



4-26-2006

DEPARTMENT OF SAFETY FORFEITURE
PROCEEDING vs. One 2006 Chrysler 300 SRT
VIN: 2C3LA73W06H231721, Seized From:
Joseph Ferris 1, Seizure Date: January 6, 2006,
Claimant: Joseph Ferris, Lienholder: None

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

IN THE MATTER OF:]	
DEPARTMENT OF SAFETY]	FORFEITURE PROCEEDING
]	
v.]	
]	
One 2006 Chrysler 300 SRT]	
VIN: 2C3LA73W06H231721]	DOCKET # 19.05-091477J
Seized From: Joseph Ferris]	(D.O.S. # E-8451)
Seizure Date: January 6, 2006]	
Claimant: Joseph Ferris]	
Lienholder: None]	

INITIAL ORDER

This contested administrative case was heard in Memphis, Tennessee, on April 26, 2006, before J. Randall LaFevor, Administrative Judge, assigned by the Secretary of State and sitting for the Commissioner of the Tennessee Department of Safety. Mr. Joe Bartlett, Staff Attorney for the Tennessee Department of Safety, represented the State. The Claimant appeared *pro se*.

The subject of the hearing was 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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”). 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 January 2, 2006, an officer with the Memphis Police Department stopped the subject vehicle in Memphis, Tennessee for a violation of the seat belt law. When the Claimant stepped out of the car, he dropped a burning marijuana cigarette on the ground. The officer saw an open beer can inside the vehicle.

2. Upon running a records check, the officer determined that the Claimant's vehicle operator's license had been revoked for a prior DUI conviction in Shelby County, Tennessee. The Claimant was arrested and charged with several offenses, including Driving on a Revoked License.

3. As a result of this encounter, the arresting officer seized the Claimant's vehicle, and later sought and obtained a Vehicle Forfeiture Warrant for the subject vehicle. The Claimant, owner of the vehicle, filed a claim for its return, resulting in the scheduling of the instant contested administrative case hearing.

4. Department of Safety records¹ established that the Claimant had a prior DUI conviction on March 22, 2002, and that his license was revoked by the Tennessee Department of Safety on May 3, 2002. [Those records also reflect multiple episodes of driving on a revoked or suspended license, dating from 2001 through 2004.] His license had not been restored by the time of the vehicle stop and seizure in January, 2006.

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 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 Joseph Ferris 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 Joseph

¹ See Exhibit #1: Department of Safety Driving Record

Ferris' license was revoked due to his March 22, 2002 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 driving the subject vehicle when he was stopped by the officer on January 2, 2006. Under these circumstances, the law provides that the Claimant's vehicle is subject to forfeiture.

The State has successfully met its burden of proof. Accordingly, it is hereby ORDERED that the subject 2006 Chrysler 300 SRT is FORFEITED to the seizing agency, the Memphis Police Department, for disposition as provided by law.

Entered and effective this 12th day of May, 2006.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 12th day of May, 2006.

Charles C. Sullivan II, Director
Administrative Procedures Division