



7-18-2007

DEPARTMENT OF SAFETY, Petitioner, vs. ONE
1992 CHEVROLET, SUBURBAN CASE NO.
G0370 & G0372, VIN: 1GNEC16K1NJ100242,
Seized From: Jose R. Estrada, Date of Seizure:
02-10-07, Claimant: Jose R. Estrada, Lienholder:
None

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

IN THE MATTER OF:

DEPARTMENT OF SAFETY,)
 Petitioner)

v.)

ONE 1992 CHEVROLET)
SUBURBAN)
VIN: 1GNEC16K1NJ100242)
Seized From: Jose R. Estrada)
Date of Seizure: 02-10-07)
Claimant: Jose R. Estrada)
Lienholder: None)

DOCKET NO. 19.05-096204J
CASE NO. G0370 & G0372

ORDER

This contested administrative matter was heard on July 18, 2007, before James A. Hornsby, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety in Knoxville, Tennessee. Joe Bartlett, Staff Attorney for the Department of Safety, was present and represented the State. The Claimant was present without counsel.

The subject of this proceeding is the proposed forfeiture of the subject vehicle under Tennessee Code Annotated, Sections 55-50-504(h) and 55-10-403(k)(1), which provide for the forfeiture of any vehicle driven by a person whose license has been revoked for driving while intoxicated, and also for a second DUI offence. After consideration of the entire record and the arguments of the parties, it is ORDERED that the subject vehicle be FORFEITED. This determination is based upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Claimant, Jose R. Estrada, had his driver's license revoked on March 30, 2002, after he was convicted for driving while intoxicated.
2. Mr. Estrada had not had his driver's license reinstated when, while driving the subject vehicle on February 10, 2007, he was stopped for a traffic violation by an officer with the Morristown Police Department. The arresting officer testified that Mr. Estrada had slurred speech and a strong odor of alcohol about him.
3. The Claimant was charged with DUI and driving on a revoked license. The subject vehicle was seized at that time. At his court appearance for the alleged violations, Mr. Estrada plead guilty to both DUI and driving on a revoked license.

CONCLUSIONS OF LAW

1. Tennessee Code Annotated, Section 55-50-504 concerns driving on a canceled, suspended, or revoked license. Subsection (h) provides, in pertinent part, that:

The vehicle used in the commission of a person's violation of section 55-50-504, when the original suspension or revocation was made for a violation of section 55-10-401 (driving under the influence of an intoxicant), is subject to seizure and forfeiture.

2. Tennessee Code Annotated, Section 55-10-403(k)(1) provides for the seizure and forfeiture of a vehicle used in the commission of a second or subsequent violation of section 55-10-401.
3. It is DETERMINED that the State has carried its burden of proving by a preponderance of the evidence that the Claimant was driving the subject 1992 Chevrolet Suburban on February 10, 2007, with a license revoked on March 30, 2002, for driving under the influence of an intoxicant, and that he was at that time using the vehicle for a

second offence of DUI. The vehicle is subject to forfeiture under the provisions of T.C.A. §55-50-504(h) and 55-10-403(k)(1).

4. Therefore, it is ORDERED that the subject 1992 Chevrolet Suburban be, and is hereby, FORFEITED to the seizing agency.

This Initial Order entered and effective this 1st day of August, 2007.

James A. Hornsby
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 1st day of August, 2007.

Thomas G. Stovall, Director
Administrative Procedures Division