

Opinion filed December 10, 2009



In The

Eleventh Court of Appeals

No. 11-08-00129-CV

**\$2,550 UNITED STATES CURRENCY AND 2007 CHEVROLET
AVALANCHE PICKUP, TX PLATE #71MXK4,
VIN #3GNFK12317G118122, Appellant**

V.

STATE OF TEXAS, Appellee

On Appeal from the 106th District Court

Gaines County, Texas

Trial Court Cause No. 07-09-15513

MEMORANDUM OPINION

This appeal stems from a civil forfeiture proceeding brought by the State against items of personal property belonging to Will Wasson Guthrie. The trial court found that the items were contraband under Chapter 59 of the Texas Code of Criminal Procedure and ordered that they be forfeited. *See* TEX. CODE CRIM. PROC. ANN. ch. 59 (Vernon 2006 & Supp. 2009). Guthrie appeals. We affirm.

In the sole issue on appeal, Guthrie asserts that the trial court erred in failing to continue the cause so that the lienholder, Marvin Williams, could be added as a party. We disagree. The record shows that the notice of seizure and intended forfeiture was filed on September 12, 2007. On March 12, 2008, at Guthrie's behest, Guthrie's girlfriend attempted to perfect a lien on the 2007 Chevrolet Avalanche pickup in favor of Williams. No motion for continuance was requested, and the forfeiture issue was tried as scheduled on March 13, 2008. Williams was called as a witness by the State. Williams testified that, although Guthrie had agreed to give Williams the title to the pickup as collateral for a debt, Guthrie had not given him the title. Williams specifically testified that he did not attempt to secure a lien against the pickup.

The lien was not timely perfected under Chapter 59, and the trial court ordered that it "be declared void." We cannot hold that the trial court should, instead, have sua sponte continued the trial so that Williams – who testified at the forfeiture proceeding and denied the existence of any lien in his favor – could be added as a party. Guthrie's issue is overruled.

The judgment of the trial court is affirmed.

JIM R. WRIGHT
CHIEF JUSTICE

December 10, 2009

Panel consists of: Wright, C.J.,
McCall, J., and Strange, J.