



2-7-2007

DEPARTMENT OF SAFETY vs. 9 One 1990
BMW 325i VIN No.: WBAAA1316LEC66674,
Seized from: Don Glen Tankersley, Date of Seizure:
November 13, 2006, Claimant: Don Glen
Tankersley

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BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY

IN THE MATTER OF:)	
)	
DEPARTMENT OF SAFETY)	
)	
v.)	DOCKET NO. 19.05-094701J
)	DOS Case No. F78009
One 1990 BMW 325i)	
VIN No.: WBAAA1316LEC66674)	
Seized from: Don Glen Tankersley)	
Date of Seizure: November 13, 2006)	
Claimant: Don Glen Tankersley)	

INITIAL ORDER

This administrative proceeding was heard on February 7, 2007, 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. Lori Long, Staff Attorney for the Department of Safety, represented the State. Claimant Don Glen Tankersley proceeded without counsel.

The subject of this hearing was the proposed forfeiture of the subject 1990 BMW 325i for its alleged operation by Claimant whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant ("DUI"). After consideration of the record, it is DETERMINED that the subject 1990 BMW 325i should be FORFIETED to the seizing agency. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On November 13, 2006, Officer Michael Rutledge of the Bristol Police Department responded to a dispatched call at a private residence.
2. Officer Rutledge found Claimant sitting in the driver's seat of the subject 1990 BMW 325i. The engine was off but the hood was warm.
3. Claimant is the owner of the subject 1990 BMW 325i.
4. Officer Rutledge determined that Claimant's driver's license was revoked pursuant to a Tennessee DUI conviction.
5. Claimant's driver's license was revoked pursuant to a March 9, 2006 DUI conviction in Sullivan County, Tennessee.
6. The subject 1990 BMW 325i was seized.

CONCLUSIONS OF LAW

1. The State carried its burden of proof, by a preponderance of the evidence, that on November 13, 2006, Claimant had been driving the subject 1990 BMW 325i after his driving privileges had been revoked pursuant to a Tennessee DUI conviction.
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 pursuant to the provisions of T.C.A. § 55-50-504(h) the seized 1990 BMW 325i is subject to forfeiture.

4. It is CONCLUDED that the seized 1990 BMW 325i should be forfeited to the seizing agency pursuant to the provisions of T.C.A. § 55-50-504(h).

5. It is ORDERED that the 1990 BMW 325i seized from Claimant is FORFEITED to the seizing agency.

This Initial Order entered and effective this 7th day of March, 2007.

John Hicks
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 7th day of March, 2007.

Charles C. Sullivan II, Director
Administrative Procedures Division