**Paul Shipp #20263**

Kansas Legal Services

104 South Fourth Street

Manhattan, KS 66502

(785) 537-2943

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Attorney for Joyce Carter/Petitioner

**IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS**

|  |  |  |
| --- | --- | --- |
| STATE OF KANSAS, ex rel.RILEY COUNTY POLICE DEPT. Plaintiff, | ))) |  |
| vs. | )) | Case No. 14CV158Division Three (3) |
| ONE 2000 DODGE DAKOTA VIN #1B7GL22X6YS524300 DEFENDANT/RESPONDENT | )))) |  |

**PETITION FOR RECOGNITION OF EXEMPTION**

 **COMES NOW**, Joyce Carter, by and through her attorney, Paul Shipp of Kansas Legal Services - Manhattan, and moves the court to enter and order finding that property at issue herein is ‘Exempt’ per K.S.A. 60-4111 and K.S.A. 60-4106 and should be returned to Joyce Carter. For and in support of this Claim for Exemption Joyce Carter states:

1. I am Joyce Carter.
2. That on November 19, 2014, I received the Notice of Pending Forfeiture in this case.
3. I am the co-owner of the 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 identified in the Notice of Pending Forfeiture filed by the Riley County Police Department by its attorney of record, Michael Gillespie.
4. I will accept mail for this action through my attorney, Paul Shipp, of Kansas Legal Services, 104 S. 4th Street, 2nd Floor, Manhattan, KS 66502; phone 785-537-2943.
5. I obtained ownership of the said the 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 identified in the Notice of Pending Forfeiture prior to any of the criminal activity that is alleged to have occurred.
6. That the 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 identified in the Notice of Pending Forfeiture was purchased in October 2010 from a car dealer in Junction City, Kansas.
7. That the said 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 is exempt from forfeiture because I did not know and could not have reasonably known that Linnie Hamilton was involved in criminal activity.
8. That Linnie Hamilton was only authorized to use the said 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 for taking care of my personal business and household matters and for no other purpose.
9. That I have received no financial gain as a result of the alleged criminal acts of the Linnie Hamilton or the alleged criminal acts of others.
10. That I do not believe that the said 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 was used or facilitated the crime that Linnie Hamilton was arrested for.
11. That there is no evidence that the said 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 is actually the fruit of a crime.
12. That there is no evidence that the said 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 facilitated any criminal conduct, but instead just happened to be in the vicinity where Linnie Hamilton was arrested.
13. That I am a grandmother and am responsible for caring for my great-granddaughter and need the said vehicle to get my grandchild to and from school, doctor appointments, etc. and to get me to and from the doctor and to conduct the normal day to day activities of my household.
14. That the forfeiture of the said vehicle is not required as it is not actual evidence of a crime and is not needed at a trial in the matter as the defendant was sentenced on January 7, 2013.
15. That the said vehicle is exempt per K.S.A. 60-4106(a)(3)(A).
16. That this co-owner did not gain anything of value as a result of the acts of Linnie Hamilton.
17. That the property is of no real value to the State of Kansas; however, the property is this co-owner’s only means of transportation.
18. That the said 2000 DODGE DAKOTA with VIN #1B7GL22X6YS524300 played no role in the criminal conduct for which the defendant, Linnie Hamilton, was charged/convicted of.
19. That the court should take into consideration the totality of the circumstances regarding the investigation and find that forfeiture of the vehicle is grossly disproportionate to the nature and severity of this co-owner’s conduct, per K.S.A. 60-4106(c)(5).

 **WHEREFORE**, It is prayed that upon a final hearing that the Court enter an order finding that the subject property is exempt per K.S.A. 60-4111 and K.S.A. 60-4106 and should order that the vehicle be returned to me and that any impounding costs be paid for by the criminal defendant who participated in any alleged crime that made the police department take the vehicle into possession.

**VERIFICATION**

|  |  |
| --- | --- |
| **STATE OF KANSAS** | **)** |
|  | **) ss** |
| **COUNTY OF RILEY** | **)** |

 **Joyce Carter**, of lawful age, being first duly sworn on and placed under oath, alleges and states:

1. That she has read every paragraph above.
2. That the facts, matters, and statements iterate above are true.

 **Joyce Carter,** Owner

**SUBSCRIBED AND SWORN TO BEFORE ME** by Joyce Carter on this \_\_\_\_ day of December 2014.

 **Notary Public**

My Commission Expires:

Prepared by:

**Paul Shipp #20263**

Kansas Legal Services

104 South Fourth Street

Manhattan, KS 66502

(785) 537-2943

Attorney for Joyce Carter

**CERTIFICATE OF SERVICE**

I, Paul Shipp, attorney of record for the Petitioner, hereby certify that on this \_\_\_\_\_\_\_ day of December, I sent a copy of the above Claim for Exemption, in the above captioned case to:

Matthew C. Gilespie

The Law Office of Michael C. Gillespie

2801 Claflin Road, Suite 220

Manhattan, KS 66502

and

Riley County Police Department

1001 S. Seth Child Road

Manhattan, KS 66502

by depositing a copy of the same in the United States Mail, via certified mail, return receipt requested, per K.S.A. 60-4111.

 **Paul Shipp #20263**

 Attorney for Owner, Joyce Carter