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9-8-2011

\$596.25 in U.S. Currency, Seized from: Autumn  
White, Date of Seizure: November 20, 2010,  
Claimant: Autumn White Seizing Agency: Dekalb  
County Sheriff's Department

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**BEFORE THE COMMISSIONER OF THE  
TENNESSEE DEPARTMENT OF SAFETY**

**IN THE MATTER OF:**

**\$596.25 in U.S. Currency  
Seized from: Autumn White  
Date of Seizure: November 20, 2010  
Claimant: Autumn White  
Seizing Agency: Dekalb County  
Sheriff's Department**

**DOCKET NO: 19.01-112798J**

**INITIAL ORDER**

This matter was heard in Cookeville, Tennessee, on September 8, 2011, before Lynn M. England, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Orvil Orr, Attorney for the Tennessee Department of Safety represented the Department of Safety. The Claimant, Autumn White was present and not represented by counsel.

The subject of this hearing was the proposed forfeiture of the subject property for its alleged use in violation of T.C.A. §53-11-201 et seq. and §40-33-201 et seq.

After review of the record and arguments of the parties, it is DETERMINED that the seized currency should be RETURNED to the CLAIMANT.

This determination is based on the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. On November 20, 2010, Deputy Nathan Thomason, arrested the Claimant Autumn White, for driving under the influence.
2. A search of her purse revealed \$596.25 in U.S. currency along with 12 unidentified pills.

3. Grievant, presented evidence at the hearing that she is gainfully employed receiving regular paychecks.

4. Grievant presented her payroll records from June 6, 2009 through November, 25, 2010 as evidence that she was employed. She further testified that the \$596.25 was earned income from this employment. Her testimony is found to be credible.

5. She also presented as evidence her receipt from the Register of Deeds for Dekalb County dated October 22, 2010, where she had purchased a home in the few weeks prior to her arrest.

6. The State presented no evidence as to the identity of the pills that were discovered. Furthermore, they presented no evidence that the pills, if identified as scheduled drugs, were of an amount that would qualify for resale.

7. The State presented no evidence that a sale of drugs had occurred.

### **CONCLUSIONS OF LAW**

1. The State has the burden of proving by a preponderance of the evidence that the seized property is of a nature making its possession illegal, or that it was used in a manner making it subject to forfeiture, and failure to carry the burden of proof is a bar to any forfeiture. T.C.A. §53-11-201(d).

2. Tennessee Code Annotated, Section 53-11-451(a)(6)(A), authorizes the forfeiture of “[e]verything of value furnished, or intended to be furnished in exchange for controlled substance[,] . . . . all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used, or intended to be used to facilitate any violation of the Tennessee Drug Control Act.

3. The State is not required to trace money or proceeds to specific drug sales, so long as there is some proven nexus to connect the seized property with sales activity.

Circumstantial evidence can be used to make this connection. *Lettner v. Plummer*, 559 S.W.2d. 785 (Tenn. 1977); *Goldsmith v. Roberts*, 622 S.W.2d. 438 (Tenn. App. 1981).

The state has failed to prove by a preponderance of the evidence that the subject \$596.25 in U.S. currency is the result of any illegal activity or the result of any drug sale.

It is therefore ORDERED that the \$596.25 in U.S. currency shall be RETURNED to the Claimant, Autumn White.

It is so ORDERED.

This Order entered and effective this 23 day of September, 2011

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Lynn M. England  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this  
\_\_\_\_ day of \_\_\_\_\_ 2011.

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Thomas G. Stovall, Director  
Administrative Procedures Division