



6-26-2008

DEPARTMENT OF SAFETY FORFEITURE
PROCEEDING, vs. One 2002 Land Rover
Freelander, VIN: SALNY22262A384011, Seized
From: Elton T. Brown 4, Seizure Date: March 7,
2008, Claimant: Elton T. Brown, Seizing Agency:
Collegedale P. D., Lienholder: Land Rover Capital
Group

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

IN THE MATTER OF:]	
DEPARTMENT OF SAFETY]	FORFEITURE PROCEEDING
]	
v.]	
]	
One 2002 Land Rover Freelander]	
VIN: SALNY22262A384011]	DOCKET # 19.05-099442J
Seized From: Elton T. Brown]	(D.O.S. # H-1794)
Seizure Date: March 7, 2008]	
Claimant: Elton T. Brown]	
Seizing Agency: Collegedale P. D.]	
Lienholder: Land Rover Capital Group]	

INITIAL ORDER

This contested administrative case was heard in Chattanooga, Tennessee, on June 26, 2008, before J. Randall LaFavor, Administrative Judge, assigned by the Secretary of State and sitting for the Commissioner of the Tennessee Department of Safety. Ms. Lori Long, 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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”).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 March 7, 2008, an officer with the Collegedale Police Department observed the Claimant’s vehicle being operated in an unsafe manner by following another vehicle too closely. The officer stopped the vehicle and asked the driver for his license.

2. The driver, Elton Brown [“Claimant”], was unable to produce a valid license. He told the officer that he had a restricted license, but was unable to produce any paperwork related to such a license. [The Claimant admitted during the hearing that he was driving outside the limitations imposed by his restricted license.] The officer requested a records check, and was advised that the Claimant’s license had been revoked for a prior DUI offense.

3. As a result of this encounter, the officer arrested the Claimant, 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 April 9, 2007, in Hamilton County, Tennessee, resulting in the revocation of his Tennessee motor vehicle operator’s license by the Department of Safety on April 24, 2007. His license had not been restored by the date of the current vehicle stop and seizure on March 7, 2008.

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 the Claimant was driving the subject vehicle, and (2) that he was doing so at a time when his license to

¹ See Exhibit #1: Department of Safety Driving Record

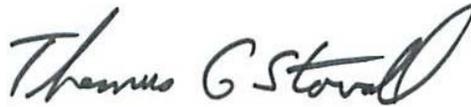
drive had been revoked for a DUI conviction. The State's evidence proved that the Claimant's license was revoked due to his April 9, 2007 conviction for driving under the influence of an intoxicant. He did not comply with the requirements for reinstatement of his license. While his license was still revoked, he was found to be operating the subject vehicle prior to its seizure on March 7, 2008. 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 2002 Land Rover Freelander is FORFEITED to the seizing agency, the Collegedale Police Department, subject to the lien of Land Rover Capital Group, for disposition as provided by law.

Entered and effective this 16th day of July, 2008.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 16th day of July, 2008.



Thomas G. Stovall, Director
Administrative Procedures Division