JURISDICTION:	OKLAHOMA TAX COMMISSION
CITE:	2006-11-21-03 (Non-Precedential)
ID:	SJ-06-007-K
DATE:	NOVEMBER 21, 2006
DISPOSITION:	DENIED
TAX TYPE:	TITLE REVOCATION
APPEAL:	NONE TAKEN

ORDER OF DENIAL OF THE REQUEST FOR REVOCATION OF CERTIFICATE OF TITLE

RESPONDENT ("Respondent") and COMPLAINANT ("Complainant") appear pro se. The Motor Vehicle Division of the Tax Commission ("Division") is represented by OTC ATTORNEY, Assistant General Counsel, Office of the General Counsel, Oklahoma Tax Commission.

STATEMENT OF THE CASE

A request for revocation of Title No. 123M issued to Respondent on a 1954 Chevrolet, Vehicle Identification No XYZ123, was filed by Complainant on or about August 16, 2006. On August 25, 2006, the Division's file was referred to the Office of the Administrative Law Judges (ALJ's Office) for further proceedings pursuant to 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]. The request was docketed as Case No. SJ-06-007-K and assigned to ALJ, Administrative Law Judge.[4]

A hearing was scheduled for September 26, 2006 by *Notice to Show Cause Why the Registration and Certificate of Title Should Not be Revoked* issued August 29, 2006. The *Notice* was served on Respondent and Complainant in accordance with 47 O.S. 2001, § 1106.

The hearing was held as scheduled. Complainant appeared at the hearing and gave a statement. Complainant's Exhibits 1 through 3 were admitted into evidence. Respondent did not appear at the hearing or respond to the notice. ADMINISTRATOR, Administrator-Titles, testified regarding the records of the Division. Division's Exhibits A-1 through A-4, and B-1 through B-7 were identified, offered and admitted into evidence. Upon conclusion of the hearing, the record was closed and the case was submitted for decision.[5]

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[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] *OAC*, 710:1-5-22(b).

[5] *OAC*, 710:1-5-39(a).

FINDINGS OF FACT

1. Respondent applied for and received Title No. 123M, a transfer title, to the vehicle on November 19, 2004, upon presentment of an *Affidavit for Transfer when Assigned Title is Lost* and *Bill of Sale*. Division's Exhibit A-1 through A-4. The *Affidavit* was executed by Respondent and notarized. Division's Exhibit A-3. The *Bill of Sale* shows MR. AND MRS. SELLER sold the vehicle to Respondent on or about October 28, 2004 for the sum of $400.00. Division's Exhibit A-4. The *Bill of Sale* was notarized.

2. On or about August 16, 2006, Complainant requested a revocation hearing on the title issued to Respondent. Division's Exhibit B-1. In the *Petition for a Revocation Hearing*, Complainant writes that the vehicle was stolen on or about November 18, 2004, it was recovered by the SUBURB Police Department on November 19, 2004, and that during the time it was missing a title to the vehicle was issued in Respondent's name. Attached to the *Petition* is a letter dated July 19, 2006, from Detective DETECTIVE of the BIG CITY Police Department, Auto Theft, which states that: "[Complainant] is the rightful owner of the vehicle and should bring the necessary paper work along with this letter for a title transfer into his name." Division's Exhibit B-2. Also attached to the *Petition* is a copy of Certificate of Title No. 123L issued to MR. SELLER on vehicle. Division's Exhibit B-5. The *Assignment of Title by Registered Owner* was executed by MR. SELLER as seller and Complainant as buyer on August 10, 2004. Division's Exhibit B-6.

3. Complainant submitted a notarized statement by MR. SELLER dated September 23, 2006, which states that he sold the vehicle to BUYER on August 10, 2004, Complainant's Exhibit 1; and a *Contract Agreement* between said parties which essentially provides that BUYER, President of BUSINESS did advance a sum of money to Complainant on August 18, 2004, for the purpose of purchasing the vehicle, Complainant's Exhibit 3.

4. It is the position of the Division, as custodian of motor vehicle records that no error was made in the issuance of the "M" title to Respondent.

CONCLUSIONS OF LAW

1. 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. 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 licensed vehicle, and the issuance or revocation of a certificate of title under the Act by the Commission is not a positive determination of ownership of title to the vehicle. ***Lepley v. State of Oklahoma***, 69 Okla.Crim. 379, 103 P.2d 568, 572, 146 A.L.R. 1323 (1940).

3. 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. 2001, § 1107.

4. 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. 2001, § 1106.

5. Based on the evidence present, the request for revocation of Certificate of Title No. 123M should be and the same is hereby denied.

DISPOSITION

It is ORDERED that the request for revocation of Certificate of Title No. 123M issued to Respondent, RESPONDENT, on the 1954 Chevrolet, Vehicle Identification No. XYZ123, be denied.

OKLAHOMA TAX COMMISSION

CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are 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.