



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

November 22, 2024

Mr. Rob Roberson, Esq.
Attorney, Oktibbeha County
212 East Main Street
Starkville, Mississippi 39759

Re: Money Found by Law Enforcement

Dear Mr. Roberson:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, around October 2023, after receiving a call regarding suspicious activity, the Chief of Police for the Sturgis Police Department found \$11,180.00 in a bathroom trashcan at the Dollar General in Sturgis, Mississippi. The Chief verified with the general manager that the money did not belong to the Dollar General. The Chief then took the money into custody and handed it over to the Oktibbeha County Sheriff's Department for holding. Every effort has been made to locate the owner, but no one has claimed the money. Finally, according to our phone conversation, the subject money has not been part of any criminal investigation or seizure.

Questions Presented

1. What is the proper procedure for transferring money found by a law enforcement agency—that has not been claimed—to the law enforcement agency's general fund?
2. Does a county court judge have to sign an order to transfer the found money to the law enforcement agency?

Brief Response

1. If the factual determination is made that the subject money is "abandoned property," the proper procedure for handling the same would be the procedures set forth in Mississippi Code Annotated Section 21-39-21. For additional advice on how to apply these procedures, we would recommend contacting the Office of the State Auditor.

2. Section 21-39-21 does not contemplate depositing the money with a law enforcement agency nor does it require an order from a county court judge.

Applicable Law and Discussion

This office has previously noted that “[g]enerally, the finder of lost property does not acquire absolute ownership, but acquires such property interest or right as will enable him to keep it against all the world but the rightful owner.” MS AG Op., *Stewart* at *2 (May 20, 2005) (citing 1 Am. Jur. 2d *Abandoned, Lost, and Unclaimed Property* section 18 (2004)). We have also advised that Section 21-39-21 addresses the way municipalities should handle lost, stolen, abandoned, or misplaced personal property and is applicable to found money or cash. *See* MS AG Op., *Murdock* at *2 (Aug. 24, 2007) (discussing Section 21-39-21’s applicability to money found by an individual and turned in to the Gulfport Police Department). Although Chapter 39 does not define “personal property,” pursuant to Section 1-3-41, which is generally applicable to every statute, “personal property . . . means all tangible and intangible personal property and shall include cash.”

Section 21-39-21 provides in relevant part,

The governing authorities of any municipality, upon the receipt or recovery of any lost, stolen, abandoned or misplaced personal property by the marshal, police or other officers of such municipality, shall cause to be posted, in three (3) public places in the municipality, notice that such property has been received or recovered. Such notice shall contain an accurate and detailed description of such property and, if the governing authorities are advised as to who owns such property, a copy of such notice shall be mailed to such person or persons in addition to being posted as herein required. The owner of such property may recover the same by filing a claim with the governing authorities of the municipality and establishing his right thereto.

...

If no person claims the property within one hundred twenty (120) days from the date the notice provided for above is given, the governing authorities of the municipality shall cause the same to be sold at public auction to the highest bidder for cash after first posting notice of such sale in three (3) public places in the municipality at least ten (10) days preceding the date of such sale. The notice shall contain a detailed and accurate description of the property to be sold and shall be addressed to the unknown owners or other persons interested in the property to be sold. The notice shall also set forth the date, time and place such sale is to be conducted and shall designate the person who is to make the sale, which person shall be some official designated by the governing authorities of the municipality.

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Mr. Rob Roberson, Esq.
Oktibbeha County, Mississippi
November 22, 2024
Page 3

The person or officer designated and making the sale of such property shall promptly upon completion of the sale deliver to the clerk of the municipality a copy of the notice authorizing the sale, a list of the property sold, the amount paid for each item, the person to whom each item was sold, and all monies received from such sale, whereupon, *the clerk shall deposit the monies in the general fund of the municipality and shall file the information concerning the sale among the other records of his office.*

(emphasis added).

As stated *supra*, you have indicated that the subject money has not been part of any criminal investigation or procedure but rather was found by the Sturgis Police Department, which has not been able to locate the owner. It is thus the opinion of this office that if Sturgis makes the factual determination that the subject money is “abandoned property,” the proper procedure for handling the same would be the procedure set forth in Section 21-39-21.¹ We recognize that the subject personal property is money, which cannot be sold. Accordingly, after providing the requisite notice, the money could be directly deposited —without an actual sale— into the *municipality’s* general fund as set forth in Section 21-39-21.

Finally, Section 21-39-21 does not contemplate depositing the money with a law enforcement agency nor does it require an order by a judge, county court, or otherwise. If you have additional questions on how to apply procedures set forth in Section 21-39-21, we recommend contacting the Office of the State Auditor.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General

¹ Because the owner of the subject money is unknown, the Uniform Disposition of Unclaimed Property Act, Sections 89-12-1, *et. seq.*, is not applicable here.