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Department of Safety vs. Terry Johnson

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

IN THE MATTER OF:

**TENNESSEE DEPARTMENT
of SAFETY**

v.

**One 2000 Dodge Ram 1500
VIN No.: 3B7HF13Y5YG107772
Seized from: Terry Johnson
Date of Seizure: September 3, 2012
Claimant: Terry Johnson
Lienholder: N/A**

**DOCKET NO: 19.05-120363J
DOS No. N0455**

INITIAL ORDER

This matter was heard on February 27, 2012, in Memphis, Tennessee, before Bettye Springfield, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division. Staff Attorney Andre Thomas represented the Department of Safety. The Claimant, Terry Johnson, represented himself.

The subject of this hearing was the proposed forfeiture of the 2000 Dodge Ram for its alleged operation by an individual whose driver's license had been suspended or revoked for driving a motor vehicle under the influence of an intoxicant (DUI), in violation of T.C.A. §55-50-504(h). After consideration of the evidence adduced at the hearing, argument of the parties, and the record in this matter, it is determined that the subject vehicle should be FORFEITED to the seizing agency.

This determination is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On August 27, 2012, the Claimant was observed by a security officer driving on the curb at the Ridgcrest Apartments complex. The security officer stopped the vehicle, took Claimant into custody, and contacted the Memphis Police Department. Officers arrived on the scene and found Claimant to have a strong smell of alcohol, bloodshot eyes, and slurred speech.

2. The officers checked the Claimant's driver's record and discovered that his license had been revoked for prior offenses of DUI. The Claimant was placed under arrest and taken into custody.

3. The Claimant admitted that he was driving the subject 2000 Dodge Ram vehicle at the time. Claimant also admitted that his license had been revoked for two prior DUI convictions and had not been reinstated.

4. The Department of Safety revoked the Claimant's license on October 5, 2011, in Shelby County, Tennessee, for prior DUI convictions. The Claimant's license was eligible to be reinstated on October 5, 2012,

CONCLUSIONS OF LAW AND ANALYSIS

1. T.C.A. §55-50-504(h)(1) provides, in relevant part, the following:

The vehicle used in the commission of a person's violation of §55-50-504 [driving while license cancelled, suspended or revoked] when the original suspension or revocation was made for a violation of §55-10-401 [driving under the influence of an intoxicant], is subject to seizure and forfeiture.

2. T.C.A. §55-50-04(h)(2) clarifies the provisions of subsection (h), and provides, in relevant part, the following:

[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.

3. The State carried its burden of proving, by a preponderance of the evidence, that the Claimant was driving the subject vehicle after his license had been revoked pursuant to a DUI conviction, thus, making the vehicle subject to forfeiture pursuant to the provisions of T.C.A. §55-50-504(h)(1) and (2).

4. At the hearing, the Claimant admitted that he was driving on a revoked license, which had not been reinstated. The Claimant offered no proof to rebut the State's evidence as to the status of his license.

5. Based on the foregoing, it is ORDERED that the 2000 Dodge Ram be forfeited to the seizing agency.

Entered and effective this _____ day of _____ 2013.

Bettye Springfield
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this _____ day of _____ 2013.

Thomas G. Stovall, Director
Administrative Procedures Division

