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“Finder’s Keepers” OR “Theft by Finding”

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“Finder’s Keepers” OR “Theft by Finding”

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A Pennsylvania couple’s bank account grew from \$1,000 to \$121,000 overnight.[1] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_edn1) A bank teller had accidentally deposited \$120,000 into their account![2] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_edn2) Assumedly believing this was a turn of good fortune, they purchased a new car, “two four-wheelers, a camper,” race car components, and gave \$15,000 to a friend needing the money.[3] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_edn3) After three weeks and a \$107,000 shopping spree, the bank demanded the money be repaid.[4] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_edn4) The Williams told the bank they would consider a repayment plan, but, allegedly, did not return the bank’s calls.[5] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_edn5)

The Williams’ argument of “Finders Keepers, Losers Weepers” is not completely unfounded. Common law dictates that the “finder is entitled to the possession against [everyone] but the true

owner.”[6] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn6) However, as case law has evolved, the finder has different rights depending on if the property was mislaid, lost, or abandoned.[7] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn7) In this case, the \$120,000 can arguably be considered “lost” by the bank since the money was unintentionally parted with when the bank mistakenly put it in the Williams’ account.[8] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn8) Therefore, the Williams did have proper claim to the \$120,000 as the finder, but the bank had the superior claim as the “true owner.”

Unsurprisingly, the bank demanded their money back – feeling little obligation to do otherwise according to the way the rule of “Finders Keepers” is defined by the law.[9] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn9) The Williams are now facing multiple charges including “theft of property by loss or mislaid.”[10] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn10) The corresponding charge under Kentucky Law would be “theft of property lost, mislaid, or delivered by mistake.”[11] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn11) For one to be found guilty for such a crime under Kentucky law, it must be proven that:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.[12] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn12)

It is likely that the Williams will be deemed to have been in control of the \$120,000 when it was deposited into their account, and they admitted that the money “was not theirs.”[13] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn13) If there is not a reason to expect such a large deposit, the circumstances may likely support finding that the Williams knew the money was intended to be deposited in another’s account, and that the money must have been “lost, mislaid, or delivered under a mistake.”[14] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn14) By spending the money themselves, it could be argued that the Williams may have implicitly intended to deprive the true owner of the funds, and they may not have taken reasonable measures to restore the property to its true owner.[15] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn15)

Despite what one in primary school may see as simply an application of “Finder’s Keepers, Losers Weepers” resulting in a favorable decision for the Williams, under Kentucky law, the Williams could potentially be found guilty of a class C felony.[16] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_edn16)

[1] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref1) John Beauge, *Couple Who Spent \$107,416 Mistakenly Placed in Their Bank Account Headed to Trial*, Penn Live (Sept. 10, 2019), <https://www.pennlive.com/news/2019/09/couple-who-spent-107416-mistakenly-placed-in-their-bank-account-headed-to-trial.html>.

[2] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref2) Lisa Rowan, *If the Bank Accidentally Deposits Money in Your Account, Don't Spend It*, Lifehacker (Sept. 13, 2019), <https://twocents.lifehacker.com/if-the-bank-accidentally-deposits-money-in-your-account-1838048864>.

[3] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref3) Beauge, *supra* note 1.

[4] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref4) Rowan, *supra* note 1.

[5] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref5) Beauge, *supra* note 1.

[6] (applewebdata:///301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref6) *Foster v. Fidelity Safe Deposit Co.*, 174 S.W. 376, 378 (Mo. 1915).

[7] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref7) Joseph J. Simeone, “Finders Keepers, Losers Weepers”: The Law of Finding “Lost” Property in Missouri, 54 St. Louis U. L.J. 167, (2009).

[8] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref8) *Id.*; Rowan, *supra* note 1.

[9] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref9) Rowan, *supra* note 1.

[10] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref10) *Id.*

[11] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref11) Ky. Rev. Stat. Ann § 514.050 (West 2019).

[12] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref12) *Id.*

[13] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref13) Beauge, *supra* note 1.

[14] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref14) *Id.*; § 514.050

[15] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref15) *Id.*

[16] (applewebdata://301BDOC4-EB60-4626-AB13-CDB477F83574#_ednref16) § 514.050

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