



7-13-2009

DEPARTMENT OF SAFETY FORFEITURE  
PROCEEDING, vs. \$10,462.00 in U.S. Currency,  
Seized From: Derrick L. Jones, Seizure Date:  
September 13, 2008, Claimant: Derrick L. Jones,  
Seizing Agency: Tipton Co Sheriff

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

<b>IN THE MATTER OF:</b>	]	
	]	
<b>DEPARTMENT OF SAFETY</b>	]	<b>FORFEITURE PROCEEDING</b>
	]	
<b>v.</b>	]	<b>DOCKET # 19.01-103727J</b>
	]	
<b>\$10,462.00 in U.S. Currency</b>	]	<b>( DOS # H7232 )</b>
<b>Seized From: Derrick L. Jones</b>	]	
<b>Seizure Date: September 13, 2008</b>	]	
<b>Claimant: Derrick L. Jones</b>	]	
<b>Seizing Agency: Tipton Co Sheriff</b>	]	

**INITIAL ORDER**

This contested administrative case was heard in Memphis, Tennessee on July 13, 2009, before J. Randall LaFevor, 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 Department of Safety, represented the State. The Claimant was present and represented by his legal counsel, Mr. Andre Mathis.

The hearing was convened to consider the proposed forfeiture of U.S. currency, based upon the State's allegations that the Claimant's possession and/or receipt of the currency was in violation of the Tennessee Drug Control Act. Upon full consideration of the record in this case, it is determined that there was insufficient evidence to support the State's proposed forfeiture, and that the seized currency should be RETURNED to the Claimant. This decision is based on the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. On September 13, 2008, Derrick Jones ("Claimant") was arrested at the Farm Club, a local bar in Tipton County, on a charge of Public Intoxication.<sup>1</sup>

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<sup>1</sup> The charge of Public Intoxication was later dismissed.

2. While the Claimant was being processed at the County Jail, a large sum of money (\$10,462) was discovered among his belongings. Jail personnel believed that such a large sum of money was evidence that the Claimant had been involved in “some type of illegal activity,” and notified a Sheriff’s Department Investigator.

3. Investigator Steve Browder questioned the Claimant about the source of the money in his possession. After speaking to the Claimant, Investigator Browder did no further investigation to either confirm or refute the information provided by the Claimant. He attempted to justify the seizure of the Claimant’s money by stating that, over the years, he has made several drug-related arrests at the same club where the Claimant was arrested.

4. The Claimant testified that the money that was seized from him on September 13, 2008 came from his mother (\$8,000.00) and from savings from his income during the previous five years. He planned to use the money to enroll in a barber school program in Memphis within a few days after his arrest. The Seizing Agency offered no proof to show that the money came from any source other than that described by the Claimant.

5. The Seizing Agency offered no evidence linking the Claimant to any illegal drugs. Likewise, the Agency offered no proof that the Claimant was involved in any illegal drug activity on the date of his arrest, or at any other time. He has no criminal record related to illegal drug possession or trafficking.

6. From all of the proof introduced at the hearing, the Claimant appears to be a law-abiding citizen who wanted to attend barber school, and planned to pay for it with the cash that was in his possession, part of which was given to him by his mother, and the rest of which he had saved from his the job where he has worked for nearly twenty years.

### **CONCLUSIONS OF LAW and ANALYSIS**

1. The State bears the burden of proof in this case, and must therefore prove, by a preponderance of the evidence, that the seized currency 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*.

2. The law provides that, “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. Applied to this specific case, the quoted language means that, in order to prevail, the State must prove, by a preponderance of the evidence, that the \$10,462.00 found in the Claimant’s possession was acquired through, or was used, or was intended to be used, to facilitate a violation of the Tennessee Drug Control Act. The State’s evidence in this case failed to prove such an origin, use or intent, and therefore failed to establish a basis for the proposed forfeiture. As the Seizing Agent testified during the hearing, there is nothing inherently illegal about carrying a large sum of money. And, *no evidence* introduced during the hearing connected the Claimant and his money to *any* illegal drug activity. Since the State failed to carry its burden of proof, the proposed forfeiture is barred by the law, and cannot be granted.

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Accordingly, IT IS HEREBY ORDERED that the \$10,462.00 in U.S. currency, seized from the Claimant by the Tipton County Sheriff’s Office on September 13, 2008, shall be RETURNED to the Claimant, Derrick L. Jones.

Entered and effective this 13th day of August, 2009. Randall LaFevor,  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 13th day of August, 2009.

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".

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Thomas G. Stovall, Director  
Administrative Procedures Division