



2-10-2009

DEPARTMENT OF SAFETY FORFEITURE
PROCEEDING, vs. One 1994 Dodge Intrepid,
VIN: 1B3ED46T6RF233704, Seized From:
Brittany Jones, Seizure Date: 7/30/08, Claimant:
Brittany Jones, Seizing Agency: New Market 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 1994 Dodge Intrepid]	
VIN: 1B3ED46T6RF233704]	DOCKET # 19.05-101847J
Seized From: Brittany Jones]	(D.O.S. # H6045)
Seizure Date: 7/30/08]	
Claimant: Brittany Jones]	
Seizing Agency: New Market P. D.]	
Lienholder: None Filed]	

INITIAL ORDER

This contested administrative case was heard in Fall Branch, Tennessee, on February 10, 2009, before J. Randall LaFevor, Administrative Judge, assigned by the Secretary of State and sitting for the Commissioner of the Tennessee Department of Safety. Ms. Nina Harris, Staff Attorney for the Tennessee Department of Safety, represented the State. The Claimant appeared *pro se*.

The hearing was convened to consider 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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant ("DUI"). TENN. CODE ANN. §§ 55-50-504 & 40-33-201, *et seq.* 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 July 30, 2008, an officer with the New Market Police Department stopped the Claimant's vehicle for a seat-belt violation.

2. The driver, Brittany Jones [“Claimant”], was unable to produce a valid license, because her operator’s license had been revoked for a prior DUI offense.

3. Based on that information, the officer seized the Claimant’s vehicle, and later sought and obtained a Vehicle Forfeiture Warrant. 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 was previously convicted of DUI on August 3, 2007 in Knox County, Tennessee, resulting in the revocation of her Tennessee motor vehicle operator’s license by the Department of Safety on August 17, 2007. Her license had not been restored by the date of the vehicle seizure on July 30, 2008.

5. The Claimant testified that she was aware that her operator’s license had been revoked, and that she knew he was not permitted to drive without a license.

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/her 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 she was doing so at a time when her license to

¹ See Hearing 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 her August 3, 2007 conviction for driving under the influence of an intoxicant. She did not comply with the requirements for reinstatement of her license. While her license was still revoked, she was found to be operating the subject vehicle prior to its seizure on July 30, 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 1994 Dodge Intrepid is FORFEITED to the seizing agency, the New Market Police Department, for disposition as provided by law.

Entered and effective this 3rd day of March, 2009.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 3rd day of March, 2009.



Thomas G. Stovall, Director
Administrative Procedures Division