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3-8-2012

DEPARTMENT OF SAFETY vs. \$1718.00 in U.S.
Currency, Seized From: Jerry Lee Sarr, Date of
Seizure: June 24, 2011, Claimant: Jerry Lee Sarr

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

IN THE MATTER OF:

DEPARTMENT OF SAFETY

v.

**\$1718.00 in U.S. Currency
Seized From: Jerry Lee Sarr
Date of Seizure: June 24, 2011
Claimant: Jerry Lee Sarr**

**DOCKET NO: 19.01-116067J
Department of Safety No.: L7102**

INITIAL ORDER

This contested case was heard on March 8, 2012, before Rob Wilson, Administrative Judge, assigned by the Secretary of State to sit for the Commissioner of the Tennessee Department of Safety. The Claimant, Jerry Lee Sarr, proceeded on his own behalf. Mr. Joe Bartlett, attorney for the Tennessee Department of Safety, represented the Department of Safety.

The subject of this hearing was the seizure of cash, based on allegations that the Claimant received or possessed it in violation of the Tennessee Drug Control Act. Upon full consideration of the record established during the hearing, it is determined that the seized paper currency and coins should be forfeited to the Seizing Agency. This decision is based upon the following.

FINDINGS OF FACT

1. On June 23, 2011, oxycontin pills were purchased by a confidential informant from Claimant at his residence during a controlled buy. Marked buy money was used to make the purchase and was later recovered from Claimant. The State introduced two recorded DVDs as an exhibit. The recording on the DVD clearly shows Mr. Sarr selling oxycontin pills to the confidential informant.

2. A subsequent search of the residence discovered marijuana, scales, several pill bottles containing oxycontin, and paper currency and coins.

3. The Claimant was arrested for selling drugs. The officers seized the drugs and cash, and a forfeiture warrant was issued for the cash. The Claimant filed a claim for the return of the cash.

4. A total of \$1718.00 in paper currency and coins was seized from the Claimant.

5. The Claimant is not currently employed and has no legitimate source of income.

ANALYSIS and CONCLUSIONS OF LAW

1. “All conveyances, including aircraft, vehicles or vessels that are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale or receipt of property described in subdivision (a)(1) or (2) [controlled substances, raw materials, and equipment]” are subject to forfeiture under Tennessee law. TENN. CODE ANN. § 53-11-451(a)(4).

2. The 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) & 40-33-210(a) & (b)(1); RULE 1340-2-2-.15, TENN. COMP. R. & REGS., Rules of the Tennessee Department of Safety.

3. The State's proof established, by a preponderance of the evidence, that the Claimant was involved in illegal drug trafficking on June 23, 2011, and that the cashed seized from Claimant's residence was proceeds from the sale of illegal narcotics. A confidential informant, working with the police department, purchased drugs from the Claimant, and the entire exchange was recorded. [See hearing exhibit collective #1].

4. Accordingly, it is hereby determined that all property that is the subject of this claim was properly seized pursuant to the Tennessee Drug Control Act; and, IT IS THEREFORE ORDERED that all property seized from the Claimant be forfeited to the Seizing Agency, the Munford Police Department, for disposition as provided by law.

This INITIAL ORDER entered and effective this the _____ day of _____ 2012.

ROB WILSON
ADMINISTRATIVE JUDGE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 26th day of March, 2012.



Thomas G. Stovall, Director
Administrative Procedures Division