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Devin M. Scarborough vs. Safety

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

IN THE MATTER OF:]	
DEPARTMENT OF SAFETY]	FORFEITURE PROCEEDING
v.]	
]	
One 2005 Honda Civic]	
VIN: 1HGEM21175L069529]	DOCKET # 19.05-126762J
Seized From: Devin M. Scarborough]	(D.O.S. # P2785)
Seizure Date: 9/27/13]	
Claimant: Devin M. Scarborough]	
Seizing Agency: Johnson Co. S.D.]	
Lienholder: None Filed]	

INITIAL ORDER

This contested administrative case was heard in Fall Branch, Tennessee, on July 8, 2014, 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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”).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. §§ 55-50-414 & 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 September 27, 2013, the Claimant, Devin Scarborough, was driving his car on Highway 421 in Johnson County, Tennessee. A deputy with the Johnson County Sheriff’s Department stopped him for driving erratically, weaving over the center line.

2. When the deputy approached the Claimant's car, the Claimant was unable to produce a current valid driver's license. Following a records check, the deputy confirmed that the Claimant had no valid driver's license because it was revoked for a prior DUI conviction. Based on that fact, the Claimant was arrested and cited for Driving on a Revoked License.

3. Based on information obtained during the stop, the deputy 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. No other claims were filed.

4. The hearing testimony and records from the Tennessee Department of Safety¹ established that the Claimant was previously convicted of DUI in Johnson County on March 7, 2012, resulting in the revocation of his Tennessee motor vehicle operator's license. He had not completed the requirements for reinstatement of his license, so it was still revoked when he was stopped by the deputy on September 27, 2013. [After the vehicle seizure, and before the hearing, the Claimant's license was restored.]

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 resulted from a DUI conviction, any vehicle driven by the offender during the period of revocation is subject to seizure and forfeiture. TCA § 55-50-414 [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.*

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 while his license to drive was

¹ Hearing Exhibit #1, Official Driver Record.

revoked for a DUI conviction. The State's evidence proved that the Claimant's license was revoked due to his March 7, 2012 conviction for driving under the influence of an intoxicant. While his license was still revoked, he was found to be operating the subject vehicle when it was stopped on September 27, 2013. The Claimant 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 2005 Honda Civic is FORFEITED to the Seizing Agency, the Johnson County Sheriff's Department, for disposition as provided by law.

Entered and effective this _____ day of _____, 2014.

J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this _____ day of _____ 2014.



J. Richard Collier, Director
Administrative Procedures Division