



2-3-2010

DEPARTMENT OF SAFETY FORFEITURE
PROCEEDING vs. One 1994 Oldsmobile
Bravada Van: 1GHDT13W4R0706104, Seized
from: Michael W. Hatmaker, Date of Seizure: June
25, 2009 Seized by: Clinton Police Department,
Claimant: Michael W. Hatmaker, Lienholder: N/A.

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BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY

IN THE MATTER OF:)	
)	
DEPARTMENT OF SAFETY)	FORFEITURE PROCEEDING
)	
v.)	DOCKET NO. 19.05-106440J
)	DOS Case No. J5991
One: 1994 Oldsmobile Bravada)	
Van: 1GHDT13W4R0706104)	
Seized from: Michael W. Hatmaker)	
Date of Seizure: June 25, 2009)	
Seized by: Clinton Police Department)	
Claimant: Michael W. Hatmaker)	
Lienholder: N/A.)	

INITIAL ORDER

This administrative proceeding was heard on February 3, 2010, in Knoxville, 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. Nina Harris, Staff Attorney for the Department of Safety, represented the State. Claimant Michael W. Hatmaker appeared *pro se*.

The subject of this hearing was the proposed forfeiture of the subject 1994 Oldsmobile Bravada for its alleged operation by Claimant Michael W. Hatmaker whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant ("DUI").¹ After consideration of the record, it is DETERMINED that the subject 1994 Oldsmobile Bravada should be FORFEITED to the Clinton Police Department. This decision is based upon the following Findings of Fact and Conclusions of Law.

¹ Claimant has been convicted of ten (10) DUI's since December 25, 1980. Claimant's most recent DUI conviction occurred on September 19, 2007.

FINDINGS OF FACT

1. On June 25, 2009, Officer Dustin Hensley of the Clinton Police Department stopped Claimant Michael W. Hatmaker for a brake light violation. When stopped, Claimant was driving the subject 1994 Oldsmobile Bravada.

2. Officer Henley determined that Claimant's driver's license was revoked pursuant to a second DUI conviction.

3. Claimant's driver's license was revoked pursuant to a September 19, 2007 DUI conviction in Knox County, Tennessee.

4. Claimant was arrested.

5. The subject 1994 Oldsmobile Bravada was seized.

6. The seized 1994 Oldsmobile Bravada is titled to Claimant's wife, Kimberly Hatmaker.

7. Kimberly Hatmaker did not file a petition for the return of the seized 1994 Oldsmobile Bravada, Kimberly Hatmaker did not appear at the hearing nor did counsel appear on Kimberly Hatmaker's behalf.

CONCLUSIONS OF LAW

1. The State carried its burden of proof, by a preponderance of the evidence, that on June 25, 2009 Claimant Michael W. Hatmaker was driving the subject 1994 Oldsmobile Bravada after his driving privileges had been revoked pursuant to a second DUI.

2. 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.

3. It is CONCLUDED that on June 25, 2009, Claimant Michael W. Hatmaker was driving the subject 1994 Oldsmobile Bravada after his driving privileges had been revoked pursuant to a second DUI.

4. It is CONCLUDED that pursuant to the provisions of T.C.A. § 55-50-504(h) the seized 1994 Oldsmobile Bravada is subject to forfeiture.

5. It is CONCLUDED that the seized 1994 Oldsmobile Bravada should be forfeited to the seizing agency pursuant to the provisions of T.C.A. § 55-50-504(h).

6. It is ORDERED that the 1994 Oldsmobile Bravada seized from Claimant Michael W. Hatmaker is FORFEITED to the seizing agency, Clinton Police Department, for disposition as provided by law.

This Initial Order entered and effective this 16th day of April, 2010.

John Hicks
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State this 16th day of April, 2010.

Thomas G. Stovall, Director
Administrative Procedures Division

