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**IN THE
COURT OF APPEALS OF INDIANA**

EDDIE LEE STRONG,)
)
 Appellant-Plaintiff,)
)
 vs.) No. 18A04-0702-CV-74
)
 STATE OF INDIANA,)
)
 Appellee-Defendant.)

APPEAL FROM THE DELAWARE CIRCUIT COURT
The Honorable Robert L. Barnet, Judge
Cause No. 18C03-0404-MI-03

June 7, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Eddie Lee Strong (“Strong”) appeals the Delaware Circuit Court’s order denying his unverified motion for return of property. Concluding that Strong failed to designate any evidence to the trial court to support his claim, we affirm.

Facts and Procedural History

On January 22, 2003, Officer Michael Mueller (“Officer Mueller”) of the Muncie Police Department served a search warrant on 612 East 5th Street where Strong was located. During this search he recovered cocaine, marijuana, diazepam, and several firearms. Officer Mueller also confiscated \$156, which was later returned to Strong.

On April 14, 2004, Officer Mueller was involved in serving a federal search warrant on Strong. Officer Mueller was assisting ATF officers in surveilling the residence on East 5th Street in connection with illegal drug activity. When Strong was positively identified, he was taken into custody, and the police removed \$810 from his person.

On July 12, 2006, Strong filed a pro se motion with the Delaware Circuit Court for return of the \$810. Strong alleged that the charges in the cause number had been dismissed. In his motion, he incorrectly stated that this money had been taken during his arrest on January 22, 2003.

On August 2, 2006, Strong filed a motion for summary judgment but failed to designate any evidence to support his claim. The trial court gave the State until September 16th to respond to Strong’s motion. On the 15th, Strong filed a notice of failure to comply and demand for judgment. The State finally responded to Strong’s motion for return of property on September 20, 2006. In its response, the State said it had

no objection to returning the \$156 seized from Strong on January 22, 2003. However, the State denied that it had seized an additional \$800 from Strong on that date. On September 22, 2006, the trial court denied Strong's motion for summary judgment and his demand for judgment.

On December 14, 2006, Strong filed a motion for disposition pursuant to Trial Rule 53.1, requesting the court to rule on his unverified motion for return of property. On the same day, the court issued an order permitting Strong and the State to submit documentary evidence by December 28, 2006, in support of, or in opposition to, the motion for return of property. On December 28, 2006, the State filed a response stating that it had returned the \$156 seized on January 22, 2003. The State also designated evidence, which consisted of a copy of the official check for \$156 that it had sent to Strong and a return receipt from the Federal Bureau of Prisons. Strong did not designate any evidence in support of his motion.

On January 9, 2007, the trial court denied Strong's unverified motion for return of property. Strong now appeals. Additional facts will be provided as necessary.

Discussion and Decision

Strong contends that the trial court erroneously denied his motion for return of property. Normally a trial court's denial of a motion for return of property is reviewed under the clearly erroneous standard. State v. Poxon, 514 N.E.2d 652, 654 (Ind. Ct. App. 1987), trans. denied. However, in this case, the trial court's denial appears to rest solely upon documentary evidence submitted by the State, and therefore, we review the matter de novo. See Trinity Homes, LLC v. Fang, 848 N.E.2d 1065, 1068 (Ind. 2006).

Here, Strong failed to designate any evidence to support his contention that the State seized \$810 from him on January 22, 2003. In his reply brief, Strong maintains that the trial court should have inferred that Strong had intended to assert that the State had seized \$810 from him on April 14, 2004, rather than January 22, 2003. In support of this claim, Strong supplies this court with the transcript of a hearing that took place before the trial court on June 1, 2004, two years before Strong filed his motion for return of property. At this hearing Officer Michael Mueller testified that he had confiscated about \$800 from Strong on April 14, 2004. Strong further contends that his motion is supported by a list of items confiscated from him on April 14th that was filed with the trial court on April 15, 2004.

Strong did not designate either of these pieces of evidence to the trial court by the December 28, 2006 deadline. It is well settled that a trial court may not search the record and may not ground its determination on evidentiary matter other than that which the parties have designated to the trial court. Wolf Corp. v. Thompson, 609 N.E.2d 1170, 1172 (Ind. Ct. App. 1993). Nor is it the responsibility of the trial court to conjecture as to what a party intended to assert within its pleading.

Here, the State presented evidence that on January 22, 2003, police confiscated \$156 from Strong. The State also designated a copy of the official check and a return receipt from the Federal Bureau of Prisons to prove that this money had been returned to Strong. Strong's petition alleges that \$810 was taken from him on January 22, 2003; however, he presented no evidence to support this claim. From the face of Strong's

motion, the evidence designated by the State, and the lack of evidence designated by Strong, we cannot conclude that the trial court erred in denying Strong's motion.

Affirmed.

DARDEN, J., and KIRSCH, J., concur.