



CLAY COUNTY SHERIFF'S OFFICE

KR "Kenny" Lemons Jr, Sheriff

215 W. GILBERT

HENRIETTA TX.76365

940/538-5611 FAX: 940/538-5800



Date: 09-30-14

To: Honorable Commissioners of Clay County Texas

From: Sheriff K.R. "Kenny" Lemons Jr.

Subject: Weapons Forfeiture

Honorable Commissioners Court,

The Clay County Sheriff's Office received an Order for Forfeiture or Destruction of Property pursuant to Art. 18.19 Of the Texas Code of Criminal Procedure from the 97th District Court for the following:


Weapons

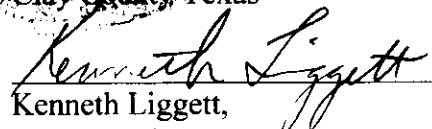
1. Desert Eagle .44 Semi-auto Serial 88469
2. Desert Eagle 9mm Semi-auto Serial 31314686
3. Smith & Wesson Model 5906 Serial TEB7145
4. Winchester 12 gauge shotgun Serial 164338

I am asking for the above weapons listed 1-3 be deemed surplus and sold via an internet auction service, with the proceeds, minus cost, be deposited in the Sheriff's Seizure fund.

I am asking for item # 4 be deemed salvage and permanently destroyed

Respectfully submitted,


K.R. "Kenny" Lemons Jr.,
Sheriff
Clay County, Texas


Kenneth Liggett,
County Judge
Clay County Texas

Kenny Lemons

From: paige.williams@co.montague.tx.us
Sent: Thursday, September 25, 2014 12:48 PM
To: Kenny Lemons
Subject: RE: FW: Transferring of weapons,

Kenny -

First neither of the items cited apply to the question you presented. The Local Government Code cited does not address weapons and only addresses items a commissioner would be responsible for such as graters, crushers, large equipment.

The opinion cited deals with federal surplus and contracts with the County which the Sheriff clearly does not have authority to contract the County to a business relationship with out Commissioner approval, subject to County Attorney review.

As to the statement that the law changed in 2013 - I find nothing that indicated that the House Bill referenced was enacted as there were no changes to CCP 18.17 or 18.19 in regards to weapons.

Under 18.19 dealing with seized weapons, the Sheriff can request that the items be destroyed, sold, or forfeited. If forfeited then the firearm becomes property of the County and as such any dealings with it should go through the commissioners. If the firearm is ordered sold, then the Sheriff shall sell the item and after deduction of auction costs or court clerk costs, SHALL be transferred to the law enforcement agency as a seizure(ie into your forfeiture account). I believe the continued confusion arises from the difference in the ordered forfeited guns(county property) and the ordered sale of the guns (Sheriff's proceeds with no county approval needed). It all depends on the way you have the order completed which determines the "have to" in regard to whether or not you need commissioner approval to move the weapons.

Under 18.17 dealing with abandoned firearms, the firearm must be destroyed, if necessary under a different statute, or sold. All proceeds of the sale of the item shall be placed in the treasury of the municipality. There is no exception.

I hope this has helped.

Paige

-----Original Message-----

From: "Kenny Lemons" <Kenny.Lemons@co.clay.tx.us>
Sent: Wednesday, September 24, 2014 6:12pm
To: "Paige Williams" <paige.williams@co.montague.tx.us>
Subject: FW: Transferring of weapons

Took me a few but I found it, Hope this helps,

Kenny

SEP 25 2014



Cause No.: m-178 Dan Slagle, District Clerk, Clay County, Texas

STATE OF TEXAS § IN THE 97th P.S.J COURT
VS. § OF
Justin Wayne Green § CLAY COUNTY, TEXAS

**ORDER FOR DISPOSITION OF PROPERTY
PURSUANT TO ART. 18.19, TEXAS CODE OF CRIMINAL PROCEDURE
(conviction/deferred adjudication)**

On August 13th, 2014, the State's Petition For Disposition Of Property Pursuant To Art. 18.19, Texas Code of Criminal Procedure came to be considered and upon presentment of the evidence the Court finds:

- The Defendant has been convicted or received deferred adjudication under Chapter 46, Penal Code.
- The Defendant is a convicted felon ineligible to own a firearm in accordance with Chapter 46.
- The Defendant is entitled to the weapon seized upon request to the court in which the person was convicted or placed on deferred adjudication.
- The Defendant has not requested the weapon(s) within 60 days after the date of the judgment of conviction or the order placing the person on deferred adjudication.
- The Defendant has been previously convicted under Chapter 46, Penal Code.
- The weapon is one defined as a prohibited weapon under Chapter 46, Penal Code.
- The offense for which the Defendant was convicted or received deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center, as those terms are defined by Section 481.134, Health and Safety Code.
- The prior criminal history of the defendant or the circumstances surrounding the commission of the offense that possession of the seized weapon pose a threat to the community or one or more individuals.
- The Defendant has been convicted of an offense involving the use of the weapon and it is within 60 days after the date of conviction.

(COPY)

IT IS THEREFORE ORDERED:

- The Sheriff's Office to destroy all items located on Exhibit "A"

- The following items are forfeited to the following agencies as county property subject to inventory.
 - Item Desert Eagle .44 semi-auto pistol serial number 88469 Agency Clay County Sheriff's Office

 - Item Desert Eagle 9mm semi-auto pistol serial number 31314686 Agency Clay County Sheriff's Office

Signed this 22 day of September, 2014.

**ORIGINAL SIGNED BY
ROGER E. TOWERY
JUDGE PRESIDING**

JUDGE PRESIDING

(COPY)

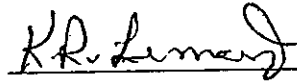
ATTACHMENT "A"

DEFENDANT:

Justin Wayne Green

Description of weapons to be destroyed or forfeited

1. Desert Eagle .44 semi-auto pistol serial number 88469
2. Desert Eagle 9mm semi-auto pistol serial number 31314686



K.R. "Kenny" Lemons, Jr., Sheriff
Clay County Sheriff's Office

(COPY)

IT IS THEREFORE ORDERED:

- The Sheriff's Office to destroy all items located on Exhibit "A"

- The following items are forfeited to the following agencies as county property subject to inventory.
 - Item Smith & Wesson Model 5906 Serial TEB7145 9mm pistol Agency Clay County Sheriff's Office
 - Item _____ Agency _____
 - Item _____ Agency _____

Signed this 21 day of October, 2013


JUDGE PRESIDING

(COPY)

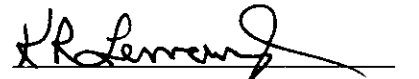
ATTACHMENT "A"

DEFENDANT:

Cody Chance Duncan

Description of weapons to be destroyed or forfeited

1. Beretta Model 948 Serial 053050N .22 cal pistol
2. Jennings Model J-22 Serial 187142 .22 cal pistol
3. Smith & Wesson Model Unknown Serial 55830 .32 cal revolver


K.R. "Kenny" Lemons, Jr. Sheriff
Clay County Sheriff's Office

COPY

Cause No.: m-149

STATE OF TEXAS § IN THE 97th District COURT
VS. § OF
Danny Eugene Bowman § CLAY COUNTY, TEXAS

**PETITION FOR DISPOSITION OF PROPERTY
PURSUANT TO ART. 18.19, TEXAS CODE OF CRIMINAL PROCEDURE**

COMES NOW, K.R. "Kenny" Lemons Jr., Sheriff of Clay County, Texas, in the name of the State of Texas, herein called Petitioner, and files this petition pursuant to Article 18.19 of the Texas Code of Criminal Procedure, requesting that the items identified on Exhibit "A" be disposed for the following reasons:

- The Weapon was seized in connection with an offense involving the use of a weapon under Penal Code Chapter 46 and is not a prohibited weapon under Chapter 46 or stolen property under Chapter 47.
- The seizure was not made pursuant to search or arrest warrant, and a written inventory was delivered to the Magistrate on _____.
- There has been no prosecution or conviction for an offense involving the seized weapon. The owner of the property is _____ located at _____.
- The person was either convicted or received deferred adjudication involving this weapon on December 16th, 2013

WHEREFORE PREMISES CONSIDERED, the State prays that the Court enter an order to:

- Destroy all items located on Exhibit "A"
- Forfeit the following items to the specific agencies.
 - Item Winchester 12 gauge shotgun serial number 164338 Agency Clay County Sheriff's Office
 - Item _____ Agency _____
- The Clerk of the Court send Notice to the person entitled to the seized weapon that the person is entitled to the weapon upon written request.

Respectfully Submitted,
K.R. Lemons Jr.
Clay County Sheriff's Office

FILED At 4:45
O'Clock P M

SEP 25 2014

[Signature]
Dan Stagle, District Clerk, Clay County, Texas

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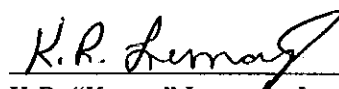
ATTACHMENT "A"

DEFENDANT:

Danny Eugene Bowman

Description of weapons to be destroyed or forfeited


1. Winchester 12 gauge shotgun serial number 164338



K.R. "Kenny" Lemons, Jr., Sheriff
Clay County Sheriff's Office

(COPY)

SEP 25 2014



Cause No.: m-149

Dan Slagle, District Clerk, Clay County, Texas

STATE OF TEXAS § IN THE 99th DISTRICT COURT

VS. § OF

Danny Eugene Bowman § CLAY COUNTY, TEXAS

**ORDER FOR DISPOSITION OF PROPERTY
PURSUANT TO ART. 18.19, TEXAS CODE OF CRIMINAL PROCEDURE
(conviction/deferred adjudication)**

On August 13th, 2014, the State's Petition For Disposition Of Property Pursuant To Art. 18.19, Texas Code of Criminal Procedure came to be considered and upon presentment of the evidence the Court finds:

- The Defendant has been convicted or received deferred adjudication under Chapter 46, Penal Code.
- The Defendant is a convicted felon ineligible to own a firearm in accordance with Chapter 46.
- The Defendant is entitled to the weapon seized upon request to the court in which the person was convicted or placed on deferred adjudication.
- The Defendant has not requested the weapon(s) within 60 days after the date of the judgment of conviction or the order placing the person on deferred adjudication.
- The Defendant has been previously convicted under Chapter 46, Penal Code.
- The weapon is one defined as a prohibited weapon under Chapter 46, Penal Code.
- The offense for which the Defendant was convicted or received deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center, as those terms are defined by Section 481.134, Health and Safety Code.
- The prior criminal history of the defendant or the circumstances surrounding the commission of the offense that possession of the seized weapon pose a threat to the community or one or more individuals.
- The Defendant has been convicted of an offense involving the use of the weapon and it is within 60 days after the date of conviction.

(COPY)

IT IS THEREFORE ORDERED:

- The Sheriff's Office to destroy all items located on Exhibit "A"

- The following items are forfeited to the following agencies as county property subject to inventory.
 - Item Winchester 12 gauge shotgun serial number 164338 Agency Clay County Sheriff's Office
 - Item _____ Agency _____

Signed this 22 day of September, 2014.

**ORIGINAL SIGNED BY
ROGER E. TOWERY
JUDGE PRESIDING**

JUDGE PRESIDING

(COPY)