FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

Motion for the Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings

For Official Use Only – Bar Code

Pursuant to 42 Pa. C.S. §§ 5805(f) and 5806

Motion Must Be Filed w	ith the	FO	R OFFICIAL USE ONLY- CAPTION (PROPERTY DESCRIPTION)	
Office of Judicial Records			In Re:	
Justice Juanita Kidd Stout Center for Criminal Justice				
1301 Filbert Street, Motions Counter (Second Floor), Philadelphia, PA 19107		CF	CPCMS No51-MD	
(Petitioner: See Reverse Side for Service Information)				
NAME OF PETITIONER (Person filing this Motion)		PP	PP No.	
PETITIONER'S CURRENT ADDRESS			LEPHONE NO.	
Motion for the Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings, pursuant to 42 Pa. C.S. § 5805(f)& § 5806				
1) I, the above named Petitioner, represent that I am entitled to lawful possession of the property described and identified below, and request this Honorable Court to release the property to me pending the conclusion of the Forfeiture Proceedings, and in support of my request I aver as follows:				
2) NAME AND ADDRESS OF PERSON IN POSSESSION OF PROPERTY WHEN SEIZED 3) NAME AND ADDRESS OF THE OWNER, IF KNOWN				
POLICE PROPERTY RECEIPT NUMBER (Attach Receipt) DATE PROPERTY SEIZED		ED	LOCATION OF PROPERTY WHEN SEIZED	
NAME OF LAW ENFORCEMENT OFFICER WHO SEIZED PROPERY, IF KNOWN			BADGE NUMBER, IF KNOWN	
DESCRIPTION OF PROPERTY				
ADDRESS OF PROPERTY, IF PROPERTY SEIZED IS REAL ESTATE VIN NUMBER, IF PROPERTY SEIZED IS A MOTOR VEHICLE				
ARE THERE ANY PENDING MATTERS RELATED TO THE SUBJECT PROPERTY (SUCH AS FORFEITURE)?				
If Yes, Case ID(s) assigned to the pending matter(s):				
☐ I have not filed a Motion for the Return of Property pursuant to Pa.R.Crim. P. 588 and Phila.Crim.R. 588.				
☐ I have filed a Motion for the Return of Property pursuant to Pa.R.Crim. P. 588 and Phila.Crim.R. 588. The Case ID is:				
Basis for the Motion The legal/factual basis for this motion is/are (more than one may apply, attach additional pages as necessary):				
□ A. The Commonwealth lacked probable cause for the seizure of the property.				
 □ B. The likelihood that the Commonwealth will prevail on the merits is low, including overcoming 'innocent owner' or other defenses. 				
☐ C. The balance of equities favors the return of my property during the pendency of the civil forfeiture proceedings because my likely hardship				
outweighs the risk that the property will be destroyed, damaged, lost, concealed or transferred. In addition, I aver that:				
(In order to set forth the basis on which these requirements have been met attach additional proof or documentation and explain each item in detail if possible)				
1. I have a possessory interest in the property.				
2. I have sufficient ties to the community to assure that the property will be available at the time of the trial.				
2. That's sufficient des to the community to assure that the property will be available at the time of the trial.				
3. The hardship I will suffer from the Commonwealth's continued possession of my property (such as preventing the functioning of my legitimate				
business, preventing me from working or leaving me homeless) outweighs the risk that the property will be destroyed, damaged, lost, concealed or transferred if the property is returned to me during the pendency of the forfeiture proceeding.				
4. The property seized is not contraband, not evidence of a violation of the law, not particularly suited for use in illegal activities, and will not be used to commit additional criminal acts if it is returned to me.				
used to commit additional criminal acts if it is returned to me.				
□ D. Other:				
Requested Relief				
I request that the Court order the Commonwealth to: \square Return my property. \square Reimburse me for my legal interest in the property.				
Sever my property from the forfeited property. Provide any relief the court deems appropriate and just.				
VERIFICATION I, being duly sworn according to law, depose and say that I am the Petitioner in this action and that the facts and statements I have provided in this Motion for the Release of				
Seized Property Pending the Conclusion of the Forfeiture Proceedings are true and correct to the best of my knowledge, information and belief.				
I verify that the statements made are true and correct. I understand that any false statements I have made in this <i>Motion</i> are subject to the penalties of 18 Pa. C.S. § 4904				
relating to unsworn falsification to authorities (perjury).				
Date Type Name of Petition	er		Signature of Petitioner	

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA COURT OF COMMON PLEAS – TRIAL DIVISION-CIVIL

Motion for the Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings

The owner of property seized by law enforcement officers may file a *Motion for the Release of Seized Property Pending the Conclusion of the Forfeiture Proceeding* regardless of whether Forfeiture Proceedings have been instituted by the Commonwealth. *See* Trial Division General Court Regulation No. 01 of 2018 at www.courts.phila.gov/orders/regs.

If you believe you are entitled to have the seized property released to you until the conclusion of the Forfeiture Proceedings:

- 1. Complete and sign the *Motion for the Release of Seized Property*, make one copy, attach a copy of the Police Property Receipt, and file with the Office of Judicial Records, Justice Juanita Kidd Stout Center for Criminal Justice, 1301 Filbert Street, Motions Counter (Second Floor), Philadelphia, PA 19107. You must pay the filing fee of \$12.50.
- 2. Please indicate whether there are any pending matters related to the property you seek to be released to you, and check the applicable box regarding whether you have filed a Motion for the Return of Property pursuant to Criminal Rule 588. If so, enter the Case ID.
- 3. Please check any of the boxes that from the legal/factual basis for your Motion. If you check box C, explain each of the items that follow in detail and attach additional proof. Attach additional pages as necessary.
- 4. Check the Relief you request the Court to order.
- 5. The District Attorney's Office and the Pennsylvania Attorney General's Office, as applicable, have agreed to accept service of the *Motion* from the *Office of Judicial Records*. Therefore, you do not need to serve the Motion on the Commonwealth.
- 6. A hearing will be scheduled within 10 business days of the filing of the Motion. You <u>must</u> appear on the hearing date and give your reasons why the Judge should release the seized property pending the conclusion of the Forfeiture Proceedings. If you fail to appear on the hearing date, your *Motion* will be dismissed or denied.
- 7. You will be given a copy of the order issued by the judge, and if you fail to appear, a copy will be mailed to you.
- 8. If your *Motion* is granted, and the property was seized by the Philadelphia Police Department, you must contact the District Attorney's Office, Forfeiture Unit, Three South Penn Square, Philadelphia, PA 19107 to make arrangements for the release of your property pending the conclusion of the Forfeiture Proceedings.
- 9. If your *Motion* is granted, and the property was seized by Pennsylvania State Police, you must contact the Pennsylvania Attorney General, Asset Forfeiture and Money Laundering Section, 7801 Essington Avenue, Philadelphia, PA 19153 (Phone: 215-937-1328) for the release of your property pending the conclusion of the Forfeiture Proceedings.

PLEASE NOTE

You may represent yourself or you may hire an attorney to assist and represent you.

If you fail to provide all required information or fail to appear for the scheduled hearing, your *Motion for the Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings* will be denied or dismissed.