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Department of Safety vs. Capri Lawson

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

IN THE MATTER OF:

DEPARTMENT OF SAFETY

V.

**One 2003 Ford F-250
V.I.N. # 1FTNW21P43EC11933
US Currency:\$255.00
Seized from: Capri Lawson
Date of Seizure: May 2, 2012
Claimant: Capri Lawson**

**One 2006 Cadillac CTV
V.I.N. # 1G6DN57U660158346
Seized from: Casey Lawson
Date of Seizures: May 2, 2012
Claimant: Capri Lawson**

**DOCKET NO: 19.01-118077J
D.O.S. Case # M6710
&
DOCKET NO: 19.01-118078J
D.O.S. Case # M6711**

INITIAL ORDER

This matter was heard on April 3, 2013 in Cookeville, Tennessee, before Leonard Pogue, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety. Ms. Nina Harris, Staff Attorney for the Department of Safety, represented the State. The Claimant, Capri Lawson, was represented by attorney Brandon Bellar.

The issue in this case is whether the State properly seize Claimant's interest in the above referenced property for a violation of T.C.A. §53-11-451(a), *et seq* and T.C.A. 40-33-101 *et seq*. After consideration of the record in this matter, it is determined that the vehicles and currency should be returned to the Claimant. This decision is based upon the following Findings of Fact and Conclusions of Law.

Motion to Dismiss

Prior to the hearing, Claimant moved to dismiss the forfeiture proceeding and for a return of the property. The Motion was taken under advisement and the hearing proceeded on the merits. Since a determination is made on the merits that all the property shall be returned to Claimant, a ruling on the motion to dismiss is moot.

FINDINGS OF FACT

1. On May 2, 2012, the 15th Judicial Drug Task Force seized a 2003 Ford F-250, a 2006 Cadillac CTV, and \$255 while conducting a search of the home/property of Capri and Casey Lawson. Casey and Capri Lawson are married. Capri Lawson is the owner of both vehicles and filed a claim for the vehicles and the \$255. Casey Lawson was often seen driving the Ford.

2. Casey and Capri Lawson each worked as a bail bondsman, primarily in Smith County, Tn. Casey Lawson also was a confidential informant for the 15th Judicial Drug Task Force. Casey Lawson became a confidential informant after firearms were found at his residence during a time that he was on parole as a result of a felony conviction. Casey Lawson assisted the Drug Task Force in drug busts. According to the officers who testified, Casey Lawson was able to bring to them cases involving large amounts of drugs. The officers opined that this could only be done by someone with prior involvement with the drug trade.

3. On April 3, 2012, Casey Lawson and Jermaine Phillips exchanged a number of text messages generally concerning Lawson providing marijuana for Phillips. One of the messages from Lawson to Phillips states: "How far are you? Pull around back where the driveway is." Sergeant Mike Thompson is the Director of the 15th Judicial Drug Task Force. According to Sergeant Thompson, he saw Casey Lawson driving the Ford on the morning that

the text messages were sent; Sergeant Thompson testified that the actual drug transaction was set up by texting while Casey Lawson and Phillips were in a courtroom. Neither Sergeant Thompson nor any officers saw Casey Lawson driving the Ford the rest of that day and no one witnessed a drug transaction between Lawson and Phillips.

4. On May 2, 2012, members of the 15th Judicial Drug Task Force interviewed Casey Lawson regarding his involvement in delivering marijuana to Jermaine Phillips as well as his involvement relative to individuals being improperly advised of sealed indictments. Mr. Lawson admitted that he facilitated an exchange of marijuana with Jermaine Phillips but not that either vehicle was used.

5. Officer Christopher Jenkins, an officer of the Smith County Sheriff's Office, worked with the 15th Judicial Drug Task Force and was present during the May 2, 2012 interview of Casey Lawson. Officer Lawson opined, that based on the interview, the fact that Casey Lawson was seen driving the Ford on the morning of April 3rd and the text messages presented at the hearing, that Casey Lawson used the Ford to deliver the marijuana to Jermaine Phillips but he has no other proof of this.

6. Sergeant Thompson interviewed Capri Lawson on May 2, 2012. The interview concerned guns found in the Lawson home and Capri Lawson's involvement relative to individuals being improperly advised of sealed indictments. According to Sergeant Thompson, Capri Lawson told him that while she was with Nancy Berry that Capri gave her phone to Berry who then called Andrew Gibbs and advised him that he was under indictment; then Capri Lawson spoke to Gibbs and told him that what Berry had told him (Gibbs) was true. This conversation took place in the seized Cadillac. Nancy Berry previously had been told of her sealed indictment by Casey Lawson and was cooperating with the police authorities in their

investigation of the indictment issue. Gibbs was arrested a few weeks after this for the indicted charge of cocaine trafficking. The interview with Capri Lawson was not recorded.

7. The search of the Lawson residence and property did not result in the discovery of any drugs or drug paraphernalia. The search of the seized vehicles did not result in the discovery of any drugs or drug paraphernalia. During a subsequent search of the Cadillac, some plant like material was found in an interior area of the vehicle but there was not a sufficient amount to test.

8. Capri Lawson testified that after Casey Lawson made bond for Nancy Berry that Capri Lawson picked up Berry from jail and drove her to Berry's motel. Berry used Capri Lawson's phone and called Andrew Gibbs. Lawson remembers Berry telling Gibbs that Sergeant Thompson told Berry that Sergeant Thompson had an indictment against Gibbs. Berry told Capri Lawson that Sergeant Thompson wanted her to wear a wire.

9. Capri Lawson has "been with" Casey Lawson for 5 years and married to him for 2 and 1/2 years though they are currently separated. She knew Casey had worked as a confidential informant but had no knowledge of him ever trafficking in drugs although she heard that he used drugs. Capri Lawson and her son owned the guns found in the home on May 2, 2012. According to Capri Lawson, Casey Lawson did not have access to the guns.

10. The Ford vehicle was acquired when Capri Lawson was married to her ex-husband. She is still making payments and her ex-husband previously assisted in payments. Capri Lawson testified that she has never used either seized vehicle to transport drugs or facilitate the sale of drugs or allowed anyone else to do so. She was unaware of any "hidden" compartment in the Cadillac.

11. According to Capri Lawson, the \$255 was found in her safe and she planned to use the money for hair extensions. She acquired the money through her bonding business and it was not related to any drug transaction.

12. Capri Lawson testified that during her interview with Sergeant Thompson that she told him where Andrew Gibbs possibly could be found if he were to hide. She did not recall if she told Sergeant Thompson that she talked to Gibbs the same night that Berry did. On June 13, 2013, Capri Lawson was indicted for Accessory after the Fact on April 2, 2012 “with the intent to hinder the arrest, trial, conviction or punishment of the offender, did warn offender Andrew Gibbs of impending apprehension or discovery....” The charges are pending.

CONCLUSIONS OF LAW

1. T.C.A §53-11-451(a)(4) authorizes the forfeiture of: “...vehicles...that are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale or receipt of [drugs].”

2. 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 the exchange, and all moneys. . . used, or intended to be used, to facilitate any violation of the Tennessee Drug Control Act.”

3. T.C.A §53-11-201(f)(1) provides that a claimant must prove he “ has an interest in the property which the claimant acquired in good faith and had at no time any knowledge or reason to believe that [the seized property] was being or would be used in violation of the laws of the United States or of the state of Tennessee relating to narcotics or marijuana.”

4. T.C.A. § 40-33-210 provides as follows:

(a) In order to forfeit any property or any person's interest in such property pursuant to §§ [39-14-307](#), [47-25-1105](#), [53-11-451](#), [55-10-403\(k\)](#), [55-50-504\(h\)](#), [57-3-411](#), [57-5-409](#), [57-9-201](#), [67-4-1020](#) and [70-6-202](#), the state shall have the burden to prove by a preponderance of evidence that:

(1) The seized property was of a nature making its possession illegal or was used in a manner making it subject to forfeiture under the sections set out in this subsection (a); and

(2) The owner or co-owner of the property knew that such property was of a nature making its possession illegal or was being used in a manner making it subject to forfeiture, or, in the case of a secured party, that the standards set out in subsection (f) are met.

(b)(1) Failure to carry the burden of proof shall operate as a bar to any forfeiture and the property shall be immediately returned to the claimant.

(c) The interest of a co-owner or co-owners who were not in possession of the property at the time it was seized may be forfeited if the co-owners:

(A) Were co-conspirators to the activity making the property subject to forfeiture;

(B) Knew that the property was of a nature making its possession illegal; or

(C) Knew that it was being used in a manner making it subject to forfeiture and consented to the use.

5. There was no evidence presented that the seized vehicles were purchased with drug proceeds or that the \$255 is proceeds from drug transactions. The State argues that each vehicle was involved in drug transactions making them subject to forfeiture. As to the Ford, the State alleges that Casey Lawson was seen driving the Ford on the morning of the day that Casey Lawson and Phillips were texting about a drug deal that Casey Lawson admitted eventually took place. There was no conclusive proof offered that Casey Lawson was texting Phillips while driving the Ford. Also, there was no conclusive proof that the Ford was used in any manner to facilitate or involved when the drug transaction actually occurred. As to the Cadillac, the State

alleges that, while sitting in the Cadillac, Capri Lawson and Berry warned Gibbs that he had been indicted on drug charges which allowed Gibbs to remain at large for several weeks. However, there was no proof that while at large Gibbs was selling drugs. Even if such proof has been adduced, there was insufficient proof to warrant the seizure of the Cadillac. The State bears burden of proof and has failed to show that the cash or vehicles are subject to forfeiture pursuant to T.C.A §53-11-451(a)(4)(6).

For these reasons, it is **Ordered** that and the vehicles and currency be **returned** to Claimant.

This Initial Order entered this _____ day of May, 2013.

Leonard Pogue
Administrative Judge

Filed in the Administrative Procedures Division, this _____ day of May, 2013.

Thomas G. Stovall, Director
Administrative Procedures Division