



8-20-2008

DEPARTMENT OF SAFETY FORFEITURE
PROCEEDING, vs. One 1990 Lincoln
Continental, VIN: 1LNLM9743LY614833, Seized
From: Ricky Walls, Seizure Date: November 7,
2007, Claimant: Ricky Walls, Seizing Agency:
Memphis P. D., Lienholder: None Filed

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

IN THE MATTER OF:]	
DEPARTMENT OF SAFETY]	FORFEITURE PROCEEDING
]	
v.]	
]	
One 1990 Lincoln Continental]	
VIN: 1LNLM9743LY614833]	DOCKET # 19.05-099242J
Seized From: Ricky Walls]	(D.O.S. # G8359)
Seizure Date: November 7, 2007]	
Claimant: Ricky Walls]	
Seizing Agency: Memphis P. D.]	
Lienholder: None Filed]	

INITIAL ORDER

This contested administrative case was heard in Memphis, Tennessee, on August 20, 2008, before J. Randall LaFavor, 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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”).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 November 7, 2007, the Claimant was involved in an automobile collision in Memphis, Tennessee. A Memphis Police Officer investigated the accident, and asked the driver for his license.

2. The driver, Ricky Walls [“Claimant”], was unable to produce a valid license. The Claimant’s license had been revoked for prior DUI offenses.

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 seven (7) prior DUI convictions, the most recent of which was on January 26, 2004, in Shelby County, Tennessee, resulting in the revocation of his Tennessee motor vehicle operator’s license by the Department of Safety on March 8, 2004. His license had not been restored by the date of the current arrest and vehicle seizure on November 7, 2007.

5. The Claimant testified that he was aware that his operator’s license had been revoked, and that he knew he was not permitted to drive without a license. He admitted that he was driving the vehicle at the time of the accident, and said that he was on his way to his doctor’s office to pick up his blood pressure medicine.

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.*

¹ See Exhibit #2: Department of Safety Driving Record

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 January 26, 2004 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 November 7, 2007. 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 1990 Lincoln Continental is FORFEITED to the seizing agency, the Memphis Police Department, for disposition as provided by law.

Entered and effective this 9th day of September, 2008.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 9th day of September, 2008.



Thomas G. Stovall, Director
Administrative Procedures Division