

FILED DISTRICT COURT
Third Judicial District

MAR 16 2012

SALT LAKE COUNTY

By

ORIGINAL

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DISTRICT ATTORNEY FOR SALT LAKE COUNTY
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Attorneys for the State of Utah

THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH,

Plaintiff,

vs.

ONE LOT OF PERSONAL PROPERTY, South
Jordan Police Department, Case No 12f001524,
DESCRIBED AS, (\$1,840.00), ONE
THOUSAND EIGHT HUNDRED FORTY
DOLLARS, UNITED STATES CURRENCY,
ONE 1997 FORD F150 TRUCK VIN#
1FTDX1869VKB25070,

Defendant,

KYLE MARK OBDEIDZINSKI AND
SHELLY HOLMES,

Potential Owners and/or Interest
Holders known to the State of Utah.

COMPLAINT FOR FORFEITURE

Case No.: 1209

018540

Judge:

Toomey

The State of Utah, by and through CHAD L. PLATT, Deputy Salt Lake County District
Attorney, as Plaintiff and for cause of action alleges:

1 1. The seized defendant property consists of: (\$1,840.00), ONE THOUSAND
2 EIGHT HUNDRED FORTY DOLLARS, UNITED STATES CURRENCY, ONE 1997 FORD
3 F150 TRUCK VIN# 1FTDX1869VKB25070.

4 2. This court has jurisdiction pursuant U.C.A. §24-1-3.5 and U.C.A. §58-37-13(3)
5 because the property for which forfeiture is sought was within the state at the time this forfeiture
6 is actually filed and the interested owner(s) or interest holder(s) is or are subject to personal
7 jurisdiction of the district court.

8 3. Pursuant to Utah Code Ann. §58-37-13(3) and (4) [1953, as amended,] the
9 defendant property was seized from the possession of KYLE MARK OBDEIDZINSKI AND
10 SHELLY HOLMES, on 02/12/2012 at 10238 SOUTH PETALUMA WAY in SALT LAKE
11 COUNTY, incident to an arrest, or incident to the execution of a search warrant, or incident to
12 the execution of a seizure warrant, or with the consent of the person from whom said property
13 was seized, by detective or officers of the South Jordan Police Department, and said property is
14 not repleviable and should remain in the custody of South Jordan Police Department subject only
15 to further orders and decrees of this Court

16 4. The defendant property was seized and is forfeitable under Utah Law because it is
17 contraband, or it is a firearm, weapon or ammunition used or intended for use in violation of the
18 *Utah Controlled Substances Act* and was carried or used in connection with such violation or
19 was kept or located within the proximity of controlled substances; and/or it is property that was
20 used or intended to be used to facilitate the distribution, or possession with intent to distribute, of
21 such controlled substances; and/or it was furnished in intended to be furnished in exchange for
22 such controlled substance; and/or the defendant property is criminal proceeds traceable to any
23 violation of the *Utah Controlled Substances Act*.

1 5. KYLE MARK OBDEIDZINSKI AND SHELLY HOLMES, as the person(s)
2 from whom the defendant property was seized, is a possible owner or interest holder or claimant
3 in and to said defendant property.

4 6. KYLE MARK OBDEIDZINSKI AND SHELLY HOLMES, is not an innocent
5 owner of the defendant property, and the property is forfeitable as to KYLE MARK
6 OBDEIDZINSKI AND SHELLY HOLMES, under U.C.A. §24-1-6 because KYLE MARK
7 OBDEIDZINSKI AND SHELLY HOLMES, engaged in or knew of the conduct giving rise to
8 this cause for forfeiture or allowed the property to be used in furtherance of that conduct.

9 7. A presumption exists that the property is forfeitable pursuant to U.C.A. §24-1-6
10 because KYLE MARK OBDEIDZINSKI AND SHELLY HOLMES, the only known owner or
11 interest holders, engaged in the conduct giving cause for forfeiture; the property was acquired by
12 KYLE MARK OBDEIDZINSKI AND SHELLY HOLMES, during that period of the conduct
13 giving rise for forfeiture or within a reasonable time after that period, and, there was no likely
14 source for the purchase or acquisition of the property other than the conduct giving rise to this
15 cause for forfeiture.

16 8. There are no additional possible interested parties to said defendant property
17 known to the District Attorney's Office, and the property is forfeitable as to any other interested
18 parties for the reasons stated in paragraphs six (6) and/or seven (7) of this Complaint.

19 9. At the time of seizure, said defendant property was found in proximity to
20 forfeitable controlled substances, manufacturing or distributing paraphernalia, or the forfeitable
21 records of the importation, manufacture, or distribution of such controlled substances; and/or
22 said defendant property was used or intended to be used to facilitate distribution or possession
23 with intent to distribute any such substances, or was being furnished or was intended to be
24 furnished in exchange for such substances, or is the proceeds, or was derived from proceeds,
25

1 traceable to illegal controlled substance transactions or exchanges; or, said defendant property
2 is/are contraband; or firearms or weapons or ammunition used in connection with, or located in
3 proximity to, such illegal controlled substances, and is forfeitable in this civil, *in rem* forfeiture
4 action, pursuant to Utah Code Ann. §58-37-13(2) and §24-1-1 *et. seq.* [2004 as amended]. More
5 specifically:

- 6 a) On 02/12/2012 at 10238 SOUTH PETALUMA WAY, Officer M.
7 Pennington responded to a citizen's complaint of a suspicious vehicle – a
8 Ford F-150 pickup.
- 9 b) Pennington made contact with KYLE OBDEIDZINSKI, who appeared
10 disoriented and possibly intoxicated. Medical personnel were called to
11 evaluate KYLE's condition. Another male, Neil Koskovich was inside
12 the truck. Koskovich stated that he had "weed" (marijuana) on him or in
13 the truck.
- 14 c) A search of the truck revealed approximately 80 pounds of marijuana.
- 15 d) KYLE also had \$1,840.00 in cash.
- 16 e) The Ford F-150 truck being used to transport the marijuana is registered to
17 SHELLY HOLMES.
- 18 f) In an unusual interview, post-*Miranda*, KYLE admitted he had grown the
19 marijuana in California, that some of the marijuana seeds were rare and
20 needed to be refridgerated, and that he was transporting the marijuana
21 back to Minnesota to smoke and sell.
- 22 g) KYLE also stated that even though the Ford F-150 truck was registered in
23 his mother's name, it was his truck, that he had just paid it off, but that he
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25

1 had registered it in her name because he "kept getting pulled over" under
2 his own name.

3 10. Pursuant to Utah Code Ann. §24-1-17(1)(a) and (b), any and all property which is
4 forfeited pursuant to this action should be awarded to the State, subject to the requirements of
5 U.C.A. §24-1-17 regarding the disposition and allocation of such property before transfer of the
6 net proceeds to the State may occur.

7 11. Pursuant to Utah Code Ann. §24-1-17(4)(b), all legal costs incurred by the
8 prosecuting agency, Salt Lake County District Attorney's Office, in administering this forfeiture
9 proceeding, should be first deducted and paid to the Salt Lake County District Attorney in
10 accordance with its agreement with South Jordan Police Department.

11 12. Pursuant to Utah Code Ann. §24-1-7(3) and (4)(a), the seizing agency should
12 also be awarded its direct and reasonable costs and expenses of obtaining and maintaining the
13 property pending forfeiture, with such costs and expenses, once known, to be deducted prior to
14 transfer of the net proceeds of such forfeited property to the State.

15 13. Pursuant to Utah Code Ann. §24-1-11, the costs of this forfeiture proceeding, if
16 contested, should be paid by KYLE MARK OBDEIDZINSKI AND SHELLY HOLMES, the
17 individual whose conduct is the basis of this forfeiture.

18 14. Pursuant to Utah Code Ann. §24-1-14, forfeiture of the described property is
19 proportional to the alleged violation or violations of state law giving rise to this cause for
20 forfeiture.

21 15. Pursuant to Utah Code Ann. §24-1-17(5), all net proceeds in possession of the
22 seizing agency, South Jordan Police Department, should be deposited into the Criminal
23 Forfeiture Restricted Account, to be administered by the Commission of Criminal and Juvenile
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25

1 Justice in funding the Crime Reduction Assistance Program as provided for under Utah Code
2 Ann. §24-1-1 *et. Seq.* (2004 as amended).
3

4 WHEREFORE, plaintiff demands judgment as follows:

5 1. That the previously described defendant property, consisting of: (\$1,840.00),
6 ONE THOUSAND EIGHT HUNDRED FORTY DOLLARS, UNITED STATES CURRENCY,
7 ONE 1997 FORD F150 TRUCK VIN# 1FTDX1869VKB25070, be ordered forfeited, as
8 property used or intended to be used to facilitate the distribution, or possession with intent to
9 distribute, of controlled substances; and/or as property furnished or intended to be furnished in
10 exchange for a controlled substance; and/or as representing criminal proceeds traceable to any
11 violation of the *Utah Controlled Substances Act*; and/or as contraband, firearms, weapons or
12 ammunition used or intended for use in violation of the *Utah Controlled Substances Act*, and
13 carried or used in connection with such violation, and kept or located within the proximity of
14 controlled substances.
15

16 2. That any legal costs incurred by the prosecuting agency, Salt Lake County
17 District Attorney's Office, in administering this forfeiture proceeding be ordered deducted and
18 awarded to said prosecuting agency in accordance with its agreement with the seizing agency.

19 3. That any direct costs incurred by the seizing agency, South Jordan Police
20 Department in obtaining and maintaining the defendant property pending forfeiture, once known,
21 be deducted by said seizing agency.

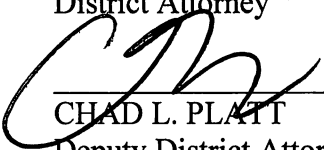
22 4. That KYLE MARK OBDEIDZINSKI AND SHELLY HOLMES, pay all costs of
23 this forfeiture proceeding.

24 5. That forfeiture in this matter is deemed proportional to the alleged violation of
25 state law which gives rise to this cause for forfeiture.

1 6. That all net proceeds remaining in the possession of the seizing agency following
2 public sale of tangible forfeited property, and after deducting the costs incurred to South Jordan
3 Police Department and the Salt Lake District Attorney's Office, be transferred to the Criminal
4 Forfeiture Restricted Account to be administered by the Commission on Criminal and Juvenile
5 Justice in funding the Crime Reduction Assistance Program as provided for under Utah Code
6 Ann. §24-1-1 *et. Seq.* (2004 as amended).

7 DATED this 7th day of March, 2012.

9 SIM GILL
10 District Attorney

11 
12 CHAD L. PLATT
13 Deputy District Attorney

COVER SHEET FOR CIVIL FILING ACTIONS

Page 1 of 2

Party Identification (Attach additional sheets as necessary)

PLAINTIFF/PETITIONER

Name STATE OF UTAH
Address 111 East Broadway, 4th floor
SLC, UT 84111

ATTY FOR PLAINTIFF/PETITIONER

Name Chad L. Platt Bar # 8475
Deputy District Attorney
Address 111 East Broadway, 4th floor
SLC, UT 84111

PLAINTIFF/PETITIONER

Name
Address

ATTY FOR PLAINTIFF/PETITIONER

Name Bar # _____
Address

DEFENDANT/RESPONDENT

Name **Kyle Mark Obdeidzinski**
Address

DEFENDANT/RESPONDENT

Name **Shelly Holmes**
Address

DEFENDANT/RESPONDENT

Name
Address

DEFENDANT/RESPONDENT

Name
Address

TOTAL CLAIM FOR DAMAGES (AMOUNT IN CONTROVERSY)

\$ Unknown

JURY DEMAND

☐ Yes ☐ No

SCHEDULE OF FEES: §78A-2-301. CHECK ANY THAT APPLY.

(See case types on reverse for filing fees for complaints other than claims for damages.)

----- COMPLAINT FOR DAMAGES -----

\$75 ☐ Civil or Interpleader: \$2000 or less
\$185 ☐ Civil or Interpleader: \$2001 - \$9999
\$360 ☐ Civil or Interpleader: \$10,000 & over
\$360 ☐ Civil Unspecified

----- MISCELLANEOUS -----

\$250 ☐ Jury Demand
\$8 ☐ Vital Statistics §26-2-25 per form

----- SMALL CLAIMS -----

\$60 ☐ Small Claims: \$2000 or less
\$100 ☐ Small Claims: \$2001-\$7,499
\$185 ☐ Small Claims: \$7,500-\$10,000
\$50 ☐ Counterclaim: \$2000 or less
\$70 ☐ Counterclaim: \$2001-\$7,499
\$120 ☐ Counterclaim: \$7,500-\$10,000

COVER SHEET FOR CIVIL FILING ACTIONS

Page 2 of 2

Please Check Only One Category

Fee	Case Type
----- APPEALS -----	
\$360 <input type="checkbox"/>	Administrative Agency Review
\$225 <input type="checkbox"/>	Civil (78A-2-301(1)(h))
\$225 <input type="checkbox"/>	Small Claims Trial de Novo

----- GENERAL CIVIL -----	
\$360 <input type="checkbox"/>	Attorney Discipline
Sch <input type="checkbox"/>	Civil Rights
\$ 0 <input type="checkbox"/>	Civil Stalking
\$360 <input type="checkbox"/>	Condemnation/Eminent Domain
Sch <input type="checkbox"/>	Contract
Sch <input type="checkbox"/>	Debt Collection
Sch <input type="checkbox"/>	Eviction/Forcible Entry and Detainer
\$135 <input type="checkbox"/>	Expungement (Fee is \$0 under circumstances of §77-18-10(2))
\$360 <input type="checkbox"/>	Extraordinary Relief/Writs
\$360 X	Forfeiture of Property
Sch <input type="checkbox"/>	Interpleader
Sch <input type="checkbox"/>	Lien/Mortgage Foreclosure
Sch <input type="checkbox"/>	Malpractice
Sch <input type="checkbox"/>	Miscellaneous Civil
Sch <input type="checkbox"/>	Personal Injury
\$360 <input type="checkbox"/>	Post Conviction Relief: Capital
\$360 <input type="checkbox"/>	Post Conviction Relief: Non-capital
Sch <input type="checkbox"/>	Property Damage
Sch <input type="checkbox"/>	Property/Quiet Title
Sch <input type="checkbox"/>	Sexual Harassment
Sch <input type="checkbox"/>	Tax
Sch <input type="checkbox"/>	Water Rights
Sch <input type="checkbox"/>	Wrongful Death
\$360 <input type="checkbox"/>	Wrongful Lien
Sch <input type="checkbox"/>	Wrongful Termination

----- DOMESTIC -----	
\$0 <input type="checkbox"/>	Cohabitant Abuse
\$310 <input type="checkbox"/>	Common Law Marriage
\$310 <input type="checkbox"/>	Custody/Visitation/Support
\$310 <input type="checkbox"/>	Divorce/Annulment
	<input type="checkbox"/> Check if child support, custody or parent-time will be part of decree
	<input type="checkbox"/> Check if Temporary Separation filed
\$35 <input type="checkbox"/>	Foreign Domestic Decree

Fee	Case Type
\$360 <input type="checkbox"/>	Grandparent Visitation
\$360 <input type="checkbox"/>	Paternity/Parentage
\$100 <input type="checkbox"/>	Domestic Modification
\$310 <input type="checkbox"/>	Separate Maintenance
\$35 <input type="checkbox"/>	Temporary Separation
\$35 <input type="checkbox"/>	Uniform Child Custody Jurisdiction & Enforcement Act (UCCJEA)
\$35 <input type="checkbox"/>	Uniform Interstate Family Support Act (UIFSA)

----- JUDGMENTS -----	
\$35 <input type="checkbox"/>	Abstract of Foreign Judgment
\$50 <input type="checkbox"/>	Abstract of Judgment or Order of Utah Court/Agency
\$30 <input type="checkbox"/>	Abstract of Judgment/Order of Utah State Tax Commission
\$35 <input type="checkbox"/>	Judgment by Confession

----- PROBATE -----	
\$360 <input type="checkbox"/>	Adoption/Foreign Adoption
\$360 <input type="checkbox"/>	Conservatorship
\$360 <input type="checkbox"/>	Estate Personal Rep - Formal
\$360 <input type="checkbox"/>	Estate Personal Rep - Informal
\$35 <input type="checkbox"/>	Foreign Probate/Child Custody Doc.
\$360 <input type="checkbox"/>	Gestational Agreement
\$360 <input type="checkbox"/>	Guardianship
\$ 0 <input type="checkbox"/>	Involuntary Commitment
\$360 <input type="checkbox"/>	Minor's Settlement
\$360 <input type="checkbox"/>	Name Change
\$360 <input type="checkbox"/>	Supervised Administration
\$360 <input type="checkbox"/>	Trusts
\$360 <input type="checkbox"/>	Unspecified Probate

----- SPECIAL MATTERS -----	
\$35 <input type="checkbox"/>	Arbitration Award
\$0 <input type="checkbox"/>	Determination Competency-Criminal
\$0 <input type="checkbox"/>	Hospital Lien
\$35 <input type="checkbox"/>	Judicial Approval of Document Not Part of Pending Case
\$35 <input type="checkbox"/>	Notice of Deposition in Out-of-State Case/Foreign Subpoena
\$35 <input type="checkbox"/>	Open Sealed Record