



4-21-2010

DEPARTMENT OF SAFETY FORFEITURE
PROCEEDING vs. One 2000 Nissan Frontier
VIN: 1N6ED26Y5YC422548, Seized From:
Aaron Gant, Seizure Date: 10/29/09, Claimant:
Aaron Gant Seizing Agency: Knoxville P.D.,
Lienholder: None Filed

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

IN THE MATTER OF:]	
DEPARTMENT OF SAFETY]	FORFEITURE PROCEEDING
]	
v.]	
]	
One 2000 Nissan Frontier]	
VIN: 1N6ED26Y5YC422548]	DOCKET # 19.05-107344J
Seized From: Aaron Gant]	(D.O.S. # K0367)
Seizure Date: 10/29/09]	
Claimant: Aaron Gant]	
Seizing Agency: Knoxville P.D.]	
Lienholder: None Filed]	

INITIAL ORDER

This contested administrative case was heard in Knoxville, Tennessee, on April 21, 2010, 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*.

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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUP”).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. §§ 55-50-504 & 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 October 27, 2009, Aaron Gant (“the Claimant”) was involved in a hit-and-run collision on a Knoxville Street. An officer with the Knoxville Police Department saw the Claimant drive away from the scene and noted his license plate number.

2. A records check revealed that the Claimant's operator's license had been revoked for a prior DUI conviction. Based on that information, 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.

3. Tennessee Department of Safety records¹ established that the Claimant was previously convicted of DUI on December 21, 2007 in Georgia, resulting in the revocation of his Tennessee motor vehicle operator's license by the Department of Safety. His license had not been restored before the vehicle seizure on October 29, 2009.

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 § 55-50-504(a)(1) and (h)(1).

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 a December 2007 conviction for driving under the influence of an intoxicant. He did not comply with the requirements for reinstatement of his license. While his license was still revoked, he was operating the subject vehicle

¹ See Hearing Exhibit #1, Department of Safety Driving Record.

when he was involved in a collision in October 2009. Under these circumstances, the law provides that the vehicle is subject to forfeiture.

The State has successfully met its burden of proof. Accordingly, it is hereby ORDERED that the subject 2000 Nissan Frontier is FORFEITED to the seizing agency, the Knoxville Police Department, for disposition as provided by law.

Entered and effective this 28th day of April, 2010.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 28th day of April, 2010.



Thomas G. Stovall, Director
Administrative Procedures Division