



University of Tennessee, Knoxville  
**Trace: Tennessee Research and Creative  
Exchange**

---

Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

---

5-21-2007

\$793.00 Seven hundred ninety three in U.S.  
Currency, Seized from: Tianna D. Birdsong, Seizure  
Date: March 16, 2007, Claimant: Tianna D.  
Birdsong

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_lawopinions](http://trace.tennessee.edu/utk_lawopinions)

 Part of the [Administrative Law Commons](#)

---

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact [administrative.procedures@tn.gov](mailto:administrative.procedures@tn.gov)

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

**IN THE MATTER OF:**

**\$793.00 (Seven hundred ninety three)  
in U.S. Currency  
Seized from: Tianna D. Birdsong  
Seizure Date: March 16, 2007  
Claimant: Tianna D. Birdsong**

**DOCKET NO: 19.01-095641J**

**ORDER GRANTING PETITION TO PROCEED  
IN FORMA PAUPERIS**

This matter was set to be heard on May 21, 2007 upon Claimant's petition to proceed *in forma pauperis*. The hearing was conducted in Nashville, Tennessee before Joyce Carter-Ball, Administrative Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Attorney Cynthia Gross represented the Department of Safety. Claimant Tianna D. Byrdsong was present and proceeded on her own behalf.

The subject of this hearing was whether the Claimant may proceed *in forma pauperis*.

After consideration of the evidence offered, the arguments of Counsel and the Claimant, and the entire record in this matter, it is **ORDERED** that Claimant's Petition to proceed as a pauper is **GRANTED**.

This decision is based upon the following findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. Claimant testified that she has been employed at Chili's since April 2007. Claimant earns \$8.00 an hour.
2. Before working at Chili's, Claimant worked at the Rain Forest Cafe.
3. Claimant was unemployed three months before working at the Rain Forest Cafe.
4. Claimant works approximately 30 hours per week at Chili's.
5. Claimant receives \$500.00 per month in food stamps.
6. Claimant receives \$142.00 per month from Families First.
7. Claimant has three children, ages 7, 3 and 2 years old.
8. Claimant receives no child support.
9. Claimant pays \$650.00 per month in rent. Claimant's electric bill is approximately \$150.00 per month and the water bill is approximately \$53.00.

### **CONCLUSIONS OF LAW**

1. T.C.A. §40-33-206 provides as follows:

**Claims.**--- (a) Any person asserting a claim to any property seized pursuant to the provisions of law set out in §40-33-

205(a) [the statute addressing security interests], and described on the notice of seizure, may within thirty (30) days of being notified by the applicable agency that a forfeiture warrant has issued, file with such agency a written claim requesting a hearing and stating the person's interest in the seized property for which a claim is made. Such claims may be on forms provided by the applicable agency.

(b) (1) Except as provided in §40-33-205(a), *with the claim the claimant shall also file a cash bond or attorney or corporate surety bond in the sum of **three hundred fifty dollars (\$350)***, such bond being made payable to the state of Tennessee; and

(2) *An indigent person may file a claim in forma pauperis by filing with the claim an affidavit stating that such person is unable to bear the cost of the proceeding.*

(c) *If a claim or proof of security interest is not filed with the applicable agency within the time specified by this part, the seized property shall be forfeited and disposed of as provided by law. (Emphasis added).*

2. *Department of Safety* Rule 1340-2-2-.07(5) provides that a claim shall have a valid cost bond or no contested case proceeding shall commence.

3. Any individual claimant may file a claim without also filing a cost bond if the individual claimant proceeds *in forma pauperis* and submits an affidavit reflecting the financial position of the individual claimant. *Department of Safety* Rule 1340-2-2-.07(5)(e). The factors that will be considered by the department in determining indigence are yearly income, the value of real and personal property owned and debts. *Id.*

4. If a cost bond or pauper's oath is rejected, then claimant shall have ten (10) days from receipt of notification ... (2) to provide a proper cost bond. *Department of Safety* Rule 1340-2-2-.07(5)(g).

5. At the hearing of Claimant's petition to proceed as a pauper or indigent in this matter, Claimant testified that she has limited income at this time.

6. Claimant has the burden of proof in showing that she is unable to bear the cost of posting a \$350 cost bond in this proceeding. *See* T.C.A. §20-12-132(b).

7. Claimant has met her burden of proof. For this reason, it is **ORDERED** that Claimant's petition to proceed as an indigent or pauper in this matter is **GRANTED**.

It is so ordered.

This Order entered and effective this 30th day of May, 2007.

---

Joyce Carter-Ball  
Administrative Judge