/12 a search warrant was executed at Kenneth Yarborough's residence at 333 Northdown Dr., Dover, DE. Kenneth Yarborough was taken into custody on that date.

Detective Coleman writes that David Yarborough turned himself in at Troop 3 on 1/25/12. Since the money was found on 1/24/12 and David Yarborough was arrested on 01/25/12, the money could not have been seized from him.

Sgt. Wheeler's supplement report details the search at 333 Northdown Dr., documenting recovery of \$4,133 and \$174.22 from the residence of Kenneth Yarborough.

The money was not seized "from Defendant and Kenneth." It was found in the house of Kenneth Yarborough upon executing a search warrant. Kenneth Yarborough was arrested at the time; the Defendant was not.

The police also documented where David Yarborough was living in 2012. Det. Jackson's report gives the address for David Yarborough of 341 Northdown Dr. In Detective Jackson's narrative, he details that

when executing the search warrant at 333 Northdown Dr. on 01/24/2012, police learn[ed] that David Yarborough was arrested the day after Kenneth Yarborough.

Yarborough cites to January 16, 2018 and March 5, 2018 orders from the Court ordering the return of property, as if they relate to this issue. The January 16, 2018 order was an oral order by the Court, on the record. The order was given upon motion by the Defendant and the State not opposing the motion, to lift a hold on the defendant's Del-One bank account. That order has no relevance to this issue.

The March 5, 2018 order was a written order by the Court, upon motion by the Defendant and the State not opposing the motion, to return a 2007 Nissan Maxim[a] that had been seized during the investigation. That order has no relevance to this issue.

The Defendant lays claim to the money that was not taken from him, or his residence. The money cannot be returned to the Defendant, since there is no proof it was his. Most likely, the money was criminal proceeds from the burglary spree. There is no basis in fact, or in law, to give that money to David Yarborough and the State opposes doing so.¹³

Upon consideration of the parties' respective positions, this matter was referred to a commissioner to conduct an evidentiary hearing.¹⁴ A scheduling conference was scheduled for July 10, 2025, and at that time an initial hearing date of September 30, 2025 was scheduled.

On July 21, 2025, Defendant submitted three letters to this Court. In the first, he filed a Motion for Leave to File an Amended Petition.¹⁵ Therein, Defendant sought to add Kenneth Yarborough as an additional litigant, and to have this

¹³ D.I. 206.

¹⁴ D.I. 207.

¹⁵ D.I. 211.

commissioner removed from the proceedings. Both motions were denied.¹⁶ In a third letter, also dated July 14, 2025, Defendant asserted:

“Be advised, John Downs chose to oppose the matter which now requires a hearing. Commissioner O’Connor scheduled the hearing. The matter could have been resolved on July 10, 2025, especially when you consider my co-defendant Kenneth D. Yarborough is now going to at least testify on my behalf that the money is mine or be a party on the Motion. Either way, the State is going to have to give the money to one of us. I would again ask the Court to contact Mr. Downs to ask him to reconsider not opposing the matter. It would save the Court a lot of time and resources.”¹⁷

Defendant, dissatisfied that the State opposed the Motion, subpoenaed several witnesses, including Delaware’s Attorney General, Kathleen Jennings; Colonel William Crotty of the Delaware State Police; and Delaware State Auditor Lydia York – none of whom had any knowledge of the execution of the search warrant or the seized funds. On September 9, 2025, this Court quashed Defendant’s subpoenas.¹⁸

On September 17, 2025, Defendant submitted a written request that this Court allow him to amend the Motion and add LaTishia Stafford (802 S. Franklin Street, Wilmington, DE 19805) as an additional plaintiff. Defendant claimed that Ms. Stafford “ha[d] an interest in the matter (see Delaware Superior Court Rule 41(e))

¹⁶ D.I. 212.

¹⁷ D.I. 211.

¹⁸ Case No. 1202006406, D.I. 218. The State established that compelling these witnesses to appear constituted an “undue burden” pursuant to Superior Court Civil Rule 45(c)(3)(A)(iii), and Defendant failed to establish the subpoena request was reasonable. *Id.*

and has legal standing to be added as a party,” and she “would be claiming the money as hers along with the original claim in this matter.”¹⁹ Defendant also advised this Court that Ms. Stafford would be assisting him with the prosecution of his case.²⁰ Defendant’s motion to add Ms. Stafford as a party to the case was denied.

On September 30, 2025, this Court convened an evidentiary hearing. During the hearing, Defendant claimed he was living with Kenneth Yarborough for a month or two prior to his arrest due to domestic issues with the mother of his children. Defendant further explained:

I worked for that money. And as ironic as it is, or was, rather, the money just happened to be seized while Kenneth was being arrested. So, to say that it was the victims would be inaccurate. And for the State to say it would be the victims would be conjecture. And, to say that I wasn’t living there would be conjecture if the State said that because they didn’t know where I was living.²¹

Defendant claimed he worked two jobs: (1) at the Second Baptist Church in Dover, Delaware, and (2) at Benny Smith Funeral Homes in Dover, Delaware. At the church, Defendant “gave piano lessons for a living, [] played funerals for a living, [and] played weddings for a living.” When asked if he possessed W2s documenting his claimed employment, Defendant responded he would submit them into the record.

¹⁹ D.I. 179.

²⁰ *Id.*

²¹ After the execution of the initial search warrant at 333 Northdown Drive, Kenneth Yarborough told Captain Coleman that Defendant lived at 341 Northdown Drive.

When asked why the Motion stated the money was seized “from him and Kenneth,” he explained “that’s only because I was living with him.” Although Defendant’s address was a few doors down the block at 341 Northdown Drive, Defendant denied living at 341 Northdown Drive when DSP executed the search warrant on January 24, 2012. Defendant also conceded for the first time that (1) he was not arrested with Kenneth, and (2) the money was not physically seized from him.

Consistent with the State’s June 12, 2025 letter, the State opposed Defendant’s claim to the seized property, arguing the Defendant did not establish a factual basis to have the funds returned to him, and he lacked standing to assert a claim to the funds.

The State presented two witnesses at the September 30, 2025 hearing. The first was Sgt. Michael Wheeler, who was a member of the DSP evidence detection unit at Troop 3 at the time of the execution of the search warrant at 333 Northdown Drive.²² During the search of the residence, Sgt. Wheeler located two containers containing United States currency on the bed in the master bedroom: a red purse which contained \$174.22 in coins, and a “bank bag” which contained \$4,133.00 in United States currency. Sgt. Wheeler recovered the purse and the bank bag, secured

²² At the time of the execution of the search warrant, Sgt. Wheeler held the rank of Corporal with the Delaware State Police. He is currently employed by the Clayton Police Department.

the items, and transported the evidence back to DSP Troop 3, where the funds were placed into the evidence locker. The funds have remained there to this day. Sgt. Wheeler also testified he did not know who lived at the target residence and did not know who DSP arrested that day – his role was to collect potential evidence.

The State's second witness was Captain Don Coleman. In January 2012, Captain Coleman was a detective at DSP Troop 3, assigned to the Criminal Investigations Division. Captain Coleman testified he knew 333 Northdown Drive was Kenneth Yarborough's residence because (a) Kenneth was present when the search warrant was executed; (b) Kenneth's vehicles were at the home; and (c) Kenneth had recently paid a one-time payment of \$15,000.00 for one year's rent. On January 24, 2012, Captain Coleman was unaware of any evidence linking Defendant to 333 Northdown Drive. In fact, Kenneth Yarborough told Captain Coleman that Defendant lived at 341 Northdown Drive.²³

Captain Coleman then responded to 341 Northdown Drive, where he found documents related to Defendant in a trash can. A search warrant was obtained for 341 Northdown Drive based on Kenneth Yarborough's statement and the evidence found in the trash can. The search warrant was executed the same day. The next day, January 25, 2012, Defendant was arrested. At the conclusion of the September

²³ The record does not reflect Kenneth told Captain Coleman Defendant was living with him at the time of the execution of the search warrant.

30, 2025 hearing, Defendant confirmed he would submit into the record documentation substantiating his sources of income.²⁴

On December 4, 2025, this Court convened a second evidentiary hearing, and Defendant called Kenneth Yarborough as a witness.²⁵ The direct examination by Defendant of Kenneth Yarborough consisted of three questions:

Defendant: Do you recall me giving you \$4,400.00 on the day that you got seized?

Kenneth: Yes.

Do you recall me living with you for several months because of a domestic situation I had with my fiancé?

Kenneth: Yes.

Defendant: Would it be your opinion that the money that we're here for today is in fact mine?

Kenneth: Yes.

The State then cross-examined Kenneth. During cross-examination, Kenneth denied “doing burglaries with David back in 2012,” and denied his involvement in the burglaries back in 2012, claiming he only “said what [he] needed to say to get a better deal.”

Kenneth Yarborough could not remember his former address of 333 Northtown Drive, but testified Defendant lived there with him and his wife. He conceded 341 Northdown Drive was a few doors down from his residence but denied

²⁴ Throughout this litigation, Defendant failed to supplement the record with W2s, tax returns or any other documentation to evidence a legitimate source of the money recovered from Kenneth's master bedroom.

²⁵ Defendant subpoenaed Kenneth Yarborough to testify at the first hearing, but DOC did not transport him to the Courthouse. The hearing was continued to December 4, 2025 so Defendant could call Kenneth as a witness.

telling Captain Coleman that Defendant lived there. Kenneth also denied telling Captain Coleman (a) he and Defendant committed burglaries together, and (b) he purchased a Dodge Durango with \$10,000.00 of burglary proceeds.

The Defendant and the State provided written submissions summarizing their arguments in support of or against the return of the seized property. Defendant submitted several – a Final Brief on December 16, 2025;²⁶ a letter dated January 5, 2026;²⁷ a letter dated February 10, 2026;²⁸ and a letter dated February 17, 2026.²⁹ In these letters, Defendant contends he was entitled to have the property returned to him because the State failed to file for forfeiture.³⁰ He also argues the “State’s position since the beginning of this matter and remains that the property at issue is not the Defendant’s but instead, Kenneth D. Yarborough[s],” but Kenneth explicitly testified that the money was Defendant’s.³¹ Defendant also claims Kenneth Yarborough “testified credibly” even though he concedes Kenneth was a “hostile witness.”³²

²⁶ D.I. 227.

²⁷ D.I. 228.

²⁸ D.I. 230.

²⁹ D.I. 231.

³⁰ D.I. 227, ¶ 1.

³¹ *Id.* ¶¶ 2, 5. The record is devoid of any evidence the State claimed the money was Kenneth Yarborough’s.

³² *Id.*, ¶ 6. Defendant also claims that any assertion the money at issue “should be returned to the victims” must be dismissed, because this Court previously granted three of four of Defendants motions for return of property regarding the same criminal case, and the “money must be returned to the Defendant for him to provide for his three children.” *Id.*, ¶ 7. But this position is contrary to Delaware law. Specifically, Title 11, Section 2311(a)(1) of the Delaware Code provides:

In Defendant's "final submission," he claimed Kenneth credibly testified that the seized money belonged to him; that he was temporarily living with Kenneth; any notion that the money should be returned to the victims would be "illegal;" and "if the State was really concerned about the victims getting the seized property, it would have done something before now."³³

On February 4, 2026, the State reiterated for a third time that Defendant failed to establish standing to seek return of the property or ownership of the funds. The State also argued Kenneth Yarborough was not a credible witness, given (a) his "unwillingness to answer most questions under cross-examination, other than to state that the money was David's;"³⁴ (b) his unwillingness to provide the name of his wife; (c) his failure to explain why the money, if Defendant's, would be found in Kenneth's master bedroom or in a woman's purse;³⁵ and (d) his failure to explain how Defendant came to be living at 333 Northdown Drive or how long he had been staying there.³⁶ In sum, the State described Kenneth Yarborough as "hostile,

(a) The following disposition shall be made of any papers, articles or things validly seized:

(1) If the papers, articles or things were obtained as a result of the commission of a crime, they shall be returned to their lawful owners.

³³ D.I. 228, p. 1.

³⁴ *Id.*

³⁵ *Id.* at p. 2.

³⁶ *Id.*

argumentative and [he] failed to provide answers to questions that would lend any credibility to his statement that the \$4,307.22 belonged to David Yarborough.”³⁷

In Defendant’s third filing he (a) summarily claimed “the State’s motion is lackluster;” (b) the “State simply has a vendetta against [him];” (c) raised factually baseless assertions of racial animus by the State, and (d) described the State’s objection to the return of property as “pathetic.”³⁸ Defendant argued the State’s objections were solely based upon whether he lived with Kenneth at the time of the search warrant, and whether the money was his.³⁹ He contended the State’s claim that Kenneth was not credible because he refused to provide the name of his wife is baseless not because Kenneth Yarborough could not remember his wife’s name, but because “[h]is wife is not and has never been a party in this case.”⁴⁰ Defendant again criticized the State for doing nothing to forfeit the money over the past 14 years, and for them to do so now “would be fundamentally unfair and illegal.”⁴¹

In Defendant’s final submission, he cited *State v. Leonardo Maldonado*⁴² as controlling precedent, and demanded the Motion be “treated as unopposed [by the State] and the items of property at issue [] be ordered returned to him.”⁴³

³⁷ *Id.*

³⁸ D.I. 230, p. 1.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*, p. 2. Again, the record reflects the State has not sought to forfeit the funds at issue.

⁴² 148 A.3d 1173 (Del. Oct. 6, 2016).

⁴³ In *Maldonado v. State*, Defendant Maldonado moved to recover funds seized by law enforcement related to his illicit marijuana sales. *Maldonado*, 2016 WL 5864586, at *1. A

As the parties have submitted their written submissions, this matter is ripe for decision.⁴⁴

III. DISCUSSION

Defendant filed a Motion for Return of Property seized by DSP in January of 2012. To assert a valid claim for the return of the property, a Defendant must first prove a lawful, possessory interest in the seized property – in other words, that he has standing to assert the claim. Then, if this Court is satisfied a Defendant has established standing, the Defendant must prove, by a preponderance of the evidence, that the money was unlawfully seized or is not subject to forfeiture.

Superior Court Commissioner presided over a Petition for Return of Property hearing filed by Maldonado, and the State filed an opposing claim that sought the forfeiture of money in Maldonado's Citibank account (which this Court initially rejected).

In considering the arguments of Maldonado and the State, this Court ultimately concluded "the State had met its burden of establishing probable cause that the money in the Citibank account was subject to forfeiture as a profit of Maldonado's drug sales." *Id.* at *2. Maldonado appealed to the Delaware Supreme Court, arguing (1) the State should have been collaterally estopped from seeking forfeiture of the money in the Citibank account because the Superior Court had previously refused to forfeit the funds in the criminal proceeding; (2) he did not receive proper notice of the State's seizure of assets under Superior Court Criminal Rule 73.1; and (3) the State failed to present sufficient evidence to link the money seized from the Citibank account to Maldonado's criminal activity. *Id.* The Delaware Supreme Court rejected Maldonado's claims and affirmed this Court's denial of Maldonado's Petition for Return of Property. *Maldonado* is neither relevant nor helpful precedent in this civil action, and Defendant's reliance on *Maldonado* is misplaced.

⁴⁴ On June 10, 2026, this Court requested the parties address whether the Statute of Limitations applies to Defendant's claim. *See* Case No. 1202006406, D.I. 235. The State claimed it did (D.I. 238), the Defendant asserts it does not (D.I. 237). Pursuant to Superior Court Civil Rule 8(c), to rely upon a statute of limitations defense, a party in a civil case must assert that defense when responding to a Defendant's initial pleading. *See* Super. Ct. Civ. R. 8(c). As the State failed to do so, it cannot now assert statute of limitations as an affirmative defense.

As an initial matter, as the trier of fact and sole judge of the credibility of the witnesses, I am charged with determining the weight to be given to each witness's testimony. In making this assessment, I am to consider:

each witness's means of knowledge; strength of memory; opportunity to observe, how reasonable or unreasonable the testimony is; whether it is consistent or inconsistent; whether it has been contradicted; the witness's biases, prejudices or interests; the witness's manner or demeanor on the witness stand; and all circumstances that, according to the evidence, could affect the credibility of the testimony.⁴⁵

With these factors in mind, I will discuss the evidence presented within the context of the parties' respective burdens of proof.

1. Defendant did not prove standing in the seized funds by a preponderance of the evidence.

Defendant has attempted to establish standing through several sources, but his ownership claim to the seized money is *at best* inconsistent. First, in the Motion, Defendant alleges he and Kenneth “were arrested and charged with multiple counts of Burglary Second Degree in violation of 11 *Del. C.* § 825 and related charges.”⁴⁶ And, during the arrest, DSP “seized \$1,433.00 from Defendant and Kenneth.”⁴⁷ But, the record reflects that Kenneth was arrested at his residence – 333 Northdown Drive, Dover, Delaware on January 24, 2012, and the money was located by Cpl.

⁴⁵ Superior Court Civil Pattern Jury Instruction (credibility of witnesses), § 23.9.

⁴⁶ D.I. 204, ¶ 1.

⁴⁷ *Id.* at ¶ 2.

Wheeler and recovered from the bed in Kenneth’s master bedroom, found in two separate bags – a bank bag and a red purse filled with coins. Defendant wasn’t present, and the money was not seized from him. The record reflects that the currency was found in the master bedroom of Kenneth Yarborough’s home, and Kenneth Yarborough told the police on January 24, 2012 that Defendant lived at 341 Northdown Drive. Defendant’s claim to have been living at Kenneth’s residence when the money was seized is not credible.

2. Defendant’s court filings are inconsistent with a claim that all the money at issue belonged to him.

Diluting Defendant’s claim that the money was *his alone*, on July 21, 2025, Defendant moved to add Kenneth as an additional Defendant to the Motion.⁴⁸ Then, on September 17, 2025, Defendant claimed that LaTashia Stafford had a legal right to the seized funds, and she should be added as a party so she could assert that right. This was not a motion filed by LaTashia Stafford, but by the Defendant. In fact, Defendant demanded that Ms. Stafford “must be added as a party to the case” because she “will be claiming the money as hers.”⁴⁹ Although Defendant’s request to add Ms. Stafford as a party to the case was unsuccessful, his inconsistent assertions regarding Ms. Stafford’s and Kenneth’s ownership interests in the seized

⁴⁸ D.I. 211. See Defendant’s July 14, 2026 letter.

⁴⁹ D.I. 179. Defendant claimed Ms. Stafford had “an interest in the matter” and had “legal standing to be added as a party.” *Id.*

funds cast substantial doubt on the credibility of his claim that *all of the money* recovered by the police during the execution of the search warrant was his.

3. Kenneth Yarborough was not credible.

When considering the entirety of Kenneth's testimony, it was hostile, argumentative, unresponsive and disrespectful. In response to a question on cross-examination from the State regarding who lived at 333 Northdown Drive, Kenneth exclaimed "[h]ow many goddamn times do I have to say it? Like seriously we keep asking the same question. I already answered this question already. Me, my wife and my kids, anything else?" When asked for his wife's name, he responded "I don't know her name now. We're not married no more." And when the State asked Kenneth about the location of the currency Defendant claimed was his in 333 Northdown Drive, Kenneth unequivocally testified the money was "in the safe." And Kenneth testified all the money was cash – no coins were seized. Finally, Kenneth denied previously telling Captain Coleman Defendant lived at 341 Northdown Drive – explicitly asserting "no, I didn't say that." Kenneth continued his aggressive outbursts, gave Mr. Downs and Detective Coleman "the finger," and repeatedly used profanity as he exited the witness stand and the courtroom.

Kenneth Yarborough's testimony was selective and incomplete. His answers evidenced a bias for Defendant and against the State. He could understand and answer Defendant's three leading questions, but on cross-examination he became

irate, disrespectful and evasive. The following testimony from Kenneth Yarborough was not credible: (a) his denial regarding his post-arrest cooperation with Captain Coleman where he directly incriminated himself and Defendant in the commission of the burglaries and thefts; (b) his claim that he didn't know his former spouse's name because they weren't married anymore; (c) his claim that *all* of the recovered money from the master bedroom was paper currency and not coins; and (d) his claim that the money seized was found *in the safe* was not credible when viewed in light of Sgt. Wheeler's testimony – that it was located on the bed in the master bedroom.

4. Corporal Wheeler was a credible witness.

Cpl. Wheeler was at 333 Northdown Drive to assist with evidence collection related to the execution of a search warrant. He denied any knowledge of the identity of the target(s) of the investigation or the specific evidence sought by the investigators. Cpl. Wheeler found the seized money in two separate packages on the bed in the master bedroom of Kenneth Yarborough's residence – the first was a bank bag containing \$4,133.00 in paper currency, and the second was a red purse containing \$174.22 in coins. Cpl. Wheeler seized the property and placed it in the evidence locker at Troop 3.

Neither Defendant nor Kenneth addressed the seizure of the purse and the bank bag from the bed in Kenneth's master bedroom, and Kenneth's claims that the recovered money was seized from a safe in the bedroom, and that all the seized funds

were in bill form were not supported by the evidence. Under these circumstances, Defendant has not met his burden of proving by a preponderance of the evidence that the money seized by the State Police and retained in the Troop 3 evidence locker was his.

5. Defendant’s speculative and factually baseless allegations of a personal vendetta or racial animus.

Finally, the Court will address Defendant’s assertions that the State and/or this Court were motivated by a personal vendetta and/or racial animus, as well as Defendant’s veiled threats to file civil lawsuits if the result of the proceeding did not conclude in his favor.⁵⁰ Such serious allegations cannot rest on speculation, disagreement with adverse rulings, or dissatisfaction with the course of the proceedings. The record before this Court contains no factual basis to support Defendant’s personal attacks and racial animus allegations, and unsupported accusations that the State or this Court have acted out of racial bias or personal hostility did nothing to advance the merits of this litigation. In fact, Defendant’s

⁵⁰ See D.I. 192, p. 2 (“Last, the Court must be advised that I will pursue and exhaust every other legal avenue against Mr. Downs and other involved parties regarding this case. This includes an action at the Justice of the Peace Court. This will be in addition to the civil rights complaints that I will file;”) also see D.I. 240 (“We are asking that this matter be resolved via David having the motion granted by Friday, September 11, 2026. Otherwise, the matter will be sent to Governor Matthew Meyer, because there is clearly an issue with bias and or race regarding this matter;”) also see Case No. 1202006406, D.I. 216 (“If the Court grants the State’s Motion [to quash] it will do so with a bias towards me. . . . If the State is permitted to quash my witnesses, I will post the subpoenas of the aforementioned witnesses and this letter online, including but not limited to Delaware Online.”)

assertions have the broader impact of undermining the orderly and respectful administration of justice and have no place in proceedings before the courts of this State. A litigant is always free to challenge rulings, question the legal or factual basis for an opposing party's position, and preserve legitimate claims which are supported by evidence. But when rulings did not go in his favor, or during the pendency of the issuance of this Court's recommendation, Defendant was not entitled to raise baseless allegations which impugn the integrity, motives or impartiality of counsel or the Court, allegations which in the end only distract from the merits and diminish the level of professionalism and respect essential to the administration of justice.

IV. CONCLUSION

For the foregoing reasons, Defendant has failed to establish by a preponderance of evidence a lawful possessory interest in the seized property. I recommend this Court deny Defendant's Motion.

IT IS SO RECOMMENDED.

/s/ Martin B. O'Connor
Commissioner

oc: Prothonotary