



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

---

Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

---

2-25-2009

Adam A. H6313 Witt, 1996 Dodge Aries, V.I.N.  
4B3AU52N4TE266997, Seized from: Adam Witt,  
Seizure date: August 12, 2008, Claimant: Bernadine  
W. Kitchens, Seizing Agency: Drug Task Force

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_lawopinions](http://trace.tennessee.edu/utk_lawopinions)

---

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](mailto:administrative.procedures@tn.gov)

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

**IN THE MATTER OF:**

**Adam A. (H6313) Witt  
1996 Dodge Aries  
V.I.N. 4B3AU52N4TE266997  
Seized from: Adam Witt  
Seizure date: August 12, 2008  
Claimant: Bernadine W. Kitchens  
Seizing Agency: Drug Task Force**

**DOCKET NO: 19.01-102037J**

**INITIAL ORDER**

This matter was heard on February 25, 2009 before Joyce Carter-Ball, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Lori Long, attorney for the Department of Safety, (hereafter "Department") represented the State. Claimant Bernadine Kitchens (hereafter "Claimant") proceeded on her own behalf.

The subject of this hearing was the proposed forfeiture of the seized 1996 Dodge Aries for its alleged use in violation of T.C.A. §53-11-201 et seq, 40-33-201 et seq and 53-11-451.

After review of the record and arguments of the parties, it is **DETERMINED** that the seized 1996 Dodge Aries at issue should be **forfeited to the seizing agency**.

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

## FINDINGS OF FACT

1. Agent Dax McGowan testified that on April 9, 2008, he, along with Agents with the 10<sup>th</sup> DTF conducted a buy walk operation in McMinn County. Acting in an undercover capacity, Agent Dave Jones called Adam Witt to purchase approximately 1 ounce of marijuana.

2. Agent McGowan testified that Mr. Witt arrived in the subject vehicle and told Agent Jones that the subject vehicle was his and that he was **interested in trading**.

3. Later, on August 7, 2008, Agent McGowan along with Sergeant Toby Norris and Agent Eric Allman conducted a traffic stop on Mr. Witt. After a consent to search was granted by Mr. Witt, Agents found below the console in a compartment a pill bottle containing Hydrocodone and Percocet.

4. Agent McGowan testified that both medications were not the prescribed medications listed on the bottle. The drugs were sent to the lab. The marijuana tested positive.

5. In consent to search Mr. Witt's wallet, Agent McGowan found a **bill of sale** of the seized vehicle along with the **vehicle title**.

6. The back of the title had been filled out and signed by the original owner, Claimant, but Mr. Witt had failed to sign his information.

7. Claimant testified that Mr. Witt (her son) asked for the title to **get insurance** for the subject vehicle. She said she did not sell Mr. Witt her vehicle.

8. Mr. Witt had **permission** to use the subject vehicle and he also **maintained** the vehicle.

9. Mr. Witt had **possession** of the subject vehicle for 5 months.

10. Mr. Witt testified that he had been selling marijuana, but he didn't recall selling marijuana from the subject vehicle.

11. Agent McGowan testified that Mr. Witt had previously sold marijuana from the subject vehicle.

### 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. Vehicles used in violation of the Tennessee Drug Control Act are subject to forfeiture pursuant to the provisions of T.C.A. §53-11-451.

3. T.C.A. §53-11-451 (a)(2) All raw materials, products and equipment of any kind which are used, **or intended for use**, in manufacturing, compounding, processing, delivering, importing or exporting any **controlled substance** in violation of parts 3 and 4 of this chapter, are subject to forfeiture.

4. T.C.A. §53-11-451 (a)(6)(A) authorizes the forfeiture of "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**, negotiable instruments, and securities used, **or intended** to be used, to facilitate any violation of the Tennessee Drug Control Act of 1989.

5. Mr. Witt **maintained** the subject vehicle and was supposed to get **insurance** for it.

6. A **bill of sale** for the seized vehicle along with the **vehicle title** was found in Mr. Witt's wallet.
7. It is determined that Mr. Witt **owns** the subject vehicle.
8. Based on the above, it is **ORDERED** that the subject 1996 Dodge Aries be forfeited to the seizing agency.

**IT IS SO ORDERED.**

This Initial Order entered and effective this 6th day of March, 2009.

---

Joyce Carter-Ball  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 6th day of March, 2009.



---

Thomas G. Stovall, Director  
Administrative Procedures Division