JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2003-11-06-08 / NOT PRECEDENTIAL**
ID: **SJ030062**
DATE: **11-06-03**
DISPOSITION: **TITLE RECEIPTS REVOKED / REINSTATED**
TAX TYPE: **MOTOR VEHICLE TITLE**
APPEAL: **NO APPEAL TAKEN**

ORDER REVOKING MOTOR VEHICLE DIVISION TAX/FEE RECEIPTS

NOW on this 8th day of October, 2003, the above styled and numbered cause comes on for decision pursuant to a Notice to Show Cause Hearing held on September 9, 2003. Respondent is represented. The Motor Vehicle Division of the Tax Commission (hereinafter "Division") is represented by the General Counsel's Office of the Tax Commission.

Upon review of the file and records, including the record of the hearing and the exhibits received into evidence, the undersigned finds:

1. That on or about March 20, 2003, Certificate of Title No. CCCCCCCCCCCCC, referred to as the "C" title, was issued as a "salvage title" to MR C of ANONYMOUS, Oklahoma.

2. That on or about April 30, 2003, Tag Agent 7513, issued Receipts No. 11111111111111 through 22222222222222, showing the issuance of Certificate of Title No. DDDDDDDDDDDDD, referred to as the "D" title, to MS. D, LITTLE TOWNS, Oklahoma, listing no lien holder. The type of title was a "rebuilt title," issued upon surrender of the assigned "C" title. The assignment showed that RESPONDENT purchased the vehicle from MR C on or about April 3, 2003, and assignment was made to MR. D. No lien holder was indicated.

3. That on or about April 30, 2003, Tag Agent 7513, voided Receipts No. 11111111111111 through 22222222222222. Receipts No. 33333333333333 through 44444444444444 were then issued showing the issuance of Certificate of Title No. DDDDDDDDDDDDD, referred to as the "D" title, to RESPONDENT, LITTLE TOWN, OK. The type of title issued was a "rebuilt title" and listed MR C as lien holder. Documentation presented with the receipts included the assigned "C" title which listed no lien holder; a lien entry form specifying Receipt No. 33333333333333, showing the debtors as RESPONDENT and the secured party as MR C; and a copy of Repair Order No. XXXXXXX from ANON REPAIR CENTER, dated April 30, 2003, showing work done on a 1993 Chevrolet for the amount of $991.00.

4. That by letters dated June 18, 2003, RESPONDENT requested a re-issuance of a title without lien, explaining she and her husband had purchased a vehicle and the title had been changed into her daughter's name on April 30, 2003. She left the tag agency after paying for the title change and receiving vehicle title receipts showing no lien holder. She stated that a month later, she received new receipts showing a lien holder and she went to the tag agency and discovered that her receipts had been voided by the tag agent and another title issued with lien. She further stated that when she questioned the tag agent about this, she was told that MR C came into the agency after she left, questioning the agency and requesting a lien be placed on the title. She also stated that the tag agency advised her that they had received an "okay" from the Oklahoma Tax Commission to put the lien on the title. RESPONDENT reported that she spoke with AN ADMINISTRATOR of the Oklahoma Tax Commission and that THE ADMINISTRATOR researched the situation and confirmed the stated incident, but could not confirm with the tag agency the person they talked with at the Tax Commission.

5. That at the hearing A SUPERVISOR OF THE Titles (Lien/Corrections), Motor Vehicle Division, testified on behalf of the Division, that Receipts No. 11111111111111 through 22222222222222 were incorrectly voided and Receipts No. 33333333333333 through 44444444444444 were improperly issued for the reason that a properly assigned "C" title, showing no lien holder, was surrendered by RESPONDENT at the time she paid for and received Receipts No. 11111111111111 through 22222222222222.

6. That at the hearing RESPONDENT stated that she wanted the lien taken off the title.

7. That on the 13th day of August, 2003, a Journal Entry of Judgement was entered against Defendants (Respondents herein) for the sales price of the vehicle in question less sums previously paid in the District Court-2nd Judicial District, ANONYMOUS County, Oklahoma, Courthouse, LITTLE TOWN, Oklahoma in the case styled MR C v. RESPONDENT, et al., Case no. XX-XXXX-XX.

8. That 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 voiding Receipts No. 11111111111111 through 22222222222222 and issuing Receipts No. 33333333333333 through 44444444444444 which caused a lien to be erroneously placed on the "D" title.

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; that "...a security interest in a vehicle as to which a certificate of title may be properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form, and the existing certificate of title, if any,or application for a certificate of title and manufacturer's certificate of origin containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Tax Commission or to a motor license agent..." 47 O.S. 2001, § 1110(A)(1); and that in this cause, based on the facts presented, Receipts No. 33333333333333 through 44444444444444 should be revoked and the "D" title reissued, showing no lien holder.

DISPOSITION

THEREFORE, IT IS RECOMMENDED that Receipts No. 33333333333333 through 44444444444444 be revoked; Receipts No. 11111111111111 through 22222222222222 be reinstated, and the "D" title reissued to RESPONDENT, with no lien holder.

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.