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4-7-2014

## Juan Juan vs. Safety

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

<b>IN THE MATTER OF:</b>	]	
<b>DEPARTMENT OF SAFETY</b>	]	<b>FORFEITURE PROCEEDING</b>
<b>v.</b>	]	
<b>One 1988 Chevrolet Truck</b>	]	
<b>VIN: 1GBJR32M1JJ129261</b>	]	<b>DOCKET # 19.05-125431J</b>
<b>Seized From: Juan Juan</b>	]	<b>(D.O.S. # P1892)</b>
<b>Seizure Date: 8/22/13</b>	]	
<b>Claimant: Juan Juan</b>	]	
<b>Seizing Agency: Knox Co S. D.</b>	]	
<b>Lienholder: None Filed</b>	]	

**INITIAL ORDER**

This contested administrative case was heard in Knoxville, Tennessee, on April 1, 2014, before J. Randall LaFevor, Administrative Judge, assigned by the Secretary of State and sitting for the Commissioner of the Tennessee Department of Safety. Ms. Nina Harris, Staff Attorney for the Tennessee Department of Safety, represented the State. The Claimant appeared *pro se*.

As a preliminary matter, the State challenged the Claimant's legal standing to proceed with his claim, because his wife was the legal owner of the vehicle. Upon consideration of the proof, it was established that, although the Claimant's wife technically owned the truck, they had purchased it together, and treated it as common property. It was therefore determined that the Claimant had proven his standing to proceed with his claim.

The hearing was convened to consider the proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUP”). TENN. CODE ANN. §§ 55-50-414 & 40-33-201, *et seq.* Upon full consideration of the entire record in this matter, it is determined that the subject vehicle should be FORFEITED as provided by law. This decision is based on the following Findings of Fact and Conclusions of Law:

## **FINDINGS OF FACT**

1. On August 22, 2013, the Claimant, Juan Juan, was driving his car on I-40 in Knoxville, Tennessee. An officer with the Knox County Sheriff's Office observed that the Claimant's truck was being operated after dark with its taillights off. The officer stopped the Claimant's truck.
2. When the officer approached the Claimant's truck, the Claimant was unable to produce a current valid driver's license. Following a records check, the officer confirmed that the Claimant had no valid driver's license because it was revoked for a prior DUI conviction. Based on that fact, the Claimant was arrested and cited for Driving on a Revoked License.
3. Based on information obtained during the stop, the officer seized the Claimant's vehicle, and later sought and obtained a Vehicle Forfeiture Warrant. The Claimant filed a claim for its return, resulting in the scheduling of the instant contested administrative case hearing.
4. The testimony of the Claimant and records from the Tennessee Department of Safety<sup>1</sup> established that the Claimant was previously convicted of DUI in Knox County on May 22, 2012, resulting in the revocation of his Tennessee motor vehicle operator's license. His license had not been restored before he was stopped by the police on August 22, 2013. [Although he had been issued a Restricted License, the Claimant admitted that his Restricted License had expired before August 22, 2013.]

## **CONCLUSIONS OF LAW & ANALYSIS**

1. The law provides that it is illegal for a person to operate a motor vehicle at a time when his/her license to drive has been revoked. It further provides that, if the revocation was ordered due to a DUI conviction, any vehicle driven by the offender during the period of revocation is subject to seizure and forfeiture. TCA § 55-50-414 [Emphasis added.]

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<sup>1</sup> Hearing Exhibit #1, Official Driver Record.

2. The state has the burden of proving, by a preponderance of the evidence, that the seized property fits within the statute defining its illegal use, thereby rendering it subject to forfeiture. Rule 1340-2-2-.15(4), TENN. COMP. R. & REGS., *Rules of the Tennessee Department of Safety*.

3. In order to prevail in this case, the State must prove: (1) that the Claimant was driving the subject vehicle; and (2) that he was doing so at a time when his license to drive had been revoked for a DUI conviction. The State's evidence proved that the Claimant's license was revoked due to his 2012 conviction for driving under the influence of an intoxicant. While his license was still revoked, he was found to be operating the subject vehicle when it was stopped on August 22, 2013. The Claimant offered no legally acceptable reason for his violation of the law. Under these circumstances, the law provides that the vehicle is subject to forfeiture. The State has successfully met its burden of proof.

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Accordingly, it is hereby ORDERED that the subject 1988 Chevrolet Truck is FORFEITED to the Seizing Agency, the Knox County Sheriff's Department, for disposition as provided by law.

Entered and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this \_\_\_\_\_ day of \_\_\_\_\_ 2014.



J. Richard Collier, Director  
Administrative Procedures Division