JURISDICTION:	OKLAHOMA TAX COMMISSION
CITE:	2004-12-07-08
ID:	SJ-04-016-K
DATE:	DECEMBER 7, 2004
DISPOSITION:	REVOKED
TAX TYPE:	TITLE REGISTRATION
APPEAL:	NONE TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A request for revocation of Title No. XXXXXXXXXXXX, an original Oklahoma title, issued to Respondent on a 1977 MGB, Vehicle Identification No. VINABC1 (incorrectly listed on the original Oklahoma title as VINXYZ2) dated August 13, 2004, was filed by Complainant. The complaint was forwarded to the Office of the Administrative Law Judges for further proceedings consistent with the Oklahoma Vehicle License and Registration Act[1], the Uniform Tax Procedure Code,[2] and the Rules of Practice and Procedure Before the Oklahoma Tax Commission.[3]

On August 30, 2004, a *Notice to Show Cause Why the Application Should Not Be Refused* was forwarded to the parties. The *Notice* scheduled the show cause proceedings for hearing on September 23, 2004.

Complainant was present at the hearing held on September 23, 2004. Respondent did not appear. MECHANIC, owner of AUTO SHOP, Lawton, Oklahoma, appeared stating he was appearing on behalf of Respondent who was unable to attend because of military duties. Both MECHANIC, on behalf of Respondent, and Complainant gave testimony at the hearing. OTC WORKER, Lead Worker for the Title 42 Section, Motor Vehicle Division, testified regarding the records of the Division. Respondent's Exhibits 1 through 7, Complainant's Exhibits 1 through 3, and Division's Exhibits A through E were identified, offered, and admitted into evidence.

FINDINGS OF FACT

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 June 28, 2004, Certificate of Title No. XXXXXXXXXXXX, was issued to RESPONDENT, Lawton, Oklahoma.[4] The type of title was an "original" title

[1] 47 O.S. 2001, § 1102 et seq.

[2] 68 O.S. 2001, § 201 et seq.

[3] Rules 710:1-5-20 through 710:1-5-47 of the Oklahoma Administrative Code (*"OAC"*).

[4] Division's Exhibit B.

issued upon presentment of an application for Oklahoma certificate of title[5] and information showing RESPONDENT acquired title to the vehicle pursuant to a Title 42 sale.[6] The Notice of Sale reported that the vehicle would be offered at public sale on April 30, with that date altered to May 7.[7] The Return of Sale reported that the vehicle was offered at public sale and actually sold to RESPONDENT on April 30, 2004.[8]

2. MECHANIC, on behalf of Respondent, testified that Complainant dropped the car off at his lot in April 2000 with wiring problems but failed to leave contact information; that he could not remember the last time he had been contacted by Complainant; that he met Respondent in December 2003 when he expressed an interest in rebuilding an MG; that when he advised Respondent that he had been unable to locate an MG for rebuilding, Respondent expressed an interest in the vehicle in question; that he told Respondent he did not have title to the vehicle; that he then looked into a Title 42 sale so title could be acquired; that based on the vehicle's Texas tag and insurance information found in the vehicle, he contacted the State of Texas and was told they had no information on the tag or owner of the vehicle; that he contacted the State of Oklahoma and asked for and followed the directions given at every interval regarding a Title 42 sale; that he submitted the paperwork and was given the "go ahead"; that after the auction, he started the preparation of the car for Respondent; that approximately 10 days after permission was received from the State of Oklahoma, Complainant phoned him and he advised him that he had sold the car through a Title 42 sale; that on August 26, 2004, he received correspondence from Complainant about the car and this was the first time he knew of any problems with the car, vehicle identification number (VIN) or otherwise; that he attempted to find out from the State of Texas information regarding the data furnished by Complainant and was told that the tag number given was a "farm" tag; that until that time, they had no idea that the numbers had been transcribed at a wrong point in time and didn't know what they were supposed to do; and that Respondent would be shipping to Iraq in three weeks and would like to have possession of the car.[9]

3. Complainant testified that he delivered his MGB to MECHANIC'S shop in May 2001 for minor repairs and spoke directly to MECHANIC; that he sporadically contacted MECHANIC regarding the progress and each time found no work had been started due to various reasons given by MECHANIC; that with each contact, he resubmitted his contact information; that he had at least contacted him in May 2002 and in May 2004, he was told the car had been retitled and sold; that he never abandoned his vehicle and he was never informed of MECHANIC'S intent to sell the vehicle; that the documentation provided by MECHANIC contained falsifications, inaccuracies, and was incomplete; and that he

[5]Division's Exhibit C.

[6]Division's Exhibits D and E.

[7]Division's Exhibit D(3).

[8]Division's Exhibit D(2).

[9]Testimony of MECHANIC.

would like his car back and the Oklahoma title revoked. Complainant offered numerous exhibits showing inaccuracies in the Title 42 documentation.[10]

4. That it is the Division's position that the "original" title should not have been issued for the reason that the documentation submitted to the Oklahoma Tax Commission for the Title 42 sale of the vehicle contained alterations, missing information, and inconsistent VIN numbers throughout.[11]

5. That at the conclusion of the hearing, the record was closed and the matter was submitted for decision.

6. That on October 8, 2004, the Office of the Administrative Law Judges received a faxed letter from Respondent. File-stamped copies were forwarded to Respondent, Complainant, the Division, and MECHANIC.

7. That in his letter, Respondent stated that until Complainant recently contacted him regarding this case, he was unaware of his involvement in this matter; that he originally spoke with MECHANIC in August 2002 about rebuilding an MG auto; that the process was long due to MECHANIC'S slowness in finding equipment and in notifying him of progress; that during a call to MECHANIC in September 2004, he was informed of a title problem and asked to provide a letter allowing MECHANIC to speak on his behalf; that after contacting his legal office, he refused to provide the letter; that until he was informed by Complainant, he was never aware that the title to the car was in his name; that he has no intention of pursuing the title of this vehicle; that he has not ever possessed the car or the title; that he requests the title issued in his name be revoked; that upon review of the documents from the hearing that Complainant provided him, he discovered that the signature on Form 752C [Division's Exhibit D(2)] was not his and that he was at a military function in Kentucky on that date; that he believes MECHANIC has dealt dishonestly with him and Complainant; and that he does not want or expect the title for this vehicle.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law:

1. That jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission. 47 O.S. 2001, § 1106 and 68 O.S. 2001, § 212.

2. 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).

[10]Complainant's Exhibits 1, 2, and 3 and testimony of Complainant.

[11]Division's Exhibits A through E and testimony of OTC WORKER.

3. That the revocation of a certificate of title is not a positive determination of ownership of title to the vehicle. ***Id.***

4. 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.

5. 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.

6. That based on the facts presented, the "original" title was erroneously issued.

DISPOSITION

Therefore, it is ORDERED that Registration and Certificate of Title No. XXXXXXXXXXXX, issued to Respondent, RESPONDENT, on the 1977 MGB, Vehicle Identification No. VINABC1 (incorrectly listed on the original Oklahoma title as VINXYZ2), be 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.