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November 2015

Charles Hazelitt & Danita Odom vs. Safety

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State of Tennessee
Department of State
Administrative Procedures Division
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8th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

November 5, 2015

Commissioner Bill Gibbons
Tennessee Department of Safety
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Nashville, Tennessee 37243-1102

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Tennessee Department of Safety
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Division of Legal Services
1150 Foster Avenue
McCord Building, Room #107
Nashville, TN 37249-1000

RE: In the Matter of: Charles Hazelitt and Danita Odom (N7404)
Docket No. 19.01-121680J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

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

IN THE MATTER OF:

**CHARLES HAZELITT AND
DANITA ODOM**

DOCKET NO. 19.01-121680J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **November 20, 2015.**

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472.** PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:

**TENNESSEE DEPARTMENT OF
DEPARTMENT OF SAFETY AND
HOMELAND SECURITY**

v.

**Seven Thousand Five Hundred Thirty-
Four Dollars (\$7,534) in US Currency
Seized from: Danita Odom
Claimant: Danita Odom
HP Laptop, HP Tower, Monitor, and 9
rings
Seized From: Charles Hazelitt
Claimant: Charles Hazelitt
Date of Seizure: April 15, 2013**

**DOCKET NO: 19.01-121680J
(DOS CASE NO: N7404)**

INITIAL ORDER

This administrative proceeding was heard on April 22, 2014 in Nashville, Tennessee before Anthony Adgent, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety. The Honorable John Zimmerman represented the State. Claimant represented himself.

The subject of this hearing was the proposed forfeiture of a \$7534.00, seized from the Claimant Danita Odom on April 15, 2013, 1 HP laptop, 1 HP tower and monitor and 9 rings, seized from Claimant Charles Hazelitt on April 15, 2013.

After reviewing the record and evidence presented at the hearing it is determined that the subject property should be not be forfeited to the seizing agency.

This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On April 15, 2013 police executed a search warrant at the residence of Claimants Charles Hazelitt and Danita Odom. They seized several guns, computer equipment, \$7534.00 and nine rings. and eight methadone pills.

2. The search warrant was obtained based upon wiretap surveillance of Hazelitt and several relatives who (relatives)were arrested with large quantities of illegal pills in their possession.

3. Claimants deny that the currency or the other seized items are drug proceeds or were used in violation of the statute.

4. Claimants appealed the seizure of their cash and property.

ANALYSIS AND CONCLUSIONS OF LAW

1. The State as Petitioner has the burden of proving by a preponderance of the evidence that the subject property was proceeds from the sale of drugs or was used in some manner to facilitate the sale or receipt of drugs.

2. The Claimant testified that the subject cash was money earned by him and from his disability check and saved by his wife.

3. Detective Robert Young testified that they had no evidence directly tying Mr. Hazelitt to the sale of drugs and presented no evidence that the money in question was drug proceeds or was used to facilitate, manufacture or deliver drugs.

4. Based upon the evidence presented the Court finds that the state has failed to carry its burden of proof and therefore the seized property and cash will be returned to the claimants.

IT IS SO ORDERED.

This ORDER entered and effective this the 5TH day of NOV. 2015.



**ANTHONY ADGENT
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE**

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.