



5-14-2013

Department of Safety vs. Jonathan D. Montoya

Follow this and additional works at: http://trace.tennessee.edu/utk_lawopinions

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact administrative.procedures@tn.gov

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

IN THE MATTER OF:]	
DEPARTMENT OF SAFETY]	FORFEITURE PROCEEDING
]	
v.]	
One 1998 Chevrolet Blazer]	
VIN: 1GNCS18WXWK111732]	DOCKET # 19.05-121180J
Seized From: Jonathan D. Montoya]	(D.O.S. # M9121)
Seizure Date: 7/22/12]	
Claimant: Jonathan D. Montoya]	
Seizing Agency: Jackson P.D.]	
Lienholder: None Filed]	

INITIAL ORDER

This contested administrative case was heard in Jackson, Tennessee, on May 8, 2013, before J. Randall LaFevor, Administrative Judge, assigned by the Secretary of State and sitting for the Commissioner of the Tennessee Department of Safety. Mr. Joe Bartlett, 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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”).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 22, 2012, an officer with the Jackson Police Department stopped the subject Chevrolet Blazer on information that it was being driven by a person whose license was revoked or suspended for a prior DUI offense. When the officer approached the vehicle, its driver, Jonathan D. Montoya (“Claimant”), was unable to produce a valid Motor Vehicle Operator’s License.

2. Following a records check, the officer confirmed that the Claimant had no valid driver's license because it was most recently revoked due to a DUI conviction in Michigan in 2011. Based on that fact, the Claimant was arrested and charged with Driving on a Revoked License.

3. Based on information obtained during the stop, the officer seized the Claimant's vehicle, and later sought and obtained a Vehicle Forfeiture Warrant. The Claimant filed a claim for its return, resulting in the scheduling of the instant contested administrative case hearing.

4. The hearing testimony and records from the Tennessee Department of Safety¹ established that the Claimant was previously convicted of a DUI offense on May 25, 2011, resulting in the revocation of his motor vehicle operator's license. His license had not been restored before he was stopped by the officer on July 22, 2012. The Claimant did not challenge any of the State's proof. He conceded that he was driving the vehicle, that he knew that his license was revoked, and that he pled guilty to the charge of "Driving on a Revoked License" when he appeared in court on the charge.

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). [Emphasis added.]

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.*

¹ Hearing Exhibit #1, Official Driver Record.

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 2011 conviction for Driving Under the Influence of an Intoxicant. While his license was still revoked, and before he was eligible for reinstatement, he was operating the subject vehicle when it was seized on July 22, 2012. The Claimant did not challenge any of the State's proof, and offered no legally acceptable reason for his violation of the law. Under these circumstances, the law provides that the vehicle is subject to forfeiture. The State has successfully met its burden of proof.

Accordingly, it is hereby ORDERED that the subject 1998 Chevrolet Blazer is FORFEITED to the Seizing Agency, the Jackson Police Department, for disposition as provided by law.

Entered and effective this _____ day of _____, 2013.

J. Randall LaFevor, 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