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Timothy S. Poole vs. Safety

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

IN THE MATTER OF:

TENNESSEE DEPARTMENT OF SAFETY

v.

**One 1989 Dodge Ram 1500
VIN: 1B7HE16Y5KS051914
Seized from: Timothy Scott Poole
Seizure date: September 10, 2013
Claimant: Timothy Scott Poole**

**DOCKET NO: 19.05-124955J
D.O.S. NO. P2560**

INITIAL ORDER

This matter was heard on July 3, 2014, in Knoxville, Tennessee, before Kim Summers, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety. Mr. Patrick Rice, Staff Attorney for the Department of Safety, represented the State. The Claimant represented himself, waiving the right to be represented by an attorney.

The issue in this case is whether the State properly seize the Claimant's interest in the above referenced vehicle due to a violation of T.C.A. §55-50-504, *et seq* and T.C.A. 40-33-201 *et seq*. After consideration of the record in this matter, it is determined that the vehicle should be forfeited to the seizing agency. This decision is based upon the following Findings of Fact and Conclusions of Law.

SUMMARY OF THE EVIDENCE

The State presented the testimony of Corporal Russell Parker of the Pigeon Forge Police Department.

The Claimant testified that he did drive to work on a revoked license but he has now learned his lesson. He also testified that he needs his truck to get to work but has been getting rides to and from work since his truck was seized.

Two exhibits were admitted into evidence: EXHIBIT 1, Technical Record; EXHIBIT 2, the Claimant's Driving Record.

FINDINGS OF FACT

1. The Claimant's Tennessee Driver's License was revoked on May 10, 2013, for driving under the influence.
2. The Claimant was pulled over in Pigeon Forge on September 10, 2013, by Corporal Parker for an expired vehicle registration. At the time, the Claimant did not have a valid driver's license in Tennessee, or any other state.
3. The Claimant was taken into custody and released with a misdemeanor citation.
4. The Claimant's vehicle was seized for driving on a revoked license.

CONCLUSIONS OF LAW

1. 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*.
2. The law provides that it is illegal for a person to operate a motor vehicle at a time when his license to drive has been revoked or suspended. It further provides that, if the revocation or suspension was ordered due to driving a motor vehicle under the influence of an

intoxicant, any vehicle driven by the offender during the period of revocation or suspension is subject to seizure and forfeiture. TCA §§ 55-10-401, 55-50-504(a)(1) and (h)(1).

3. The State's evidence proved that Timothy Poole was driving in Pigeon Forge on September 10, 2013, on a license that had been revoked due to his prior conviction for driving under the influence of an intoxicant, thus subjecting the Claimant's vehicle to forfeiture under Tenn. Code Ann. § 55-50-504(a)(1) and (h)(1).

4. The testimony provided by the Claimant was insufficient to provide mitigation or justification for his actions.

Accordingly, the vehicle shall be **FORFEITED** to the seizing agency.

The policy reasons for this decision are to uphold the laws of the State of Tennessee while providing appropriate protections for the property rights of individuals.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the _____ day of _____ 2014.

DK Summers

KIM SUMMERS
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

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

J. Richard Collier

J. RICHARD COLLIER, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE