

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 98-10-23-018 / NOT PRECEDENTIAL
ID: SJ980027
DATE: 10-23-98
DISPOSITION: REVOKED
TAX TYPE: MOTOR VEHICLE REGISTRATION / TITLE
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the record of the show cause proceedings and the exhibits received into evidence, the undersigned finds:

1. On or about May 26, 1998, Certificate of Title No. XXXB, referred to as the "B" title, was assigned to RESPONDENT "A", on the vehicle in question.

2. Instead of bringing title to the vehicle up in his name, RESPONDENT "A", complied with his lender's request to forward the original assigned "B" title to it for purposes of registering its lien against the vehicle.

3. Prior to forwarding the original assigned "B" title to the lender, RESPONDENT "A", made a photocopy of the same.

4. Thereafter, on August 18, 1998, RESPONDENT "A", prepared and executed an Affidavit of Lost Title. The Affidavit shows assignment of the title to the vehicle in the name of RESPONDENT "A", solely. The accompanying proof of ownership reports a sale of the vehicle in question to RESPONDENT "A", solely. The Affidavit of Lost Title was not accompanied by a proof of ownership to the vehicle in the name of RESPONDENT "B".

5. The Affidavit of Lost Title, the accompanying proof of ownership and the photocopy of the assigned "B" title was presented to a tag agent. The photocopy of the assigned "B" title had been altered to include the name of RESPONDENT "B", on the assignment.

6. Based on the information provided the tag agent should have issued the certificate of title to the vehicle in the name of RESPONDENT "A". However, the tag agent erroneously issued Certificate of Title No. XXXC, referred to as the "C" title, in the names of Respondents, RESPONDENT "A" or RESPONDENT "B".

7. On August 26, 1998, Certificate of Title No. XXXD, referred to as the "D" title, was issued to RESPONDENT "B", upon surrender of the assigned C title. The assignment reports the seller as RESPONDENT "B", and the purchaser as RESPONDENT "B".

8. On or about September 2, 1998, after receiving a request from RESPONDENT "A" for the revocation of the C and D titles, the Division referred the referenced cause to the Office of the Administrative Law Judges for purposes of scheduling a show cause hearing pursuant to 47 O.S. 1991, §1106 and 68 O.S. 1991, §212.

9. Notice of and the reason for the hearing was properly given to Respondents.

10. RESPONDENT "B", neither appeared at the hearing scheduled in this cause for October 1, 1998, nor responded to the notice thereof.

11. The Division argues that as custodian of the records it does not determine ownership of a vehicle, but merely accepts the information presented and as such, an error or omission was made in issuing the C title in the names of Respondents, RESPONDENT "A" or RESPONDENT "B", and in issuing the D title to RESPONDENT "B".

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission, 47 O.S. 1991, §1106 and 68 O.S. 1991, §212; that the Oklahoma Vehicle and Registration Act, 47 O.S. 1991, § 1101 *et seq.*, was not enacted for the purpose of determining the ownership of a vehicle for which a license is to be obtained, **Lepley v. State of Oklahoma**, 69 Ok. Cr. 379, 103 P.2d 568 (1940); that the revocation of a certificate of title is not a positive determination of ownership of title to the vehicle, *Id.*; that the Tax Commission is merely a custodian of the records required to file and index certificates of title so that "at all times it is possible to trace title to the vehicle designated," 47 O.S. 1991, §1107; that the Tax Commission upon determination that an Applicant is not entitled to register and title a vehicle may at any time refuse to issue or revoke the registration and certificate of title, 47 O.S. 1991, §1106; and that in this cause, based on the facts presented and for the limited purpose of tracing title to the vehicle in question, the C title was erroneously issued in the names of Respondents, RESPONDENT "A" or RESPONDENT "B" thereby causing an error in the issuance of the D title in the name of RESPONDENT "B".

DISPOSITION

THEREFORE, IT WAS ORDERED, ADJUDGED, AND DECREED that the Registrations and Certificates of Title No. XXXC and XXXD, issued to Respondents, RESPONDENT "A" or RESPONDENT "B", and Respondent, RESPONDENT "B", respectively, on the 1991 Dodge Caravan, Vehicle Identification No. ZZZ, should be and the same WERE hereby revoked.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was **NOT** deemed precedential by the Commission. This means that the legal conclusions are not generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.