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1-10-2008

DEPARTMENT OF SAFETY vs. \$14,669.00 in
U.S. Currency 1, Seized From: Craig L. Caldwell,
Date of Seizure: June 26, 2006, Claimant: Craig L.
Caldwell

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

IN THE MATTER OF:]	
]	
DEPARTMENT OF SAFETY]	
]	
v.]	DOCKET # 19.01-097755J
]	D.O.S. Case # F-3992
\$14,669.00 in U.S. Currency ¹]	
Seized From: Craig L. Caldwell]	
Date of Seizure: June 26, 2006]	
Claimant: Craig L. Caldwell]	

ORDER

This matter was heard in Cookeville, Tennessee on January 10, 2008, before J. Randall LaFevor, Administrative Judge assigned by the Secretary of State, Administrative Procedures Division, sitting for the Commissioner of the Tennessee Department of Safety. The Seizing Agency was represented by Mr. Orvil Orr, Staff Attorney for the Department of Safety. The Claimant was not present, but was represented by his legal counsel, Mr. Jonathan Young.

This hearing was convened to consider the proposed forfeiture of currency that was seized from the Claimant based on allegations that its possession and/or receipt by the Claimant was in violation of the Tennessee Drug Control Act. As a preliminary matter, the parties announced that they had agreed that the money should be returned to the Claimant, but that the amount of currency that was seized from the Claimant was in dispute. After hearing testimony from the seizing officer, and upon consideration of the record and the arguments of counsel, it was concluded that neither the Claimant nor the Seizing Agency had sufficiently proven the amount of the currency seized from the Claimant.

¹ This is the amount that was listed in the Notice of Property Seizure and the Drug Asset Forfeiture Warrant. As discussed herein, that amount is in dispute.

The Claimant did not testify during the hearing, so there was no sworn testimony establishing the amount of money that he claimed was actually taken from him. The Notice of Property Seizure that was issued by the Seizing Agency and the Drug Asset forfeiture Warrant both listed the amount as \$14,669.00. However, Officer Ryan Acuff, who issued the Notice of Seizure and later sought the Drug Asset Forfeiture Warrant, testified that he later learned that the listed amount was incorrect. Since he had not personally counted the money, he testified that he relied on figures that were supplied by other officers,² and he later discovered that the numbers he wrote down were wrong, leading to the incorrect amount being entered on the Notice and Warrant. He testified that the actual amount seized was \$4,769.00. He subsequently executed and filed a Supplemental Affidavit in Support of Forfeiture Warrant, seeking an amendment of the amount of currency listed in the original Forfeiture Warrant, from the General Sessions Court Judge who had issued the original warrant. There was nothing in the record to indicate that the General Sessions Court Judge had either granted or denied that request by the date of the instant hearing.

Because neither the Claimant nor any of the officers who actually counted the money testified at the hearing, the exact amount of the seized currency cannot be determined at this time. And since it appears that the General Sessions Court Judge has not yet ruled on the Seizing Agency's request to amend the Forfeiture Warrant, it appears that any attempt by this tribunal to determine the correct amount would be premature.

Therefore, based on the forgoing, and pursuant to the agreement of the parties, it is hereby ORDERED that the Seizing Agency shall return to the Claimant all U.S. currency that was seized from the Claimant on June 26, 2006. If the parties are unable to agree on the correct amount to be returned pursuant to this order, they may (1) seek a ruling from the General Sessions Court Judge on the Seizing Agency's request to amend the Forfeiture Warrant; or, (2) request that a further hearing before this tribunal be convened to consider sworn testimony from the Claimant and all police department

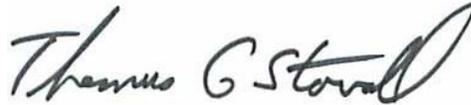
² Officer Acuff testified that the money was actually counted by Deputy Chief Fred White and Detective James Lane of the Cookeville Police Department.

personnel who have actual knowledge of the facts surrounding the seizure, counting and storage of the seized currency.

Entered and effective this 24th day of January, 2008.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 24th day of January, 2008.

A handwritten signature in black ink that reads "Thomas G. Stovall". The signature is written in a cursive style with a large, looped initial 'T'.

Thomas G. Stovall, Director
Administrative Procedures Division