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Debra S. Winters vs. Safety

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**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:)
)
DEPARTMENT OF SAFETY)
& HOMELAND SECURITY)
)
v.)
)
One 1991 DODGE DAKOTA)
VIN: 1B7FL26X6MS334951)
Seized From: MARK EDWARD VAUGHN)
Seizure Date: 3/5/13)
Claimant: DEBRA WINTERS)

DOCKET NO. 19.01-123643J
D.O.S. N6337

ORDER

This matter came to be heard on November 13, 2013, before Thomas G. Stovall, Administrative Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety and Homeland Security (Department) in Fall Branch, Tennessee. Ms. Angela Jones, Staff Attorney, represented the Department. The Claimant, Debra Winters, was present and not represented by counsel.

The subject of this hearing was the proposed forfeiture of the subject vehicle for its alleged use in violation of the Tennessee Drug Control Act. After consideration of the record in this matter, it is determined that the subject vehicle should be **RETURNED** to the Claimant. This decision is based upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The subject of this hearing was the seizure of a 1991 Dodge Dakota from Mark Edward Vaughn on March 5, 2013, by the Elizabethton Police Department. The Claimant, Debra Winters, is the mother of Mark Edward Vaughn and claimed to be the owner of the subject vehicle.

2. On March 5, 2013, the Elizabethton Police Department received a tip from the Postal Service about a suspicious package that was to be claimed at the post office. Officer Trevor Salyer later observed Vaughn and a female companion pick up the package and drive

away from the post office in the subject vehicle. After Officer Salyer stopped the subject vehicle for a traffic violation, he observed the package in the cab of the vehicle in between the two occupants. Both Vaughn, who was driving, and the woman, denied any knowledge of the package. A drug dog was brought to the scene and the dog alerted to the vehicle indicating the possible presence of drugs. Upon opening the package, Officer Salyer found two peanut butter jars each of which contained approximately 30 grams of crystal methamphetamine, totaling approximately 60 grams.

3. Vaughn was on parole from a drug conviction in California. Approximately five years ago Vaughn had his parole transferred from California to Tennessee so he could return to Elizabethton and live with his parents. The subject vehicle is titled in the name of the Claimant but was used primarily by her husband Clinton Winters. In the three months preceding the seizure the Winters had allowed their son to use the vehicle as his vehicle was not running. They paid for maintenance and the Claimant paid for the insurance on the subject vehicle. Vaughn put gas in the subject vehicle when he used it.

5. The Claimant had no knowledge of her son's activity that resulted in the seizure of the subject vehicle. She testified that to her knowledge he had not been involved with drugs since his return to Elizabethton from California.

CONCLUSIONS OF LAW

1. The Department has carried its burden of proof by a preponderance of the evidence that the subject vehicle was used by Mark Edward Vaughn to transport controlled substances for the purpose of sale, or was used to facilitate such a sale, in violation of the Tennessee Drug Control Act, thus making it subject to forfeiture pursuant to the provisions of T.C.A. Section 53-11-451. The preponderance of the evidence also leads to the conclusion that the Claimant had no knowledge of the illegal use of the subject vehicle by her son.

2. The sole issue to be resolved is what if any interest the Claimant had in the subject vehicle at the time of the seizure, and whether that interest should be protected pursuant to T.C.A. Section 40-33-210.

3. The intent of the parties will determine the ownership of a vehicle. Smith v. Smith, 650 S.W. 2d 54 (Tenn. App. 1983). The Claimant was very credible in her testimony. The fact that Vaughn had been allowed to use the subject vehicle for a period of months while his vehicle was being repaired does not create an ownership or co-ownership interest in the vehicle. The vehicle is titled in the Claimants' name and she and her husband paid all ancillary expenses for the vehicle except for gas when their son was using it. There is no evidence to suggest the parties intended for Vaughn to have any ownership interest in the subject vehicle.

4. At the close of the hearing the Department raised the issue of whether the Claimant has standing to pursue her claim as the owner of the subject vehicle. This assertion is apparently based upon Mr. Winters' statement during the course of his testimony wherein he referred to the vehicle as "his truck." The Department's argument that the Claimant has no standing to file the claim and assert her ownership interest is without merit. Clearly the Claimant has an ownership interest in the subject vehicle. It is titled in her name and she pays the insurance premiums. As is often the case with a married couple when there is more than one vehicle in the household, one of the vehicles may be "his" and the other is "hers," which may or may not correspond to the name on the titles.

5. Based upon the foregoing, it is hereby **ORDERED** that the subject vehicle should be **RETURNED** to the Claimant.

This Initial Order entered and this _____ day of _____, 2013.

Thomas G. Stovall
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this _____ day of _____, 2013.

J. Richard Collier, Director
Administrative Procedures Division