



2-19-2009

DEPARTMENT OF SAFETY vs. One 1989
GMC S-15 pick-up truck, VIN NO.:
1GTCT19Z1K8508879, \$352.00 U.S. currency,
Seized From: BELACHEW G. DAMTE, Date of
Seizure: AUGUST 27, 2008, Claimant:
BELACHEW G. DAMTE, Lien Holder: NONE

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

IN THE MATTER OF:

DEPARTMENT OF SAFETY

v.

**One 1989 GMC S-15 pick-up truck
VIN NO.: 1GTCT19Z1K8508879
\$352.00 U.S. currency
Seized From: BELACHEW G.
DAMTE
Date of Seizure: AUGUST 27, 2008
Claimant: BELACHEW G. DAMTE
Lien Holder: NONE**

**DOCKET NO: 19.01-101935J
Department of Safety No.: H6899N**

INITIAL ORDER

This contested case was heard on February 19, 2009, before Mary M. Collier, Administrative Judge, assigned by the Secretary of State to sit for the Commissioner of the Tennessee Department of Safety. The Claimant, Belachew G. Damte, appeared *pro se*, waiving the right to legal counsel. Ms. Cynthia Gross, attorney for the Metropolitan Government of Nashville and Davidson County Legal Department, represented the Department of Safety.

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

FINDINGS OF FACT

1. On August 27, 2008, fifty (50) Xanax pills were purchased by a confidential informant (to the Metropolitan Government of Nashville and Davidson County Police Department) from the Claimant during a controlled buy.

2. On August 27, 2008, the confidential informant used in the drug sting had three hundred dollars (\$300.00) US currency of buy money to purchase the fifty (50) Xanax pills from the Claimant.

3. On August 27, 2008, Metropolitan Government of Nashville and Davidson County Police Narcotics Detective Joel Rowney arrested the Claimant during an undercover drug sting.

4. The Claimant was in possession of a total of seventy (70) Xanax pills at the scene of the arrest. The Claimant sold fifty (50) pills to the confidential informant and an additional twenty (20) Xanax pills were found during the search of his vehicle at the time of the Claimant's arrest.

5. The officers seized and included in the forfeiture warrant three hundred and fifty-two (\$352.00), \$300.00 of which was used for the controlled buy, and a 1989 GMC S-15 pick-up truck, VIN NO. 1GTCT19Z1K8508879.

6. The Claimant was arrested for selling drugs. The officers seized the drugs, cash, and pick-up truck from the Claimant, and a forfeiture warrant was issued for the cash and pick-up truck. The Claimant filed a claim for the return of the cash and the pick-up truck.

7. A total of three hundred fifty two dollars (\$352.00) in US currency was seized from the Claimant. However, during the hearing, the Claimant stated that he is no longer seeking the return of the three hundred fifty two dollars (\$352.00) US currency.

8. The Claimant on August 27, 2008, drove his 1989 Chevrolet S-15 to deliver, sell and distribute narcotics.

9. The Claimant testified that he does not dispute or contest any of the events that took place at the time of his arrest.

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 August 27, 2008. A confidential informant, working with the police department, purchased drugs from the Claimant just prior to the seizure of property. The Claimant was driving his pick-up truck at the time of the controlled buy and his arrest.

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 on August 27, 2008, be forfeited to the

This INITIAL ORDER entered and effective this the _____ day of _____ 2009.

MARY M. COLLIER
ADMINISTRATIVE JUDGE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 4th day of May, 2009.



Thomas G. Stovall, Director
Administrative Procedures Division