



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

Tennessee Department of State, Opinions from the
Administrative Procedures Division

Law

9-20-2007

\$360.00 Three hundred sixty dollars One Samsung
Cell Phone, Seized from: Edward D. Goodloe,
Seizure Date: May 17, 2007, Claimant: Kesha
Lyons

Follow this and additional works at: 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

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

IN THE MATTER OF:

**\$360.00 (Three hundred sixty dollars)
One Samsung Cell Phone
Seized from: Edward D. Goodloe
Seizure Date: May 17, 2007
Claimant: Kesha Lyons**

**DOCKET NO: 19.01-096941J
D.O.S. NO: G3566**

INITIAL ORDER

This matter was heard on September 20, 2007, before Joyce Carter-Ball, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety. Cynthia E. Gross, attorney for the Department of Safety (“Department”), represented the State. Claimant, Kesha Lyons, represented herself.

The issue presented for review is whether the State properly seized the above-referenced property from the Claimant on May 17, 2007.

After review of the record and arguments of the parties, it is **DETERMINED** that the subject property was **improperly** seized and the same should be **returned** to the Claimant.

This conclusion is based on the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Officer Ken Mahoney of the Metro Narcotics Unit testified on behalf of the Department. Officer Mahoney testified that on May 17, 2007 he observed a vehicle driven by Edward D. Goodloe.

2. Officer Mahoney could easily see that the temporary tag on the vehicle had been altered. It appeared that a white substance had been used to alter the date on the tag.

3. Officer Mahoney proceeded to follow the vehicle.

4. Officer Robert Morris searched the vehicle and found a small bag in Mr. Goodloe's pocket, which contained a white substance. The substance tested positive for cocaine. The weight was two (2) grams.

5. Two other bags were found in the back seat in a back pack. The bags contained a green substance. The total weight found in the three (3) bags was 3.0 grams.

6. The subject \$360.00 and cell phone were both found in Mr. Goodloe's possession. The issue regarding the vehicle has already been settled.

7. Mr. Goodloe was taken into custody and charged with altering a tag and possession of a controlled substance. He has prior convictions for resale.

8. Claimant, Keshia Lyons, testified that she gave Mr. Goodloe the subject \$360.00 to pay her electric and phone bills. Claimant presented the bills and said they had not been paid at the time of the hearing.

9. Claimant further testified that she purchased the phone only for emergency calls.

10. It is the State's position that the subject \$360.00 is proceeds from a drug sale, and the cell phone was used to facilitate an illicit drug transaction.

CONCLUSIONS OF LAW

1. The State of Tennessee as the moving party in this case has the burden to introduce evidence that would by a preponderance of the evidence prove the issues should be resolved in its favor. Rule 1360-4-1-.02.

2. From the facts presented, it is **determined** that Claimant's testimony was **credible**, and that the subject \$360.00 is not proceeds from a drug sale, but was given to Mr. Goodloe by Claimant to pay Claimant's electric and phone bills. It is also **determined** that the cell phone belongs to Claimant, and it was not used to facilitate an illicit drug transaction.

It is **CONCLUDED** that the State of Tennessee has failed to carry its burden of proof and establish by a preponderance of the evidence that the subject \$360.00 and cell phone are subject to seizure and forfeiture.

Therefore, it is **ORDERED** that the subject \$360.00 and cell phone be **returned** to Claimant.

This Initial Order entered and effective this 9th day of October, 2007.

Joyce Carter-Ball
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 9th day of October, 2007.



Thomas G. Stovall, Director
Administrative Procedures Division