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DEPARTMENT OF SAFETY vs. Claimant: Jasmine Rackley

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

IN THE MATTER OF:]	
]	
DEPARTMENT OF SAFETY]	
v.]	DOCKET # 19.05-120020J
One 2004 Honda Metropolitan II Scooter]	D.O.S. Case # M9359 & M9360
VIN: JH2AF60M24K000110]	
Seized From: Jasmine Rackley]	
Seizure Date: 6/21/12]	
Claimant: Jasmine Rackley]	
Seizing Agency: Knox Co. S. D.]	
Lien Holder: None Filed]	

INITIAL ORDER DISMISSING CLAIM FOR LACK OF STANDING

This contested administrative case was heard in Knoxville, Tennessee on February 7, 2013, 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 State was represented by Ms. Nina Harris, Staff Attorney for the Tennessee Department of Safety. The Claimant appeared *pro se*.

This hearing was convened to consider the proposed forfeiture of the described vehicle for its alleged operation by an individual [1] who was driving under the influence of an intoxicant (“DUI”), and [2] whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant. After a Forfeiture Warrant was issued, the Claimant filed a claim for the property, and this hearing was scheduled to consider her claim. As a preliminary matter, the State challenged the Claimant’s legal standing to file a claim for the seized vehicle. Upon full consideration of the pleadings, the evidence submitted and the parties’ arguments, it is determined that the Claimant failed to establish her legal standing to pursue the claim filed in this case, and that her claim should therefore be dismissed, and the property should be forfeited to the Seizing Agency. This decision is based on the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On June 21, 2012, an officer with the Knox County Sheriff's Department stopped a motor scooter driven by Jasmine Rackley, and determined that she was driving under the influence of an intoxicant ("DUI"), and that her vehicle operator's license had been revoked for driving under the influence of an intoxicant. Based on that information, the vehicle was seized, and a Forfeiture Warrant was issued for the vehicle.

2. Jasmine Rackley ("Claimant") filed a claim for the vehicle, and this hearing was convened to consider her claim. As a preliminary matter, the State challenged her assertion of ownership of the vehicle and, thus, her legal standing to pursue her claim for its return.

3. The motor scooter was not registered to the Claimant at the time of the seizure. The Claimant testified at the hearing that she owned no interest in the seized vehicle at the time of its seizure. She acknowledged that she had sold the motor scooter to Douglas Soltice, who was allowing her to ride it on the day it was seized. Douglas Soltice did not file a claim for the vehicle.

CONCLUSIONS OF LAW and ANALYSIS

1. The State challenged the Claimant's legal standing to assert a claim for the seized vehicle. The Department of Safety's *Rules of Procedure for Asset Forfeiture Hearings* provide that, once the issue is raised, the claimant has the burden of proving legal standing to pursue a claim. Rule 1340-2-2-.15(3), TENN. COMP. R. & REGS.; *see also* TENN. CODE ANN. §53-11-201(f)(A). Also pursuant to Departmental Regulations, once it is properly raised, the issue of legal standing must be determined prior to a ruling on the merits of a contested case. If standing is not proven, the claim may be dismissed, and, where otherwise appropriate, the property may be forfeited to the State. Rule 1340-2-2-.16(1)(g)(3), TENN. COMP. R. & REGS.; *See also, Jones v. Greene*, 946 S.W.2d 817 (Tenn. App. 1996).

2. To prove legal standing, the Claimant must establish an ownership¹ interest in the seized property that was acquired in good faith. TENN. CODE ANN. § 53-11-201(f)(1) & *Urquhart v. Department of Safety*, 2008 WL 2019458 (Tenn. Ct. App.)² Without such an *ownership* interest, a party lacks standing to challenge the forfeiture. See *Jones v. Greene, supra*; *U.S. v. \$515,060.42 in U.S. Currency*, 152 F.3d 491, 497(6th Circuit 1998).

3. The Claimant's testimony was clear that she did not own any interest in the vehicle at the time of its seizure. Without an ownership interest in the vehicle, the Claimant is without legal standing to pursue a claim for the vehicle under the State's Forfeiture Statutes. No other claims were filed for the vehicle.

Accordingly, it is hereby determined that the Claimant failed to prove that she owned any legal interest in the vehicle when it was seized, and therefore failed to prove that she is entitled to file and pursue a claim for its return.

IT IS THEREFORE ORDERED that the Claimant's Claim (*Petition for Hearing*) is hereby DISMISSED, and, since there are no other claims pending, the vehicle is hereby forfeited to the Seizing Agency, the Knox County Sheriff's Department.

This Order is entered and effective this 13 day of February, 2013

J. Randall LaFevor, Administrative Judge

¹ Black's Law Dictionary [4th Ed., Rev.] defines "ownership" as "The complete dominion, title or proprietary right in a thing or claim. The entirety of the powers of use and disposal allowed by law."

² Although TENN. CODE ANN. § 53-11-201(f)(1) merely requires that the Claimant "Has an interest in such property which the claimant acquired in good faith," the Court in *Urquhart* clarified that the interest referred to is an ownership interest.

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 13 day of February, 2013

A handwritten signature in black ink that reads "Thomas G. Stovall". The signature is written in a cursive style with a large, sweeping initial 'T' and a long, horizontal flourish at the end.

Thomas G. Stovall, Director
Administrative Procedures Division