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3-17-2009

TENNESSEE DEPARTMENT OF SAFETY vs.
One 1999 Ford Taurus, VIN NO.:
1FAFP53U2XA142782, Seized From: Katina
Mason, Date of Seizure: June 29, 2008, Claimant:
Katina Mason, Lien Holder:

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

IN THE MATTER OF:

**TENNESSEE DEPARTMENT OF
SAFETY**

v.

**One 1999 Ford Taurus
VIN NO.: 1FAFP53U2XA142782
Seized From: Katina Mason
Date of Seizure: June 29, 2008
Claimant: Katina Mason
Lien Holder:**

**DOCKET NO: 19.05-102279J
(D.O.S. Case No. H4873)**

INITIAL ORDER

This matter was heard in Memphis, Tennessee, on March 17, 2009, before Rob Wilson, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, to sit for the Commissioner of the Tennessee Department of Safety. Andre Thomas, Staff Attorney for the Department of Safety, represented the Department. The Claimant Katina Mason appeared on her own behalf.

The subject of this hearing was the proposed forfeiture of the captioned vehicle for violation of Tennessee Code Annotated § 55-50-504. After consideration of the record and the arguments of the parties, it was determined that the vehicle should be forfeited. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On June 29, 2008, the Claimant was stopped for driving her vehicle with an inoperable tail light.

2. An investigation into the Claimant's driving record revealed that she had a restricted driver's license that would allow her to drive between specified times Monday through Friday, but not at all on Sunday. Officer Gaia performed a search incident to arrest of Ms. Mason's vehicle and found an open container of semi-frozen alcoholic beverage in the driver side cup holder.

RELEVANT LAW

1. T.C.A. § 55-50-504(h) contains the following language:

(h)(1) The vehicle used in the commission of a person's violation of § 55-50-504 [driving on revoked license], when the original suspension or revocation was made for a violation of § 55-10-401 [DUI], 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 (h).

(2) For purposes of clarifying the provisions of this subsection (h) and consistent with the overall remedial purpose of the asset forfeiture procedure, a vehicle is subject to seizure and forfeiture upon the arrest or citation of a person for driving while such person's driving privileges are cancelled, suspended or revoked. A conviction for the criminal offense of driving while such person's driving privileges are cancelled, suspended or revoked is not required.

2. T.C.A. § 55-10-403(k)(1) reads in relevant part:

The vehicle used in the commission of a person's second or subsequent violation of § 55-10-401, or the second or subsequent violation of any combination of § 55-10-401, and a statute in any other state prohibiting driving under the influence of an intoxicant, is subject to seizure and forfeiture

ANALYSIS and CONCLUSIONS OF LAW

The evidence in this case shows that the Claimant operated her vehicle during a time that her driving privilege was revoked for DUI. According to the plain terms of the law, the seizure and forfeiture were warranted and should be upheld.

Based upon the foregoing, it is hereby **ordered** that the subject vehicle be **forfeited** to the seizing agency, for disposition as provided by law.

This Initial Order entered and effective this 27th day of April, 2009.

Rob Wilson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 27th day of April, 2009.



Thomas G. Stovall, Director
Administrative Procedures Division