STATE OF TENNESSEE
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August 25, 2011

Opinion No. 11-62

Use of Proceeds From the Sale of Property Forfeited for Violations of the Drug Control Act

QUESTION

Can counties utilize funds collected pursuant to the forfeiture provisions of Tennessee Code Annotated § 53-11-451 to pay for expenses incurred to destroy illegal drugs seized by law enforcement officers?

OPINION

Yes, the use of proceeds from the sale of property forfeited pursuant to Tennessee Code Annotated § 53-11-451 to pay expenses incurred in the destruction of such illegal drugs is authorized under Tennessee Code Annotated § 39-17-420(a)(1)(A).

ANALYSIS

Tennessee Code Annotated § 53-11-451 authorizes the seizure and forfeiture of property and other items for violations of Tennessee's drug laws. Under that statute, all controlled substances unlawfully manufactured, dispensed, distributed or acquired are subject to forfeiture. Tenn. Code Ann. § 53-11-451(a)(1). Other property subject to forfeiture under this statute includes aircraft, vehicles or vessels used to transport or facilitate the transfer, sale or receipt of unlawful controlled substances, or the materials used to manufacture such unlawful controlled substances, Tenn. Code Ann. § 53-11-451(a)(4), and all proceeds from the sale of unlawful controlled substances, Tenn. Code Ann. § 53-11-451(a)(6).

Tennessee Code Annotated § 53-11-451 also governs the disposition of property forfeited for violations of the drug laws – property such as automobiles, aircraft and vessels may be sold or used in drug enforcement programs. Tenn. Code Ann. § 53-11-451(d). Unlawful controlled substances are to be destroyed if they are no longer needed as evidence. Tenn. Code Ann. § 53-11-451(j).

Tennessee Code Annotated § 39-17-420 generally provides the ways by which the proceeds from the sale of property forfeited pursuant to Tennessee Code Annotated § 53-11-451 may be used, stating in pertinent part:

> ….. (T)he proceeds of goods seized and forfeited under the provisions of § 53-11-451 and disposed of according to law, shall be accounted for in a special revenue fund of the jurisdiction that initiated the arrest . . . Moneys in the special revenue fund may be used only for the following purposes:
>
> (A) Local drug enforcement program[s.]

Tenn. Code Ann. § 39-17-420(a)(1)(A).

Thus the question presented is whether the actual destruction of illegal drugs is part of the "local drug enforcement program." The most basic rule in statutory interpretation is to ascertain and effectuate the Legislature's intent. *State v. Sliger,* 846 S.W.2d 262, 263 (Tenn. 1993). Generally, such intent shall be derived from the plain and ordinary meaning of the statutory language when a statute's language is unambiguous. *Carson Creek Vacation Resorts, Inc. v. Dep't of Revenue,* 865 S.W.2d 1, 2 (Tenn. 1993). Legislative intent or purpose is to be ascertained primarily from the natural and ordinary meaning of the language used, without any forced or subtle construction that would limit or extend the meaning of the language. *Hamblen County Educ. Ass'n v. Hamblen County Bd. of Educ.,* 892 S.W.2d 428, 431 (Tenn. Ct. App. 1994), citing *Natural Gas Distributors, Inc. v. State,* 804 S.W.2d 66 (Tenn. 1991). Where the language contained within the four corners of a statute is plain, clear, and unambiguous and the enactment is within legislative competency, "the duty of the courts is simple and obvious, namely, to say *sic lex scripta,* and obey it." *Carson Creek Vacation Resorts,* 865 S.W.2d at 2, quoting *Miller v. Childress,* 21 Tenn. (2 Hum.) 320, 321-322 (1841).

The language of Tennessee Code Annotated § 39-17-420(a)(1)(A) is unambiguous.[1] The term "local drug enforcement program" is sufficiently broad to encompass a wide variety of activities. In its natural and ordinary meaning, the term includes any activity that is reasonably related to the enforcement of drug laws. The term accordingly would include efforts to seize, store and dispose of unlawful controlled substances and other contraband.

Such a construction is also consistent with the purposes of the asset forfeiture laws. One such purpose is to use the proceeds from such forfeitures to defray expenses incurred to enforce the drug laws. *See* Tenn. Code Ann. § 53-11-204 (proceeds of all seizures, confiscations and sales made by a state agency pursuant to the Drug Control Act may be allocated "for use in the enforcement of this chapter and other laws of this state regulating narcotic drugs and marijuana"). The destruction of unlawful controlled substances seized in connection with the enforcement of the drug laws is clearly such an expense.

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[1] This Office has previously recognized that "the language of Tenn. Code Annotated § 39-17-420(a)(1) is clear and unambiguous." Op. Tenn. Atty. Gen. No. 03-028 (Mar. 14, 2003); Op. Tenn. Atty. Gen. No. 99-202 (Oct. 6, 1999).

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