



University of Tennessee, Knoxville  
**Trace: Tennessee Research and Creative  
Exchange**

---

Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

---

November 2014

## Jason Coffey vs. Safety

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_lawopinions](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](mailto:administrative.procedures@tn.gov)

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

|                                     |   |                               |
|-------------------------------------|---|-------------------------------|
| <b>IN THE MATTER OF:</b>            | ] |                               |
| <b>DEPARTMENT OF SAFETY</b>         | ] | <b>FORFEITURE PROCEEDING</b>  |
|                                     | ] |                               |
| <b>v.</b>                           | ] |                               |
| <b>One 1995 Chevrolet 2500</b>      | ] |                               |
| <b>VIN: 1GCFC29KXSE111999</b>       | ] | <b>DOCKET # 19.05-128481J</b> |
| <b>Seized From: Jason Coffey</b>    | ] | <b>(D.O.S. # P9335)</b>       |
| <b>Seizure Date: 5/26/14</b>        | ] |                               |
| <b>Claimant: Jason Coffey</b>       | ] |                               |
| <b>Seizing Agency: Memphis P.D.</b> | ] |                               |
| <b>Lienholder: None Filed</b>       | ] |                               |

**INITIAL ORDER**

This contested administrative case was heard in Memphis, Tennessee, on October 29, 2014, before J. Randall LaFevor, Administrative Judge, assigned by the Secretary of State and sitting for the Commissioner of the Tennessee Department of Safety. Mr. Andre Thomas, Staff Attorney for the Tennessee Department of Safety, represented the State. The Claimant was represented by his legal counsel, Mr. Benjamin Wilkins.

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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”).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 to the Seizing Agency, as provided by law. This decision is based on the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. On May 26, 2014, an officer with the Memphis Police Department stopped the subject vehicle for a brake-light violation. When the officer approached the vehicle, its driver, Jason Coffey (“Claimant”), handed her his driver's license.

2. Following a records check, the officer determined that the Claimant's driver's license was revoked due to a DUI conviction in Tipton County on January 28, 2014. Although the Claimant told the officer that he had judicial permission to drive to and from work, he was unable to produce written documentation of that fact for the officer's review. 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 Safety<sup>1</sup> established that the Claimant was previously convicted of a DUI offense on January 28, 2014, 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 May 26, 2014. Although he asserted that he had judicial permission to drive to and from work, the Claimant was unable to produce written documentation of that fact, either at the time of his arrest, or during the hearing.<sup>2</sup> Without such corroborating documentary proof, his testimony that he had a *Restricted License* with conditions that permitted him to drive at the time of his stop is insufficient.

### **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.]

---

<sup>1</sup> Hearing Exhibit #2, Official State of Tennessee Driver Record.

<sup>2</sup> Curiously, during the hearing, the Claimant and his attorney discussed several documents related to an Ignition Interlock Device on the Claimant's vehicle, but did not introduce any of those documents, or a copy of a *Restricted License*, into evidence. Collective Exhibit #1 includes an *Order for Restricted License*, dated 1/28/14, which served as a *10-day Temporary Restricted License*, to allow the Claimant time to apply for a *Restricted License* at a Driver Service Center. By its terms, that authorization expired on February 7, 2014, 10 days after its issuance. It was no longer valid when he was stopped on May 26, 2014.

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 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 January 28, 2014 conviction for Driving Under the Influence of an Intoxicant. While his license was still revoked, he was operating the subject vehicle when it was seized on May 26, 2014. Although he asserted that he had a *Restricted License* and judicial permission to drive to and from work, he was unable to produce written documentation of those facts, either at the time of his arrest, or during the hearing.<sup>3</sup> Without such corroborating documentary proof, the Claimant's testimony that he had a *Restricted License* permitting him to drive at the time of his stop is legally insufficient. The State has successfully met its burden of proof.

---

Accordingly, it is hereby ORDERED that the subject 1995 Chevrolet 2500 is FORFEITED to the Seizing Agency, the Memphis Police Department, for disposition as provided by law.

Entered and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

---

J. Randall LaFevor, Administrative Judge

---

<sup>3</sup> Curiously, during the hearing, the Claimant and his attorney discussed several documents related to an Ignition Interlock Device on the Claimant's vehicle, but did not introduce any of those documents, or a copy of a *Restricted License* with Court-Ordered time and date limitations, into evidence. Collective Exhibit #1 includes an *Order for Restricted License*, dated 1/28/14, which served as a *10-day Temporary Restricted License*, to allow the Claimant time to apply for a *Restricted License* at a Driver Service Center. By its terms, that authorization expired on February 7, 2014, 10 days after its issuance, and was no longer valid at the time of the vehicle seizure.

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

A handwritten signature in black ink that reads "J. Richard Collier". The signature is written in a cursive style with a large, looped initial "J".

J. Richard Collier, Director  
Administrative Procedures Division