



5-26-2009

DEPARTMENT OF SAFETY vs. One 2008
Toyota SR5 Tundra, VIN No.:
5TBBT44183S345491, Seized from: Ledley B
Symmes, Seized by: Weakley County Sheriff's
Department, Date of Seizure: August 10, 2008,
Claimant: Ledley B. Symmes, III, Lienholder: N/A

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

IN THE MATTER OF:)	
)	FORFEITURE PROCEEDING
DEPARTMENT OF SAFETY)	
)	
v.)	DOCKET NO. 19.05-103108J
)	DOS Case No. H6801
One 2008 Toyota SR5 Tundra)	
VIN No.: 5TBBT44183S345491)	
Seized from: Ledley B Symmes)	
Seized by: Weakley County Sheriff's Department))	
Date of Seizure: August 10, 2008)	
Claimant: Ledley B. Symmes, III)	
Lienholder: N/A)	

INITIAL ORDER

This administrative proceeding was heard on May 26, 2009, in Memphis, Tennessee, before John Hicks, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety. Andre Thomas, staff attorney for the Department of Safety, represented the State. Claimant Ledley B Symmes, III appeared *pro se*.

The subject of this hearing was the proposed forfeiture of the subject 2008 Toyota SR5 Tundra for its alleged operation by Ledley B Symmes during a second arrest for driving a motor vehicle while under the influence of an intoxicant ("DUI"). After consideration of the record, it is DETERMINED that the subject 2008 Toyota SR5 Tundra should be FORFIETED to the seizing agency. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On August 10, 2008, Deputy Derek Coble of the Weakley County Sheriff's Department stopped Ledley B. Symmes. Deputy Coble determined that Ledley B Symmes was intoxicated and arrested him for driving under the influence.

2. On August 10, 2008, Ledley B. Symmes' driver's license had been revoked pursuant to a previous DUI conviction in Weakley County, Tennessee.

3. On August 10, 2008, Ledley B. Symmes was driving the subject 2003 Toyota SR5 Tundra.

4. The subject 2003 Toyota SR5 Tundra is owned by Ledley B. Symmes' father Claimant Ledley B. Symmes III.

5. Approximately a month prior to the August 10, 2008 DUI arrest, Ledley B. Symmes drove a Chrysler LeBaron that resulted in an arrest for driving on revoked driver's license. That Chrysler LeBaron was seized.

7. Claimant Ledley B. Symmes, III was also owner of the Chrysler LeBaron driven by and seized from Ledley B. Symmes approximately a month prior to the instant seized 2003 Toyota SR5 Tundra.

CONCLUSIONS OF LAW

1. T.C.A. 55-50-504 Driving while license cancelled, suspended or revoked—
Minors—Forfeiture.—

(h)(1) The 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. The department is designated as the applicable agency, as defined by §40-33-202, for all forfeitures authorized by this subsection.

2. T.C.A. 55-10-403 (k) (1): The vehicle used in the commission of a person's second or subsequent violation of §. 55-10-401.....is subject to seizure and forfeiture in accordance with the procedure established in title 40, chapter 33, part 2.

3. The State carried its burden of proof, by a preponderance of the evidence, that on August 10, 2008, Ledley B Symmes was arrested for a second DUI offence while driving the subject 2008 Toyota SR5 Tundra.

4. It is CONCLUDED that pursuant to the provisions of T.C.A. § 55-50-504(h) the seized 2008 Toyota SR5 Tundra is subject to forfeiture.

5. T.C.A. 55-10-403 (k) (1) The vehicle used in the commission of a person's second or subsequent violation of §. 55-10-401,....is subject to seizure and forfeiture in accordance with the procedure established in title 40, chapter 33, part 2.

6. It is CONCLUDED that pursuant to the provisions of T.C.A. § 55-10-403 (k) (1) the seized 2008 Toyota SR5 Tundra is subject to forfeiture.

7. It is CONCLUDED that Ledley B Symmes used the seized 2008 Toyota SR5 Tundra when committing his second DUI offence.

8. It is CONCLUDED that Claimant Ledley B. Symmes' interest in the seized 2008 Toyota SR5 Tundra should be forfeited to the seizing agency pursuant to the provisions of T.C.A. § 55-50-504(h) and T.C.A. § 55-10-403 (k) (1).

9. T.C.A. 40-33-210 provides

(a) ...the state shall have the burden to prove by a preponderance of the evidence that ; ... (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,...

10. It is CONCLUDED that the State met the burden to show that Claimant Ledley B. Symmes, III had knowledge that Ledley B. Symmes' driver's license was revoked


pursuant to a DUI conviction. Ledley B. Symmes' knowledge of his son's behavior required a very serious effort to prevent his son from driving his vehicles.

11. It is ORDERED that Claimant Ledley B. Symmes, III's interest in the seized 2008 Toyota SR5 Tundra is FORFEITED to the seizing agency, Weakley County Sheriff's Department, for disposition as provided by law.

This Initial Order entered and effective this 25th day of August, 2009.

John Hicks
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 25th day of August, 2009.



Thomas G. Stovall, Director
Administrative Procedures Division