



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

Tennessee Department of State, Opinions from the
Administrative Procedures Division

Law

July 2015

Christopher A. Stengel vs. Safety

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



State of Tennessee
Department of State
Administrative Procedures Division
312 Rosa L. Parks Avenue
8th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

July 6, 2015

Commissioner Bill Gibbons
Tennessee Department of Safety
23rd Floor, William R. Snodgrass Tower
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243-1102

Christopher A. Stengel
6132 Bent Brook Drive
Bessemer, AL 35022

Joe R. Bartlett, Esq.
Staff Attorney IV
Tennessee Department of Safety &
Homeland Security
Legal Division
6174 Macon Avenue
Memphis, TN 38134-7502

RE: In the Matter of: Christopher A. Stengel (P5564) Docket No. 19.01-126861J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

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

IN THE MATTER OF:

CHRISTOPHER A. STENGEL

DOCKET NO. 19.01-126861J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **July 21, 2015**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

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

IN THE MATTER OF:		
DEPARTMENT OF SAFETY,		
vs.		DOCKET # 19.01-126861J
		D.O.S. # P5564
One 1995 Ford Ranger Truck¹		
VIN: 1FTCR14A1SPA33160		
Seized From: Christopher A. Stengel		
Seizure Date: 2/4/14		
Claimant: Christopher A. Stengel		
Seizing Agency: Somerville P. D.		
Lien Holder: None Filed		

INITIAL ORDER

This contested administrative case was heard in Memphis, Tennessee on June 29, 2015, before J. Randall LaFevor, Administrative Judge, assigned by the Secretary of State, 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 subject of the hearing was the proposed forfeiture of the seized vehicle, based on the Seizing Agency's assertion that it was used to facilitate a violation of the Tennessee Drug Control Act. Upon full consideration of the record in this case, it is determined that the seized property should be forfeited to the Seizing Agency. This decision is based on the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On February 4, 2014, an officer with the Somerville Police Department stopped a truck for driving 90 MPH in a 30 MPH zone, and approached the driver, Christopher Stengel ("the Claimant").

¹ Over \$2,300.00 in U.S. Currency was seized after being found in the vehicle. That currency was already forfeited to the seizing agency by order of the Commissioner's designee, dated December 26, 2014. This hearing only related to the seizure of the vehicle.

2. After obtaining permission to search the vehicle, the officer found a pill bottle² bearing the Claimant's mother's name, which contained eighteen 20-mg Adderall [a Schedule-II drug] tablets, some of which had been cut into multiple sections. The Claimant stated that, even though the pills had not been prescribed for him, he took them to stay awake when he drove while tired.

3. The Claimant displayed extreme behavior during his interaction with the officer, including: claiming that he is from another planet and has super powers; and at one point, assuming a false British accent.

4. The officer arrested the driver for traffic, weapons and drug offenses. He then seized the car, and later sought and obtained a Vehicle Forfeiture Warrant for the vehicle. The Claimant filed a claim for the return of the vehicle, resulting in the scheduling of the instant contested administrative case hearing.

5. During the hearing, the Claimant said that he was the owner of the seized car, and acknowledged the officer's account of the stop and arrest. He said that his mother had given him the pills, thinking they may help with his ADHD. He said he did not take them for that purpose because he did not like them, but kept them to allow him to stay alert when he drove while tired. His mother did not testify at the hearing.

CONCLUSIONS OF LAW and ANALYSIS

1. "All conveyances, including . . . vehicles . . . which are used or are intended for use, to transport, or in any manner facilitate the transportation, sale or receipt of" controlled substances in violation of the Tennessee Drug Control Act are subject to forfeiture. TENN. CODE ANN. § 53-11-451(a)(4). [Underlined emphasis added.]

2. On behalf of the Seizing Agency, the State of Tennessee Department of Safety bears the burden of proof in forfeiture proceedings, and must therefore prove, by a preponderance of the evidence, that the seized property is subject to forfeiture, pursuant

² The officer also found \$2,340.00 in U.S. Currency, and various long knives and swords in the vehicle.

to law. Failure to carry the burden of proof operates as a bar to the proposed forfeiture. TENN. CODE ANN. 53-11-201(d)(2); *Rule 1340-2-2-.15*, TENN. COMP. R. & REGS., *Rules of the Tennessee Department of Safety*.

3. The State's proof established, by a preponderance of the evidence, that the Claimant transported a felony amount of a Schedule-II drug that had been prescribed for his mother. Although the drugs had not been prescribed for the Claimant, he illegally possessed them for his own use, and transported them in his truck.

4. When the Claimant illegally received the drugs from his mother, and used the vehicle to transport those drugs for his illegal use, the truck became subject to forfeiture as a vehicle that was used to transport controlled substances in violation of the Tennessee Drug Control Act. TENN. CODE ANN. § 53-11-451(a)(4). The Claimant established no basis for denying the Seizing Agency's proposed forfeiture.

Accordingly, it is hereby ORDERED that the seized 1995 Ford Ranger is forfeited to the Seizing Agency, the Somerville Police Department, for disposition as provided by law.

Entered and effective this 6TH day of JULY 2015.



J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 6TH day of JULY 2015.



J. Richard Collier, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.