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January 2016

Huey Morgan vs. Safety

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

January 11, 2016

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

Huey P. Morgan
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Knoxville, TN 37914-7002

RE: In the Matter of: Huey P. Morgan (Q9652)

Docket No. 19.05-134013J

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:

HUEY P. MORGAN

DOCKET NO. 19.05-134013J

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 **January 26, 2016**.

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		FORFEITURE PROCEEDING
v.		
One 1999 BMW 23U		
VIN: WBAAM333XXFP50574		DOCKET # 19.05-134013J
Seized From: Huey P. Morgan		(D.O.S. # Q9652)
Seizure Date: 5/30/15		
Claimant: Huey P. Morgan		
Seizing Agency: Alcoa P. D.		
Lienholder: None Filed		

INITIAL ORDER

This contested administrative case was heard in Knoxville, Tennessee, on January 6, 2016, 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. §§ 55-50-504 & 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 30, 2015, an officer with the Alcoa Police Department saw Huey P. Morgan (“the Claimant”) driving the subject vehicle on a public street. He recognized the Claimant because he had recently encountered him during an investigation into a shoplifting charge, and knew that his motor vehicle operator’s license was revoked.

2. When the officer stopped and approached the vehicle, the Claimant was unable to produce a valid Motor Vehicle Operator's License. He produced an *expired* restricted license that had previously allowed him to drive to "work, worship and court."¹ When questioned by the officer, the Claimant said that he was on his way to his rental property.

3. 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 Blount County on July 28, 2014. Based on that fact, the Claimant was arrested and cited for Driving on a Revoked License [and for Possession of Drugs found in his car at the time of the stop.]

4. 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.

5. The hearing testimony and records from the Tennessee Department of Safety² established that the Claimant was previously convicted of DUI on July 28, 2014, resulting in the revocation of his motor vehicle operator's license.³ His license had not been restored before he was stopped by the officer on May 30, 2015, and he was not eligible for reinstatement at that time. 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 knew his restricted license had expired, and that, despite his lack of a license, he had continued to drive daily. [He also acknowledged that one of his vehicles had been previously seized in February 2015, only months before the instant seizure, for driving while his license was revoked due to the same DUI conviction. He therefore had prior knowledge of the possible consequences of his continued illegal conduct.]

¹ The Claimant's restricted license had expired on May 28, 2015, but, as he testified, even though he knew it had expired, he continued to drive anyway.

² Hearing Exhibit #2, Official Driver Record.

³ The Claimant's Driver Record shows that his license reinstatement eligibility date was 7/28/15.

CONCLUSIONS OF LAW & ANALYSIS

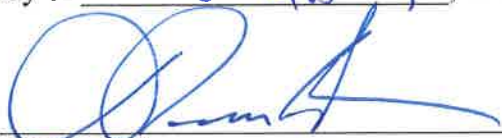
1. The law provides that it is illegal for a person to operate a motor vehicle at a time when his/her license to drive has been revoked. It further provides that, if the revocation was ordered due to a DUI conviction, any vehicle driven by the offender during the period of revocation is subject to seizure 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.*

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 July 2014 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 30, 2015. 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 BMW 23U is FORFEITED to the Seizing Agency, the Alcoa Police Department, for disposition as provided by law.

Entered and effective this 11TH day of JANUARY, 2016.



J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 11TH day of JANUARY 2016.

J. Richard Collier

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.