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Jose Barrera Ramirez 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 1999 Ford Mustang]	
VIN: 1FAFP4045XF160436]	DOCKET # 19.05-129118J
Seized From: Jose Barrera Ramirez]	(D.O.S. # P8475)
Seizure Date: 5/7/14]	
Claimant: Jose Barrera Ramirez]	
Seizing Agency: Cookeville P. D.]	
Lienholder: None Filed]	

INITIAL ORDER

This contested administrative case was heard in Cookeville, Tennessee, on March 3, 2015, before J. Randall LaFevor, Administrative Judge, assigned by the Secretary of State and sitting for the Commissioner of the Tennessee Department of Safety. Mr. Robert Broome, Staff Attorney for the Tennessee Department of Safety, represented the State. The Claimant was present in the hearing room, and was represented by his legal counsel, Ms. C.G. Johns.

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proposed forfeiture of the described vehicle for its alleged operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant (“DUI”).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 May 7, 2014, an officer with the Cookeville Police Department stopped the subject vehicle for a registration violation. When the officer approached the vehicle, its driver, Jose Barrera Ramirez (“the 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 Following a records check, the officer confirmed that the Claimant had no valid driver's license because it was revoked due to a DUI conviction in Cumberland County in 2013. 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 DUI on October 21, 2013, resulting in the revocation of his motor vehicle operator's license.² His license had not been restored before he was stopped by the officer on May 7, 2014. The Claimant did not challenge any of the State's relevant proof. He conceded that he was driving with knowledge that his license was revoked for a prior DUI, that he had not had a valid license in more than ten (10) years, and that, despite his lack of a license, he had continued to drive daily.

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.

² The Claimant's Driver Record shows that his license reinstatement eligibility date was 10/21/2014.

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 October 2013 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 stopped on May 7, 2014. 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 1999 Ford Mustang is FORFEITED to the Seizing Agency, the Cookeville Police Department, for disposition as provided by law.

Entered and effective this _____ day of _____, 2015.

J. Randall LaFevor, Administrative Judge

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



J. Richard Collier, Director
Administrative Procedures Division