

Forfeiture Warrant Hearing Requirements by Factual Scenario

TCA 40-33-204

ALWAYS REQ'D:

Documents:
-Notice of Seizure ("NOS")
-Forfeiture Warrant ("FW")
-Affidavit in Support of FW
-Narrative (which is both submitted to court and read into the record)

Testimony:
Solely questions by Judge to determine probable cause. Officer will always testify. Can be any officer present at seizure (not initial encounter).

Checkboxes:
If there is a *registered owner other than PIP*, shall ask officer the checkbox questions and affirm on the FW. (§40-33-204(e))

Recording:
SHALL record the FW Hearing and SHALL maintain said audio recording.

REQ'D BY SCENARIO:

SCENARIO 1
PIP is arrested AND ALL known potential owners are present at the time of seizure

Deadline: FW hearing within 5 business days of the date of seizure. 10 day extension under §40-33-204(c)(2) permissible.

Documents: NOFWH *not* required.

Testimony: **Must be ex parte.**

SCENARIO 2
PIP is NOT arrested AND ALL potential owners are present at the time of seizure

Deadline: FW hearing must take place within a "reasonable time." No extension.

Documents: NOFWH(s) must be submitted.

Testimony: **PIP is allowed to testify, but potential owners are not.**

SCENARIO 3
PIP is arrested AND ALL potential owners are NOT present at the time of seizure

Deadline: FW hearing must take place within 45 regular days of the date of seizure. No extension.

Documents: NOFWH(s) must be submitted.

Testimony: **PIP and any potential owners *not present* at time of seizure are allowed to testify.**

SCENARIO 4
PIP is NOT arrested AND ALL potential owners are NOT present at the time of seizure

Deadline: FW hearing must take place within 45 regular days of the date of seizure. No extension.

Documents: NOFWH(s) must be submitted.

Testimony: **PIP and any potential owners *not present* at time of seizure are allowed to testify.**

MISC. NOTES:

If PIP and/or potential owners do not attend, FW Hearing shall be *ex parte*.

Your ruling can only issue FW, deny FW, or grant 10 day extension under §204(c)(2).

Counsel may attend (unless *ex parte*) but MAY NOT present evidence or participate in the hearing.

Key:

PIP = Person in Possession
FW = Forfeiture Warrant
NOS = Notice of Seizure
NOFWH = Notice of Forfeiture Warrant Hearing