

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

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Opinion No. 00-023

Smyrna City Court: Disposition of Bond Forfeitures

QUESTION

How should funds collected on appearance bond forfeitures in the Smyrna City Court be distributed?

OPINION

Unless the statutory scheme creating the offense that is the basis for the prosecution explicitly provides otherwise, appearance bond forfeitures in state misdemeanor cases should be remitted to the county trustee. Similarly, unless the statutory scheme creating the offense that is the basis for the prosecution explicitly provides otherwise, appearance bond forfeitures in felony cases should be paid to the state treasurer for deposit into the criminal injuries compensation fund account. Funds collected from bond forfeitures in cases for city ordinance violations should be paid to the city treasury in the same way as fines for such violations.

ANALYSIS

This opinion concerns distribution of money collected on bond forfeitures in the Smyrna City Court and assumes that the opinion request refers to appearance bond forfeitures. The Smyrna City Court is established under Section 8 of the Smyrna Town Charter. The Smyrna City Court has concurrent jurisdiction with general sessions judges over state criminal offenses committed within the city limits and jurisdiction over all cases for violation of laws and ordinances of the Town of Smyrna. Smyrna Town Charter, § 8(3)(1) & (2). This arrangement is permissible under state law so long as the city judge meets the constitutional qualifications applicable to judges of “inferior courts” of the State. *State ex rel. Newsom v. Biggers*, 911 S.W.2d 715, 717 (Tenn. 1995); *City of White House v. Whitley*, 979 S.W.2d 262 (Tenn. 1998); Tenn. Code Ann. §§ 16-18-201, *et seq.*

Disposition of payments from appearance bond forfeitures in criminal cases should be made in accordance with the statutory scheme creating the offense that is the basis for the prosecution. For example, Tenn. Code Ann. § 39-17-420(a) governs forfeitures of appearance bonds in drug enforcement cases. Tenn. Code Ann. § 55-10-303 governs forfeitures of appearance bonds in DUI prosecutions. If the statutory scheme creating the offense contains no provision for disposition of these funds, fines and forfeitures collected under the judgment of a general sessions court for the violation of penal statutes should be distributed to the county. Tenn. Code Ann. § 5-8-104; Tenn. Code Ann. § 5-8-105; Tenn. Code Ann. § 40-24-106. Thus, when exercising general sessions

jurisdiction over state misdemeanors, the Smyrna City Court should remit fines and forfeitures collected on such cases to the county trustee absent a specific statute providing otherwise. Op. Tenn. Atty. Gen. 99-174 (September 9, 1999). Under Tenn. Code Ann. § 40-24-107(d), forfeitures of appearance bonds in felony cases must be paid to the state treasurer for deposit into the criminal injuries compensation fund account. Op. Tenn. Atty. Gen. 90-23 (February 27, 1990).

Under the Smyrna Town Charter, all fines imposed by the City Court for violations of city ordinances must be paid to the Town. Smyrna Town Charter, § 8(8). Under Section 8(9), the City Judge is required to certify to the Chief of Police for collection all fines, costs, and *forfeitures* imposed by him for city ordinance violations. In addition, the Town Charter contains a form for an appearance bond for an appeal from a City Judge's determination that an individual has violated a city ordinance. Smyrna Town Charter, § 8(6). That form provides that the bond is payable to the "Town of Smyrna." Based on these provisions, it appears that funds collected from bond forfeitures in cases for city ordinance violations should be paid to the city treasury in the same way as fines for such violations.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

ANN LOUISE VIX
Senior Counsel

Requested by:

Honorable Mary Ann Eckles
State Representative
Suite 25, Legislative Plaza
Nashville, TN 37243-0149