

JURISDICTION: OKLAHOMA TAX COMMISSION - DECISION
CITE: 2003-03-25-008 - NOT PRECEDENTIAL
ID: SJ030002
DATE: 03-25-03
DISPOSITION: DENIED
TAX TYPE: MOTOR VEHICLE
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now on this 20th day of February, 2003, the above styled and number cause comes on for decision pursuant to a hearing held on January 29, 2003. Applicant appears pro se. The Motor Vehicle Division of the Tax Commission ("Division") is represented by AN Assistant General Counsel, General Counsel's Office of the Tax Commission.

Upon review of the file and records, including the record of the hearing, the exhibits received into evidence and taking official notice of the pertinent statutes and rules of the *Oklahoma Administrative Code*, the undersigned finds:

FINDINGS OF FACT

1. On or about December 6, 2002, the Applicant applied for a National Guard License Plate for his automobile.
2. In making the application, the Applicant admitted that he was neither an active nor retired member of the Oklahoma National Guard.
3. The Division by letter dated December 9, 2002, notified the Applicant that he did not qualify for the National Guard License Plate since he was not an active or retired member of the Oklahoma National Guard and denied the application.
4. The Applicant timely protested the Division's denial of his application and requested a hearing.
5. All National Guard members are issued a card which identifies them as either an active or retired member of the National Guard.
6. The Division requires proof of eligibility by and through the submission of a photocopy of the applicant's current military identification card for the issuance of a National Guard License Plate.
7. To the knowledge of the witness, the Division has never issued a National Guard License Plate to anyone other than an active or qualified retired member of the Oklahoma National Guard.
8. Oklahoma motor license agents are only authorized to renew special license plates. They are not authorized to issue special license plates.
9. All applications for special license plates are reviewed by the Tax Commission which is the only authority authorized to issued the plates upon an initial application.

ISSUE AND CONTENTIONS

The issue presented for decision is whether the Division's denial of the Applicant's application for a "National Guard License Plate" is erroneous.

The Applicant contends that the denial of the application for a special license plate is erroneous. In support of this contention, the Applicant argues that the pertinent statute, 47 O.S. Supp. 2002, § 1136(5), does not qualify itself by specifically stating the qualifications for application, except for "retired members" which he is not, and does not disqualify any other applicant as do other special license plate provisions contained in Section 1136. Essentially, the Applicant argues that since the language of the statute does not provide the license plate is designed exclusively for members of the Oklahoma National Guard, the statute does not exclude anyone from applying for a National Guard License Plate.

The Division contends that the denial of the application is not erroneous. In support of this contention, the Division argues the statute clearly expresses that the special license plate is for active or retired member of the Oklahoma National Guard and since the Applicant is neither an active nor retired member of the Oklahoma National Guard he is not qualified nor eligible to have the plate.

CONCLUSIONS OF LAW

1. Jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission. 68 O.S. 1991, § 207.

2. The Legislature has authorized special license plates to be issued to select groups or organizations of individuals or to individuals who wish to support select causes or organizations. See, 47 O.S. Supp. 2002, § 1136.

3. The special license plates authorized by Section 1136 shall be designed in such a manner as to identify the use and ownership of the vehicle and cannot be transferred to any other person, but must be removed from the vehicle and retained upon transfer of ownership of the vehicle. See, 47 O.S. Supp. 2002, § 1136.

4. In particular to this proceeding, the Legislature has authorized the design and issuance of National Guard License Plates. 47 O.S. Supp. § 1136(5). Section 1136(5) provides:

National Guard License Plates - such plates shall be designed for active or retired members of the Oklahoma National Guard. Retirees who are eligible for such plates shall provide proof of eligibility upon initial application, but shall not be required to provide proof of eligibility annually. The fee for such plate shall be Five Dollars (\$5.00) and shall be in addition to all other registration fees provided by the Oklahoma Vehicle License and Registration Act.

5. The word "designed" is not defined by the provisions of the Oklahoma Vehicle License and Registration Act. 47 O.S. Supp. 2001, § 1102 et seq. When common words are used in statutes, principles of statutory construction require that words be given their common and ordinarily accepted meaning. *In re Rambo*, 199 B.R. 747 (W.D. Okla. 1996).

6. The word "designed" has several different meanings and functions within the English language. See, *Webster's Ninth New Collegiate Dictionary*, 343 (1987). The subject matter and purpose of a statute are material to ascertaining the meaning of a word or phrase used and such language should be construed to be harmonious with the purpose of the act, rather than in a way which would defeat it. ***Bishop v. Takata Corp.***, 2000 OK 71, 12 P.3d 459 (Okla. 2000).

7. Here, the undersigned finds that the word "designed" as used within the context of Section 1136 means: "to have as a purpose: intend; "to devise for a specific function or end." *Webster's Ninth New Collegiate Dictionary*, 343 (1987).

8. Although proof of eligibility for "active" members of the Oklahoma National Guard is not specifically required by Section 1136(5), such proof is implicit therein and within the general intent and purpose of Section 1136. The National Guard License Plate is intended for members of the Oklahoma National Guard. Only members of the Oklahoma National Guard, whether active or retired, are eligible for the plate. The provisions of Section 1136(5) do not permit the issuance of a National Guard License Plate to any person wishing to demonstrate support for the Oklahoma National Guard.

Further, the issuance of a National Guard License Plate to an individual, as with many of the other authorized special license plates, is to acknowledge, honor and celebrate the achievement, sacrifice and courage of that individual. To permit the issuance of a special license plate to anyone who is not eligible for such plate would defeat the purpose and intent of the statute.

9. Here, the Applicant admits that he is neither an active nor retired member of the Oklahoma National Guard. Accordingly, he is not eligible for the issuance of a National Guard License Plate.

10. The Applicant's protest to the denial of his application for a National Guard License Plate should be denied.

DISPOSITION

Based on the above and foregoing findings of fact and conclusions of law, it is DETERMINED that the protest to the denial of the Application for a National Guard License Plate of the Applicant be denied.

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.