



6-26-2008

DEPARTMENT OF SAFETY FORFEITURE  
PROCEEDING, vs. One 1995 Honda Accord,  
VIN: 1HGCD7133SA005436, Seized From:  
Jonathan Hankins 2, Seizure Date: April 4, 2008,  
Claimant: Jonathan Hankins, Seizing Agency:  
Hamilton Co. S.D., Lienholder: None filed

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

<b>IN THE MATTER OF:</b>	]	
<b>DEPARTMENT OF SAFETY</b>	]	<b>FORFEITURE PROCEEDING</b>
	]	
<b>v.</b>	]	
	]	
<b>One 1995 Honda Accord</b>	]	
<b>VIN: 1HGCD7133SA005436</b>	]	<b>DOCKET # 19.05-099443J</b>
<b>Seized From: Jonathan Hankins</b>	]	<b>(D.O.S. # H-2402)</b>
<b>Seizure Date: April 4, 2008</b>	]	
<b>Claimant: Jonathan Hankins</b>	]	
<b>Seizing Agency: Hamilton Co. S.D.</b>	]	
<b>Lienholder: None filed</b>	]	

**INITIAL ORDER**

This contested administrative case was heard in Chattanooga, Tennessee, on June 26, 2008, before J. Randall LaFevor, 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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”).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 April 4, 2008, an officer with the Hamilton County Sheriff’s Department observed the Claimant driving the subject vehicle on a public road in Hamilton County, Tennessee. The officer recognized the driver as a person whose operator’s license had been revoked due to a previous DUI conviction. The officer stopped the vehicle and asked the driver for his license.

2. The driver, Jonathan Hankins [“Claimant”], was unable to produce a valid 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 The officer requested a records check, and was advised that the Claimant’s license had been revoked for a prior DUI offense.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 records<sup>1</sup> established that the Claimant had a prior DUI conviction on May 8, 2007, in Hamilton County, Tennessee, resulting in the revocation of his Tennessee motor vehicle operator’s license by the Department of Safety on May 30, 2007. His license had not been restored by the date of the current vehicle stop and seizure on April 4, 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 drive had been revoked for a DUI conviction. The State’s evidence proved that the Claimant’s license was revoked due to his May 8, 2007 conviction for driving under the

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<sup>1</sup> See Exhibit #1: Department of Safety Driving Record

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 April 4, 2008. Under these circumstances, the law provides that the Claimant's vehicle is subject to forfeiture.

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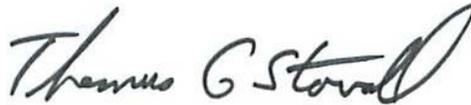
The State has successfully met its burden of proof. Accordingly, it is hereby ORDERED that the subject 1995 Honda Accord is FORFEITED to the seizing agency, the Hamilton County Sheriff's Department, for disposition as provided by law.

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

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J. Randall LaFevor, Administrative Judge

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



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Thomas G. Stovall, Director  
Administrative Procedures Division