



8-4-2008

TENNESSEE DEPARTMENT OF SAFETY vs.
One 1992 Ford Tempo, VIN NO.:
1FAPP36U2NK117425, Seized From: Frances
Maynard, Date of Seizure: February 15, 2008,
Claimant: Frances Maynard

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

IN THE MATTER OF:

**TENNESSEE DEPARTMENT OF
SAFETY**

v.

**One 1992 Ford Tempo
VIN NO.: 1FAPP36U2NK117425
Seized From: Frances Maynard
Date of Seizure: February 15, 2008
Claimant: Frances Maynard**

**DOCKET NO: 19.05-100080J
(D.O.S. Case No. H0958,H0957)**

INITIAL ORDER

This matter was heard in Cookeville, Tennessee, on August 4, 2008, before Rob Wilson, Administrative Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Orvil Orr, staff attorney for the Department of Safety, represented the State. Claimant Frances Maynard proceeded on her own behalf.

The subject of this hearing was the proposed forfeiture of the subject 1992 Ford Tempo for its alleged operation by Frances Maynard whose driving privileges had been previously revoked for driving a motor vehicle while under the influence of an intoxicant ("DUI"). After consideration of the record, it is DETERMINED that the subject 1992 Ford Tempo should be forfeited to the seizing agency. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On February 15th, 2008, Officer Matthew Hickey of the Putman County Sheriff's Department stopped Frances Maynard for erratic driving.
2. When stopped, Ms. Maynard was driving the subject 1992 Ford Tempo.
3. Officer Hickey determined that Frances Maynard's driver's license was on revoked status pursuant to a previous DUI conviction.
4. The subject 1992 Ford Tempo was seized.
5. At the hearing the State submitted a certified copy of Ms. Maynard's driving record which showed that her license was currently revoked in Tennessee for DUI on February 15, 2008.

CONCLUSIONS OF LAW

1. Pursuant to T.C.A. Section 55-50-504(h)(1) [T]he vehicle used in the commission of a person's violation of §55-50-504, when the original suspension or revocation was made for a violation of §55-10-401, or a statute in another state prohibiting driving under the influence of an intoxicant, is subject to seizure and forfeiture in accordance with the procedure established in title 40, chapter 33, part 2.
2. 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.

3. Ms. Maynard clearly knew that her license was in revoked status at the time she was driving on February 15, 2008.

4. It is CONCLUDED that the State has proved by a preponderance of the evidence that claimant Frances Maynard drove her car while her license was currently revoked due to a previous DUI. Accordingly, the subject 1992 Ford tempo shall be forfeited to the seizing agency.

This Initial Order entered and effective this 9th day of September, 2008.

Rob Wilson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 9th day of September, 2008.



Thomas G. Stovall, Director
Administrative Procedures Division