



University of Tennessee, Knoxville  
**Trace: Tennessee Research and Creative  
Exchange**

---

Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

---

6-12-2007

\$286.00 Two hundred eighty-six dollars One 1991  
Honda Civic VIN #1HGED3541ML036082,  
Seized from: Matthew A. Caldwell, Seizure Date:  
January 29, 2007, Claimant: Jeffrey Caldwell

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_lawopinions](http://trace.tennessee.edu/utk_lawopinions)

 Part of the [Administrative Law Commons](#)

---

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact [administrative.procedures@tn.gov](mailto:administrative.procedures@tn.gov)

**BEFORE THE COMMISSIONER OF THE  
TENNESSEE DEPARTMENT OF SAFETY**

**IN THE MATTER OF:**

**\$286.00 (Two hundred eighty-six  
dollars)  
One 1991 Honda Civic  
VIN#1HGED3541ML036082  
Seized from: Matthew A. Caldwell  
Seizure Date: January 29, 2007  
Claimant: Jeffrey Caldwell**

**DOCKET #: 19.01-096069J  
D.O.S. #: F9799**

**INITIAL ORDER**

This administrative proceeding was heard on June 12, 2007, in Knoxville, Tennessee, before Joyce Carter-Ball, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety. Lori L. Long, attorney for the Department of Safety, represented the State. Claimant Jeffrey Caldwell represented himself.

The subject of this hearing was the proposed forfeiture of the subject 1991 Honda Civic for its alleged operation by Matthew A. Caldwell, who was arrested for attempting to buy cocaine. After consideration of the record, and arguments of the parties, it is DETERMINED that the subject 1991 Honda Civic should be RETURNED to Claimant Jeffrey Caldwell.

This decision is based upon the following Findings of Fact and Conclusions of Law.

### **FINDINGS OF FACT**

1. On January 29, 2007 Detective Tim Crawford was on a narcotics investigation at Blake Jones' apartment on Center Street.

2. At the apartment, the officers found 40 grams of powder cocaine under a microwave stand

3. While on the scene, Matthew A. Caldwell arrived at the apartment in the subject vehicle.

4. Detective Crawford asked Mr. Caldwell what he was there for, and Mr. Caldwell initially stated that he was on his lunch break and had come by to see his friend.

5. Mr. Caldwell finally admitted that he was there to buy cocaine.

6. Mr. Caldwell was taken into custody and read his rights.

7. Mr. Caldwell stated that the subject vehicle was his father's vehicle.

8. The subject vehicle and cash found on Mr. Caldwell's person were seized.

9. Matthew Caldwell stated that he operates the subject vehicle daily.

10. Matthew Caldwell admitted that the subject vehicle was bought for him and his brother.

11. Claimant Jeffrey Caldwell, Matthew's father, testified that he owns the subject vehicle, and that it was not bought for Matthew.

12. Claimant took Matthew off his insurance on October 31, 2006.

13. Claimant testified that Matthew was living in Florida when he (Claimant) bought the subject vehicle.

14. Claimant had no knowledge that Matthew was going to the apartment to buy cocaine.

15. The subject vehicle is registered in Claimant's name.

16. Claimant testified that Matthew was visiting and had been living with him (Claimant) only a couple of weeks prior to this incident.

17. The subject vehicle was purchased on September 7, 2006. Matthew was already on Claimant's insurance at that time, but was taken off on October 31, 2006.

18. Claimant bought the subject vehicle for himself as a money-saving car.

### **CONCLUSIONS OF LAW**

1. Pursuant to T.C.A. Section 40-33-210(a), in order to forfeit any property or any person's interest in such property pursuant to §§39-14-307, 47-25-1105, 53-11-451, 55-10-403(k), 55-50-504(h), 57-3-411, 57-5-409, 57-9-201, 67-4-1020 and 70-6-202, the state shall have the burden to prove by a preponderance of the evidence that:

(1) The seized property was of a nature making its possession illegal or was used in a manner making it subject to forfeiture under the sections set out in this subsection; and

(2) **The owner or co-owner of the property *knew* that such property was of a nature making its possession illegal or was being used in a manner making**

**it subject to forfeiture, or, in the case of a secured party, that the standards set out in subsection (f) are met.** [Emphasis added].

2. Claimant did not know that Matthew Caldwell would use his car other than to go to work and back.

3. In order to make out a prima facie case for forfeiture under these circumstances, the State had to prove that Claimant *knew* that Matthew would drive his (Claimant's) car in violation of the statutes.

4. It is **CONCLUDED** that the State has failed to prove by a preponderance of the evidence that Claimant Jeffrey Caldwell had knowledge that Matthew Caldwell would drive the subject vehicle in violation of the above statutes.

5. A preponderance of the evidence does not support the contention that Claimant *knew* of the illegal activities underlying the forfeiture, nor that he was **willfully** blind to them.

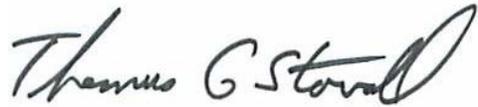
5. Failure to carry such burden of proof operates as a bar to any forfeiture. Therefore, it is **ORDERED** that the subject 1991 Honda Civic be returned to Claimant Jeffrey Caldwell.

This Initial Order entered and effective this 11th day of July, 2007.

---

Joyce Carter-Ball  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 11th day of July, 2007.



---

Thomas G. Stovall, Director  
Administrative Procedures Division