

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 25: Miscellaneous Provisions

§ 1325. Unclaimed property or money in Sheriff's possession—Disposition—Procedure

Cite as: 22 CNCA § 1325

A. The Marshal is authorized to sell personal property which has come into his possession, or deposit with Cherokee Nation, as hereafter provided, all money or legal tender of the United States which has come into his possession, whether said property or money be stolen, embezzled, lost, abandoned or otherwise, the owner of said property or money being unknown or not having claimed the same, and which the Marshal or Sheriff has held for at least six (6) months, and such property or money, or any part thereof, being no longer needed to be held as evidence or otherwise used in connection with any litigation.

B. The Marshal or Sheriff shall file an application in the District Court requesting the authority of said Court to conduct a sale of such personal property, and shall attach to his application a list describing such property, including all identifying numbers and marks, if any, the date said property came into his possession and the name of the owner and his address, if known. The Court shall set said application for hearing not less than ten (10) days nor more than twenty (20) days after filing.

C. Notice shall be given of said hearing to each and every owner known and asset forth in said application by certified mail directed to his last-known address at least ten (10) days prior to the date of said hearing. Said notice shall contain a brief description of the property of said owner and the place and date of the hearing. In addition thereto notice of said hearing shall be posted in three public places in the county, one being the District Courthouse at the regular place assigned for the posting of legal notices.

D. At the hearing, if no owner appears and establishes ownership to said property, the Court shall enter an order authorizing the Sheriff to sell said personal property to the highest bidder for cash, after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Sheriff shall make a return of said sale and, when confirmed by said Court, the order confirming said sale shall vest in the purchaser title to said property so purchased.

E. The Marshal, having in his possession money or legal tender under the circumstances provided in subsection (A) above, prior to appropriating the same for deposit with Cherokee Nation, shall file an application in the District Court requesting the Court to enter an order authorizing him to so appropriate said money for deposit with Cherokee Nation. Said application shall describe the money or legal tender, together with serial numbers, if any,

the date the same came into his possession, and the name of the owner and his address, if known. Upon filing, said application, which may be joined with an application as described in subsection (B) above, shall be set for hearing not less than ten (10) days nor more than twenty (20) days from the filing thereof, and notice of said hearing shall be given as provided in subsection (C) above. Such notice shall state that, upon no one appearing to prove ownership to said money or legal tender, the same will be ordered by the Court to be deposited with Cherokee Nation by the Marshal or Sheriff. Said notice may be combined with a notice to sell personal property as set forth in subsection (C) above. At the hearing, if no one appears to claim and prove ownership to said money or legal tender, the Court shall order the same to be deposited by the Marshal or Sheriff with Cherokee Nation, as provided hereafter in subsection (F).

F. The money received from the sale of personal property as above provided, after payment of the court costs and other expenses, if any, together with all money in possession of said Marshal or Sheriff, which has been ordered by the Court to be deposited with Cherokee Nation, shall be deposited in the General Fund.

Historical Data

LA 10-90, eff. November 13, 1990.