

STATE OF MAINE

KENNEBEC, ss.

STATE OF MAINE

v.

KENNETH PAGLIAROLI,

Defendant

RECEIVED AND FILED SUPERIOR COURT
KENNEBEC SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-02-80
2004 SEP 14 A 9:51

NANCY DESJARDIN
CLERK OF COURTS

ORDER

This matter is before the court on claim of the Estate of Richard Maskevich claiming entitlement to \$25,000 cash posted by defendant, Kenneth Pagliaroli, in this case. On March 13, 2002, Kenneth Pagliaroli was indicted by the Kennebec County Grand Jury for Aggravated Trafficking in Scheduled Drugs (class B).¹ On December 4, 2001, defendant had previously posted bail in the amount of \$25,000 before a bail commissioner. The bail bond executed by the defendant indicates the security to be "The property is: Cash in the amount of \$25,000 (see reverse for designation of third-party ownership) . . . " An examination of the reverse under title Assignment of Cash Bail indicates no entries. On May 7, 2003, the defendant entered a plea of guilty. On April 28, 2004, defendant was sentenced to custody of the Department of Corrections for a period of eight years with all but 22 months suspended and four years of probation with conditions.

As early as February 2004, the court became aware of a dispute concerning the entitlement to the return of the \$25,000 cash bail presented in this case. Between the date of plea and the date of sentence, the defendant brought a motion to withdraw his plea filed on January 21, 2004, and a hearing was held on March 25, 2004. At that time, for purposes of perpetuating testimony, the court allowed counsel for the defendant to

¹ This was indicted as a class A. The indictment was amended to reduce to a class B offense.

present a witness addressing the issue of ownership of the \$25,000 cash bail in the possession of the clerk. Further testimonial proceedings were held on July 6, 2004, at which there were a number of witnesses with contradictory testimony relative to whether the \$25,000 was money loaned to the defendant by Richard Maskevich or, instead, whether the \$25,000 acknowledged loan was extinguished by repayment. At the conclusion of the testimonial hearing in July, the court granted the parties an opportunity to present further written argument and memoranda of law on the issue. As a result, it has been agreed by counsel that 15 M.R.S.A. § 1074 disposes of the issue wherein under subsection 1 the statute provides:

Whenever cash is deposited as bail to secure the appearance of and conformance to conditions of release by a defendant in a criminal proceeding, either preconviction or post-conviction, cash is deemed to be the property of the defendant unless, at the time the cash is deposited, the defendant or the person offering the cash as bail designates under oath another person to whom the cash belongs... If the defendant is deemed to be the owner of the cash, it must be returned to the defendant unless otherwise forfeited or subject to setoff as provided...

Accordingly, in the absence of any assignment properly executed and acknowledged on the face of the bail bond, cash is deemed to be that of the defendant.

Counsel for the defendant has asserted to the court that the cash has been assigned to him by formal properly executed documentation and requests the court to forward the funds to him. The court cannot comply with that request at this time for two reasons. First, counsel has not provided to the court either an original or attested true copy of the assignments to authorize the court to do otherwise than comply with the statute. Secondly, the court notes that on January 21, 2004, the defendant executed a State of Maine Indigency Affidavit in which he disclosed, under oath, that he had no property of any value and, therefore, on February 3, 2004, the court found the defendant indigent and appointed counsel.

Further provisions of 15 M.R.S.A. § 1074(3)(C) provides:

The court may order all or a portion of the bail owned by the defendant that has not been forfeited to be first paid and applied to one or more of the following:

(C) Any amount of attorneys' fees or other expenses authorized by the court at the request of the defendant or attorney and actually paid by the State on behalf of the defendant on the ground that the defendant has been found to be indigent...

In order for this matter to be concluded, counsel for the defendant must provide adequate proof as described that he entitled to the defendant's funds and must waive any right to fees or expenses paid by the state in any proceeding in which legal fees and/or costs have been incurred. In the event any payments have been made, counsel must reimburse the state.

The entry will be:

The court finds \$25,000 cash posted by the defendant on December 4, 2001, is to be returned to the defendant unless proper executed assignment is provided to the court; the clerk is directed to make payment accordingly; the order for appointment of counsel dated February 3, 2004, is RESCINDED.

Dated: September 13, 2004



Donald H. Marden
Justice, Superior Court

STATE OF MAINE

vs

KENNETH PAGLIAROLI

P O BOX 682

UNITY ME 04988

SUPERIOR COURT

KENNEBEC, ss.

Docket No AUGSC-CR-2002-00080

DOCKET RECORD

DOB: 10/04/1951

Attorney: BRUCE MERRILL

LAW OFFICE OF BRUCE M. MERRILL PA

225 COMMERCIAL ST., SUITE 401

PORTLAND ME 04101

APPOINTED 02/03/2004

State's Attorney: DAVID CROOK

Filing Document: INDICTMENT

Filing Date: 03/15/2002

Major Case Type: FELONY (CLASS A,B,C)

Charge(s)

1 AGGRAVATED TRAFFICK OR FURNISH SCHEDULE

DRUGS

17-A 1105(1) (A)

Class A

1 UNLAWFUL TRAFFICKING IN SCHEDULED DRUGS

17-A 1103

Class B

11/30/2001 WATERVILLE

Amended 05/07/2003

Docket Events:

03/15/2002 FILING DOCUMENT - INDICTMENT FILED ON 03/15/2002

TRANSFER - BAIL AND PLEADING GRANTED ON 03/15/2002

TRANSFER - BAIL AND PLEADING REQUESTED ON 03/15/2002

03/18/2002 Charge(s): 1

HEARING - ARRAIGNMENT SCHEDULED FOR 03/22/2002 @ 8:30

03/18/2002 Charge(s): 1

SUMMONS/SERVICE - SUMMONS TO APPEAR FOR ARRAIGN ISSUED FOR 03/18/2002

03/19/2002 MOTION - MOTION TO AMEND INDICTMENT FILED BY STATE ON 03/19/2002

03/22/2002 BAIL BOND - \$25,000.00 CASH BAIL BOND FILED ON 03/22/2002

Bail Receipt Type: CR

Bail Amt: \$25,000

Date Bailed: 12/04/2001

Receipt Type: CK

Prvdr Name: KENNETH PAGLIAROLI

Rtrn Name: KENNETH PAGLIAROLI

Conditions of Bail:

03/22/2002 TRANSFER - BAIL AND PLEADING RECVD BY COURT ON 03/22/2002

03/25/2002 Charge(s): 1

HEARING - ARRAIGNMENT CONTINUED ON 03/22/2002
DONALD H MARDEN , JUSTICE

03/25/2002 Party(s): KENNETH PAGLIAROLI
ATTORNEY - RETAINED ENTERED ON 03/25/2002

Attorney: JED DAVIS

04/23/2002 MOTION - OTHER MOTION FILED BY DEFENDANT ON 04/22/2002

Attorney: JED DAVIS
DEFENDANT'S MOTION REGARDING IMPOUNDED DOCUMENT. DEFENSE ASKES FOR AN UNREDACTED COPY OF
SEARCH WARRANT.

04/26/2002 MOTION - OTHER MOTION GRANTED ON 04/25/2002
JOHN R ATWOOD , JUSTICE
COPY TO PARTIES/COUNSEL. MOTION GRANTED W/O OBJECTION.

05/30/2002 MOTION - MOTION TO SUPPRESS FILED BY DEFENDANT ON 05/30/2002

Attorney: JED DAVIS
ALL ITEMS SEIZED AND STATEMENTS MADE.

07/15/2002 Charge(s): 1
HEARING - ARRAIGNMENT HELD ON 05/10/2002
JOHN R ATWOOD , JUSTICE
Attorney: JED DAVIS
DA: ALAN KELLEY Reporter: PHILIP GALUCKI
Defendant Present in Court

READING WAIVED. DEFENDANT INFORMED OF CHARGES. COPY OF INDICTMENT/INFORMATION GIVEN TO
DEFENDANT. 30 DAYS TO FILE MOTIONS. BAIL SET AT \$100,000 SURETY OR \$25,000 CASH, AS SET
IN DISTRICT COURT. NO USE/POSSESSION OF ALCOHOL AND DRUGS; RANDOM SEARCH AND TESTING FOR
SAME. INDICTMENT AMENDED. J

07/15/2002 MOTION - MOTION TO AMEND INDICTMENT GRANTED ON 05/10/2002
JOHN R ATWOOD , JUSTICE
COPY TO PARTIES/COUNSEL. INDICTMENT CORRECTED TO READ 1103(1), (2) (A) A CLASS W DRUG.

07/15/2002 Charge(s): 1
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 05/10/2002
JOHN R ATWOOD , JUSTICE
Attorney: JED DAVIS
DA: ALAN KELLEY Reporter: PHILIP GALUCKI
Defendant Present in Court

J

07/31/2002 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 08/13/2002
S KIRK STUDSTRUP , JUSTICE
NOTICE TO PARTIES/COUNSEL WERE MAILED ON 7/23/02

08/12/2002 Charge(s): 1
MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 08/12/2002

MOTION TO CONTINUE FILED BY DEFENSE ATTORNEY FOR THE SEPTEMBER 4, 2002 TRIAL LIST. DEFENSE
WAS UNABLE TO REACH THE STATE'S ATTORNEY FOR A RESPONSE TO THIS MOTION.

08/13/2002 LETTER - REQUEST FOR PROTECTION FILED ON 08/13/2002

FILED BY STATE, DETECTIVE CHARLES RUMSEY WILL BE IN TRAINING ON AUGUST 26TH AND 27TH,
THEREFORE IS UNAVAILABLE ON THOSE DATES.

08/13/2002 LETTER - REQUEST FOR PROTECTION GRANTED ON 08/13/2002

08/26/2002 Charge(s): 1

MOTION - MOTION TO CONTINUE GRANTED ON 08/26/2002
S KIRK STUDSTRUP , JUSTICE
COPY TO PARTIES/COUNSEL, CONTINUED TO NEXT LIST.

08/30/2002 LETTER - REQUEST FOR PROTECTION FILED ON 08/30/2002

FILED BY STATE, SGT. JOHN GOULD OF THE WATERTOWN POLICE DEPARTMENT IS UNAVAILABLE
SEPTEMBER 6, 2002 THROUGH SEPTEMBER 27, 2002, AS HE IS SCHEDULED TO BE OUT OF TOWN; DEPUTY
JASON JOHNSON OF THE KENNEBEC SHERIFF'S DEPARTMENT IS UNAVAILABLE SEPTEMBER 10, 11, AND
12, AS HE IS SCHEDULED FOR TRAINING OUT OF STATE.

09/12/2002 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 08/12/2002

DEFENSE FILED MOTION TO CONTINUE FROM TRIAL LIST ON 9/4/02. DEFENSE ATTORNEY IS SCHEDULED
TO START A TRIAL IN BATH WHICH WILL LAST 2 TO 3 WEEKS AND DEFENDANT'S MOTION TO SUPPRESS
IN THIS CASE HAS NOT YET BEEN HEARD.

09/12/2002 MOTION - MOTION TO CONTINUE GRANTED ON 08/26/2002

S KIRK STUDSTRUP , JUSTICE
COPY TO PARTIES/COUNSEL, MOTION GRANTED TO NEXT LIST.

11/13/2002 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 12/03/2002

S KIRK STUDSTRUP , JUSTICE
NOTICE TO PARTIES/COUNSEL

12/02/2002 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 12/02/2002

MOTION TO CONTINUE FILED BY LENNY SHARON WHO REPRESENTS CATALINA PAGLIAROLI WHO HAS BEEN
SUBPOENED TO TESTIFY IN THIS CASE.

12/11/2002 MOTION - MOTION TO CONTINUE DENIED ON 12/02/2002

S KIRK STUDSTRUP , JUSTICE
COPY TO PARTIES/COUNSEL

12/11/2002 MOTION - MOTION TO CONTINUE MADE ORALLY BY DEF ON 12/02/2002

S KIRK STUDSTRUP , JUSTICE
Attorney: JED DAVIS

12/11/2002 MOTION - MOTION TO CONTINUE GRANTED ON 12/02/2002

S KIRK STUDSTRUP , JUSTICE
COPY TO PARTIES/COUNSEL

12/23/2002 HEARING - MOTION TO SUPPRESS NOT HELD ON 12/03/2002

12/23/2002 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 01/06/2003 @ 9:00

NOTICE TO PARTIES/COUNSEL

12/26/2002 MOTION - MOTION FOR WITHDRAWAL OF CNSL FILED BY COUNSEL ON 12/26/2002

12/30/2002 MOTION - MOTION FOR WITHDRAWAL OF CNSL GRANTED ON 12/30/2002

DONALD H MARDEN , JUSTICE
COPY TO PARTIES/COUNSEL, DEFENDANT IS TO NOTIFY COURT WITHIN 15 DAYS OF NEW COUNSEL.

01/03/2003 Party(s): KENNETH PAGLIAROLI

ATTORNEY - WITHDRAWN ORDERED ON 12/30/2002

Attorney: JED DAVIS

01/03/2003 Party(s): KENNETH PAGLIAROLI

ATTORNEY - RETAINED ENTERED ON 01/03/2003

Attorney: BRUCE MERRILL

01/03/2003 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 01/03/2003

FILED BY BRUCE MERRILL

01/03/2003 MOTION - MOTION TO CONTINUE GRANTED ON 01/03/2003

DONALD H MARDEN , JUSTICE

COPY TO PARTIES/COUNSEL, CONTINUANCE IS ONLY UNTIL THE WEEK OF THE 20TH OR SOON THEREAFTER.

03/04/2003 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 03/04/2003 @ 9:00

NOTICE TO PARTIES/COUNSEL

03/04/2003 HEARING - MOTION TO SUPPRESS CONTINUED ON 03/04/2003

04/11/2003 HEARING - MOTION TO SUPPRESS SCHEDULED FOR 05/05/2003 @ 9:00

NOTICE TO PARTIES/COUNSEL

04/11/2003 TRIAL - DOCKET CALL SCHEDULED FOR 05/08/2003 @ 9:30

05/19/2003 Charge(s): 1

CHARGE - AMENDMENT ENTERED BY COURT ON 05/07/2003

ORIG. CHARGE:AGGRAVATED TRAFFICK OR FURNISH SCHEDULE DRUGS CLASS A

05/19/2003 TRIAL - DOCKET CALL NOT HELD ON 05/08/2003

05/19/2003 Charge(s): 1

PLEA - GUILTY ENTERED BY DEFENDANT ON 05/07/2003

DONALD H MARDEN , JUSTICE

Attorney: BRUCE MERRILL

DA: EVERT FOWLE

Reporter: LAURIE GOULD

Defendant Present in Court

05/19/2003 Charge(s): 1

FINDING - GUILTY CONT FOR SENTENCING ON 05/07/2003

DONALD H MARDEN , JUSTICE

Attorney: BRUCE MERRILL

DA: EVERT FOWLE

Reporter: LAURIE GOULD

Defendant Present in Court

09/09/2003 Charge(s): 1

HEARING - SENTENCE HEARING SCHEDULED FOR 10/09/2003 @ 9:00

DONALD H MARDEN , JUSTICE

NOTICE TO PARTIES/COUNSEL

09/12/2003 MOTION - MOTION TO REVOKE BAIL FILED BY STATE ON 09/12/2003

09/12/2003 BAIL BOND - NO BAIL ALLOWED SET BY COURT ON 09/12/2003

09/12/2003 WARRANT - VIOLATION OF BAIL ORDERED ON 09/12/2003

S KIRK STUDSTRUP , JUSTICE

09/12/2003 WARRANT - VIOLATION OF BAIL ISSUED ON 09/12/2003

09/15/2003 WARRANT - VIOLATION OF BAIL EXECUTED ON 09/12/2003

ARRESTED BY KSO EVANS

09/15/2003 WARRANT - VIOLATION OF BAIL RETURNED ON 09/15/2003

10/09/2003 Charge(s): 1

HEARING - SENTENCE HEARING CONTINUED ON 10/09/2003

12/23/2003 HEARING - MOTION TO SUPPRESS CONTINUED ON 05/05/2003

12/23/2003 HEARING - MOTION TO SUPPRESS NOT HELD ON 01/06/2003

12/23/2003 HEARING - MOTION TO SUPPRESS NOT HELD ON 08/13/2002

12/23/2003 MOTION - MOTION TO SUPPRESS MOOT ON 12/23/2003

12/23/2003 HEARING - SENTENCE HEARING SCHEDULED FOR 01/08/2004 @ 9:00
DONALD H MARDEN , JUSTICE
NOTICE TO PARTIES/COUNSEL

12/23/2003 HEARING - SENTENCE HEARING NOTICE SENT ON 12/23/2003

01/09/2004 MOTION - MOTION TO CONTINUE FILED BY DEFENDANT ON 01/08/2004

01/09/2004 MOTION - MOTION TO CONTINUE GRANTED ON 01/09/2004
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL

01/09/2004 HEARING - SENTENCE HEARING CONTINUED ON 01/09/2004

01/26/2004 Charge(s): 1
MOTION - MOTION TO WITHDRAW PLEA FILED BY DEFENDANT ON 01/21/2004

02/06/2004 MOTION - MOTION FOR APPOINTMENT OF CNSL FILED BY DEFENDANT ON 02/03/2004
DONALD H MARDEN , JUSTICE

02/06/2004 ORDER - TRANSCRIPT ORDER ENTERED ON 02/03/2004

COPY SENT TO LAURIE GOULD

02/06/2004 MOTION - MOTION FOR APPOINTMENT OF CNSL GRANTED ON 02/03/2004
DONALD H MARDEN , JUSTICE
COPIES TO PARTIES/COUNSEL

02/06/2004 Party(s): KENNETH PAGLIAROLI
ATTORNEY - APPOINTED ORDERED ON 02/03/2004

Attorney: BRUCE MERRILL

02/26/2004 OTHER FILING - TRANSCRIPT FILED ON 02/26/2004

RULE 11 TRANSCRIPT FILED.

03/02/2004 HEARING - MOTION TO WITHDRAW PLEA SCHEDULED FOR 03/25/2004 @ 1:00
DONALD H MARDEN , JUSTICE

03/02/2004 HEARING - MOTION TO WITHDRAW PLEA NOTICE SENT ON 03/02/2004

03/26/2004 HEARING - MOTION TO WITHDRAW PLEA HELD ON 03/25/2004
DONALD H MARDEN , JUSTICE
Attorney: BRUCE MERRILL
DA: ALAN KELLEY Reporter: JANETTE COOK
Defendant Present in Court

03/26/2004 Charge(s): 1
MOTION - MOTION TO WITHDRAW PLEA DENIED ON 03/25/2004
DONALD H MARDEN , JUSTICE

04/30/2004 ORDER - TRANSCRIPT ORDER ENTERED ON 04/30/2004

REQUEST FROM DEFENSE ATTORNEY FOR TRANSCRIPT OF HEARING ON MOTION TO WITHDRAW PLEA, COPY
OF TRANSCRIPT ORDER GIVEN IN HAND TO JANET COOK

05/24/2004 OTHER FILING - TRANSCRIPT FILED ON 05/24/2004

TRANSCRIPT OF HEARING ON MOTION TO WITHDRAW GUILTY PLEA

05/24/2004 HEARING - SENTENCE HEARING HELD ON 04/28/2004

DONALD H MARDEN , JUSTICE

Attorney: BRUCE MERRILL

DA: EVERT FOWLE

Reporter: PHILIP GALUCKI

Defendant Present in Court

05/24/2004 Charge(s): 1

RULING - ORIGINAL ORDERED ON 04/28/2004

It is adjudged that the defendant is guilty of 1 UNLAWFUL TRAFFICKING IN SCHEDULED DRUGS 17-A
1103 Class B as charged and convicted.

The defendant is sentenced to the DEPARTMENT OF CORRECTIONS for a term of 8 year(s).

It is ordered that all but 22 month(s) of the sentence as it relates to confinement be
suspended.

It is ordered that the defendant be placed on a period of probation for a term of 4 year(s) upon
conditions attached hereto and incorporated by reference herein.

Said Probation to commence after completion of the unsuspended term of imprisonment.

It is ordered that the defendant forfeit and pay the sum of \$1642.00 as restitution through
Probation.

\$ 25 VICTIMS COMPENSATION FUND

TOTAL DUE:\$ 25.00.

Special Conditions of Probation:

1. refrain from all criminal conduct and violation of federal, state and local laws.
2. report to the probation officer immediately and thereafter as directed and within 48 hours
of your release from jail.
3. answer all questions by your probation officer and permit the officer to visit you at your
home or elsewhere.
4. obtain permission from your probation officer before changing your address or employment.
5. not leave the State of Maine without written permission of your probation officer.
6. maintain employment and devote yourself to an approved employment or education program.
7. not possess or use any unlawful drugs.
8. identify yourself as a probationer to any law enforcement officer if you are arrested,
detained or questioned for any reason and notify your probation officer of that contact
within 24 hours.
9. waive extradition back to the State of Maine from any other place.
10. not own, possess or use any firearm or dangerous weapon if you have ever been convicted of
a crime in any jurisdiction with a potential penalty of one year or more or any crime
involving domestic violence or the use of a firearm or dangerous weapon.

pay to the Department of Corrections a supervision fee of \$ 25.00 per month.

submit to random search and testing for drugs at the direction of a probation or law enforcement officer.

pay restitution as stated earlier.

pay all fines, fees, surcharges and assessments in full to the clerk of this court, on a schedule set by the court or your probation officer.

05/24/2004 Charge(s): 1

RULING - ORIGINAL ISSUED ON 05/24/2004

DEFENDANT ACKNOWLEDGES RECEIPT

05/24/2004 OTHER FILING - OTHER DOCUMENT FILED ON 05/24/2004

AFFIDAVIT OF RICHARD SCHWARTZ

05/24/2004 OTHER FILING - OTHER DOCUMENT FILED ON 05/24/2004

AFFIDAVIT OF APRIL MASKEVICH

05/24/2004 Charge(s): 1

ABSTRACT - SBI EDI ON 05/24/2004

LAST EDI SENT: 05/24/2004 21:14:22

05/25/2004 OTHER FILING - OTHER DOCUMENT FILED ON 05/25/2004

AFFIDAVIT OF HECTOR BARDOE

05/25/2004 CASE STATUS - CASE FILE LOCATION ON 05/25/2004

SENT UP TO JUSTICE MARDEN FOR HIS REVIEW

06/10/2004 HEARING - BAIL HEARING SCHEDULED FOR 06/30/2004 @ 8:30

NOTICE TO PARTIES/COUNSEL

06/10/2004 HEARING - BAIL HEARING NOTICE SENT ON 06/10/2004

06/29/2004 HEARING - BAIL HEARING CONTINUED ON 06/29/2004

DONALD H MARDEN , JUSTICE

PER JUSTICE MARDEN CASE CONTINUED TO JULY 6, 2004 AT 11:00 A.M.

06/29/2004 HEARING - BAIL HEARING SCHEDULED FOR 07/06/2004 @ 11:00

NOTICE TO PARTIES/COUNSEL

06/29/2004 HEARING - BAIL HEARING NOTICE SENT ON 06/29/2004

BRUCE MERRILL, ESQ. NOTIFIED BY TELEPHONE; COPY GIVEN HAND TO DA AND COPY SENT TO LOUIS GRANATA AT 210 MAIN ST; POB 389, MATAWAN, NJ 07747

07/12/2004 HEARING - BAIL HEARING HELD ON 07/06/2004

DONALD H MARDEN , JUSTICE

Reporter: CASE ENOCH

Defendant Present in Court

BRUCE MERRILL AND L. FERNADA ATTORNEY FOR THE ESTATE OF DECEASED
SUBMIT CLOSING ARGUMENTS WITHIN 15 DAYS

PARTIES TO

07/20/2004 LETTER - FROM PARTY FILED ON 07/20/2004

WITTEN SUBMISSION IN THE FORM OF A LETTER FILED.

07/26/2004 LETTER - FROM NON-PARTY FILED ON 07/26/2004

07/26/2004 LETTER - FROM NON-PARTY FILED ON 07/26/2004

LETTER FROM LOUIS E. GRANATA, ESQ. REGARDING THE CASH BAIL POSTED.

09/15/2004 ORDER - COURT ORDER ENTERED ON 09/14/2004

COURT ORDER: THE COURT FINDS \$25,000 CASH POSTED BY THE DEFENDANT ON DECEMBER 4, 2001, IS TO BE RETURNED TO THE DEFENDANT UNLESS PROPER EXECUTED ASSIGNMENT IS PROVIDED TO THE COURT; THE CLERK IS DIRECTED TO MAKE PAYMENT ACCORDINGLY; THE ORDER FOR APPOINTMENT OF COUNSEL DATED FEBRUARY 3, 2004, IS RESCINDED.

A TRUE COPY

ATTEST: _____

Clerk