



February 2013

DEPARTMENT OF SAFETY vs. One 2003
Harley Davidson, V.I.N. # 1HD4CJM143K407330,
Seized from: Luhen Warren, Date of Seizure:
August 29, 2012, Claimant: Melissa Davis

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**BEFORE THE COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:

DEPARTMENT OF SAFETY

V.

**One 2003 Harley Davidson
V.I.N. # 1HD4CJM143K407330
Seized from: Luther Warren
Date of Seizure: August 29, 2012
Claimant: Melissa Davis**

**DOCKET NO: 19.05-120163J
D.O.S. Case # N0656**

INITIAL ORDER

This matter was heard on February 14, 2013 in Fall Branch, Tennessee, before Rob Wilson, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety. Nina Harris, staff attorney, represented the State. The Claimant, Melissa Davis was present and proceeded on her own behalf.

The issue in this case is whether the Claimant has an ownership interest in the seized property to assert a claim for the property. After consideration of the record in this matter, it is determined that the vehicle should be forfeited to the seizing agency. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On August 29, 2012, Officer Andrew Connors of the Johnson City Police Department executed a traffic stop on a vehicle operated by Luther Warren. Officer

Connors determined that Mr. Warren had a revoked driver's license due to a DUI offense and seized the subject vehicle.

2. At the time of the stop, the vehicle was registered to Luther Warren. The certificate of title states that Luther Warren acquired the vehicle on March 16, 2012, and the title was issued on that day as well

3. Claimant Melissa Davis is Luther Warren's sister-in-law. Ms. Davis stated that she and her husband sold the motorcycle to Luther Warren in March of 2012 for \$2000.00. Ms. Davis stated that Luther warren never made any payments for the motorcycle.

CONCLUSIONS OF LAW

1. The law provides that it is illegal for a person to operate a motor vehicle at a time when one's license to drive has been revoked unless one has a restricted license. 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. T.C.A. § 53-11-201(f)(1) provides that whenever a claim is filed for any seized property that the claim is not allowed unless and until the claimant proves that the claimant:

- A) Has an interest in the property, which the claimant acquired in good faith; and
- B) Had at no time any knowledge or reason to believe that it was being used in violation of the laws of the United States.

The claimant therefore is required to carry the burden of proof as to ownership interest. Urquhart v. Department of Safety, 2008 WL 2019458 (Tenn. Ct. App. 2008).

3. The facts establish that at the time of seizure the motorcycle was titled in Luther Warren's name with no lien holder or co-owner listed. Mr. Warren also had possession of the vehicle and was free to use it at any time. Additionally, Claimant admits that she had prior knowledge that Mr. Warren's license had been revoked, but stated that she and her husband had been advised that Mr. Luther's license was no longer revoked and all prior offenses had been paid. Clearly, with prior knowledge that Mr. Warren's license had been previously revoked, the Claimant should have insisted upon documentary proof of Mr. Warren's reinstated license, and also should not have given possession of the motorcycle to Mr. Warren until he paid for it, unless Claimant was registered as the lien holder of record. The only documentary evidence available establishes that Mr. Warren acquired the motorcycle in March of 2012, and that in August of 2012 he was driving it while his license was revoked for a prior DUI. Consequently, Claimant has not established standing to claim an interest in the motorcycle.

Accordingly, it is **Ordered** that the seized motorcycle be **forfeited** to the Johnson City Police Department.

This Initial Order entered this 1 day of March, 2013

Thomas Stovall, Director
Administrative Procedures Division