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11-30-2010

Department of Safety vs. \$256.00 in U.S. Currency
One Cell Phone, Seized from: Karloquious
Jackson, Seizure date: May 6, 2010, Claimant:
Karloquious Jackson

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

IN THE MATTER OF:

Department of Safety

v.

\$256.00 in U.S. Currency

One Cell Phone

Seized from: Karloquious Jackson

Seizure date: May 6, 2010

Claimant: Karloquious Jackson

**DOCKET NO: 19.01-110635J
DOS CASE K4801**

INITIAL ORDER

This contested administrative matter was heard in Union City, Tennessee on November 30, 2010, before Rob Wilson, Administrative Judge, assigned by the Secretary of State, sitting for the Commissioner of the Tennessee Department of Safety. Mr. Andre Thomas, Staff Attorney for the Tennessee Department of Safety, represented the State. The Claimant was present and proceeded on his own behalf.

The subject of this hearing was the proposed forfeiture of \$256.00 in cash, and a cell phone, based on the seizing agency's assertion that they were possessed and/or used by the Claimant in violation of the Tennessee Drug Control Act. Upon full consideration of the record in this case, it is determined that the seized property should be forfeited to the seizing agency. This decision is based on the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Officer Derrick O'Dell testified that on May 6, 2010, he stopped Karloquious Jackson because the tags on his care were not properly displayed. Officer O'Dell was aware that Mr. Jackson was currently on probation for a drug offense.
2. Officer O'Dell stated that he searched Mr. Jackson as part of a probation/parole search.
3. Officer O'Dell stated that he found \$82.00 in Mr. Jackson's pants pocket, and \$174.00 in a box under the passenger seat.
4. Officer O'Dell also found a cell phone on Mr. Jackson's person. At the time of the stop Mr. Jackson received the following text message: "wuz up wit dat smoke bro..dem junts gone kum thru@8 *PlaYaNiFiCent*." [See Exhibit 2]
5. Mr. Jackson was not employed at the time of the probation/parole search.
6. A *Notice of Property Seizure* was issued for the cash and cell phone on Mr. Jackson's person and in his car. Subsequently, a *Drug Asset Forfeiture Warrant* was sought, and was issued on May 7, 2010.

CONCLUSIONS OF LAW and ANALYSIS

1. "All conveyances, including . . . vehicles . . . which are used or are intended for use, to transport, or in any manner facilitate the transportation, sale or receipt of" controlled substances in violation of the Tennessee Drug Control Act are subject to forfeiture. TENN. CODE ANN. § 53-11-451(a)(4).
2. "Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of the Tennessee Drug Control Act of 1989, . . . all proceeds traceable to such an exchange, and all moneys . . . used, or intended to be used, to facilitate any violation of the Tennessee Drug Control Act . . ." are subject to forfeiture under the law. TENN. CODE ANN. 53-11-451(a)(6)(A).
3. On behalf of the seizing agency, the State of Tennessee Department of Safety bears the burden of proof in forfeiture proceedings, and must therefore prove, by a preponderance of the

evidence, that the seized property is subject to forfeiture, pursuant to law. Failure to carry the burden of proof operates as a bar to the proposed forfeiture. TENN. CODE ANN. 53-11-201(d)(2); *Rule 1340-2-2-.15*, TENN. COMP. R. & REGS., *Rules of the Tennessee Department of Safety*.

4. The State argued that the seized currency was the proceeds of drug transactions, or was “intended to be furnished in exchange for drugs,” in violation of TENN. CODE ANN. 53-11-451(a)(6)(A). In support of its argument, the State cited the amount of cash carried by the Claimant, the incriminating text message received on Claimant’s phone, the fact that Claimant had no legitimate source of income, and the Claimant’s previous arrest history and probationary status. The preponderance of evidence available at the time of the seizure was that the discovered money was, more likely than not, associated with illegal drugs. The State has met its burden through circumstantial evidence to show that the currency is subject to forfeiture. The seized cash is therefore subject to forfeiture pursuant to TENN. CODE ANN. 53-11-451(a)(6)(A).

Accordingly, it is hereby ORDERED that the subject \$256.00 in U.S. currency and the cell phone shall be forfeited to the Seizing Agency, the Union City Police Department, for disposition as provided by law.

This Order entered and effective this 24th day of January, 2011.

Rob Wilson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this
24th day of January, 2011.

A handwritten signature in cursive script that reads "Thomas G. Stovall". The signature is written in black ink and is positioned above a horizontal line.

Thomas G. Stovall, Director
Administrative Procedures Division