



8-4-2008

DEPARTMENT OF SAFETY FORFEITURE
PROCEEDING, vs. One 1989 Chevrolet Truck,
VIN: 1GCDC14H4KZ279191, Seized From: Paul
Rudd, Seizure Date: Jan 14, 2008, Claimant: Paul
Rudd, Seizing Agency: Knoxville 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 1989 Chevrolet Truck]	
VIN: 1GCDC14H4KZ279191]	DOCKET # 19.05-099961J
Seized From: Paul Rudd]	(D.O.S. # H0414)
Seizure Date: Jan 14, 2008]	
Claimant: Paul Rudd]	
Seizing Agency: Knoxville P. D.]	
Lienholder: None Filed]	

INITIAL ORDER

This contested administrative case was heard in Knoxville , Tennessee, on August 4, 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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”).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 January 14, 2008, the Claimant was involved in a hit-and-run collision in Knoxville, Tennessee. Shortly after the collision, a Knoxville Police Officer located the vehicle, and asked the driver for his license.

2. The driver, Paul Rudd [“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 The Claimant’s license had been revoked for prior DUI offenses.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 thirteen (13) prior DUI convictions, the most recent of which was on May 12, 2005, in Knox County, Tennessee, resulting in the revocation of his Tennessee motor vehicle operator’s license by the Department of Safety on July 5, 2005. His license had not been restored by the date of the current vehicle stop and seizure on January 14, 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 12, 2005 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

¹ See Exhibit #1: Department of Safety Driving Record

vehicle prior to its seizure on January 14, 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 1989 Chevrolet Truck is FORFEITED to the seizing agency, the Knoxville Police Department, for disposition as provided by law.²

Entered and effective this 2nd day of September, 2008.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 2nd day of September, 2008.



Thomas G. Stovall, Director
Administrative Procedures Division

² All of the facts found in this case were proved through documents that were part of the technical record and the testimony of the Claimant, who was called as a witness by the Seizing Agency's attorney. The arresting officer did not appear at the hearing. The Claimant argued that the State had sent him a Notice of Hearing that included a provision that, if the arresting officer failed to appear at the hearing, the case would be dismissed, and the truck would be returned to him. At the conclusion of the hearing, the record was left open for ten (10) days to allow the Claimant to file proof supporting this argument. On August 5, 2008, the Claimant submitted a copy of a single page entitled "Notice to all Claimants." Unfortunately for the Claimant, that document contains no provision requiring dismissal of a Forfeiture Warrant under the circumstances he described. Consequently, his argument was discounted.