JURISDICTION: OKLAHOMA TAX COMMISSION
CITE: 2007-06-26-06 (NON-PRECEDENTIAL)
ID: SJ-07-001-K
DATE: JUNE 26, 2007
DISPOSITION: SUSTAINED
TAX TYPE: TITLE REVOCATION
APPEAL: NONE

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

The Motor Vehicle Division of the Tax Commission ("Division") is represented by the OTC ATTORNEY, Assistant General Counsel, Office of the General Counsel, Oklahoma Tax Commission.

STATEMENT OF THE CASE

A request for revocation of Certificate of Title No. XYZ123, issued to CAR DEALER or OWNER ("Respondents") on a 2001 Oldsmobile, Vehicle Identification No. XXX, was requested by the Division on March 27, 2007. On even date, 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-07-001-K and assigned to ALJ, Administrative Law Judge.[4]

A hearing was scheduled for April 26, 2007 by *Notice to Show Cause Why the Registration and Certificate of Title Should Not be Revoked* issued March 30, 2007. The *Notice* was served on Respondent by registered mail in accordance with 47 O.S. Supp. 2004, § 1106(A)(2).

The hearing was held as scheduled. Counsel's appearance on behalf of the Division, together with SUPERVISOR, Supervisor-Title Section of the Division, was noted for the record. It was further noted that Respondent had received service of the *Notice*, that a representative for Respondent had not appeared and that it was the understanding of the undersigned that Respondent did not intend to appear. Certified copies of Exhibits A through D were identified offered and admitted into evidence. Upon conclusion of the Division's case, the hearing was concluded, the record was closed and the request for revocation 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

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

1. On November 22, 2005, Respondent applied for and received the certificate of title in question, a rebuilt title, to the vehicle in question upon presentment of the following documents: a Texas Salvage Vehicle Title reflecting an assignment of the vehicle from COMPANY to Respondents (Exhibit B), a Rebuilt Vehicle Inspection Request, an Authorization for Travel and Inspection, an Application for Oklahoma Certificate of Title for a Vehicle, a Declaration of Damage or Theft and a Motor Vehicle Rebuilt Vehicle Inspection (Exhibit C).

2. The Texas Salvage Vehicle Title was stamped on the face thereof and the unused reassignment blocks "For Export Only P108A". Exhibit B.

3. The Division requests revocation of the certificate of title issued to Respondents on the vehicle in question pursuant to 47 O.S. Supp. 2004, § 1105(T).

CONCLUSIONS OF LAW

1. Jurisdiction of the parties and subject matter of this proceeding is vested in the Tax Commission. 47 O.S. Supp. 2004, § 1106(A)(2).[6]

2. The Oklahoma Vehicle License and Registration Act ("Act")[7] was not enacted for the purpose of determining ownership of a licensed vehicle, and neither the issuance nor revocation of a certificate of title under the Act is a positive determination of ownership of title to a vehicle. ***Lepley v. State of Oklahoma***, 69 Okla.Crim. 379, 103 P.2d 568, 572, 146 A.L.R. 1323 (1940).

3. As custodian of the motor vehicle records, the Tax Commission is 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. Title 7, Subtitle A, Chapter 501, Subchapter E, § 501.099 of the statutes of the State of Texas provides in pertinent part:

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[6] Section 1106(A) provides:

> 1. If the Oklahoma Tax Commission shall determine at any time that an applicant for a certificate of title of a vehicle is not entitled thereto, it may refuse to issue such certificate or to register such vehicle.
>
> 2. The Commission may for a similar reason, after ten (10) days' notice and a hearing, revoke the registration and the certificate of title already acquired on any outstanding certificate of title. Said notice may be served in person or by registered mail.

[7] 47 O.S. 2001, § 1101 et seq.

(a) This section applies to a nonrepairable motor vehicle or a salvage motor vehicle that is offered for sale in this state to a person who resides in a jurisdiction outside the United States.

(b) A person may purchase a nonrepairable motor vehicle or a salvage motor vehicle only if:

(1) the person purchases the motor vehicle from a licensed salvage vehicle dealer or a governmental entity;

(2) the motor vehicle has been issued a nonrepairable vehicle title or a salvage vehicle title; and

(3) the purchaser certifies to the seller on a form provided by the department that the purchaser will:

(A) remove the motor vehicle from the United States; and

(B) not return the motor vehicle to any state of the United States as a motor vehicle titled or registered under its manufacturer's vehicle identification number.

* * * * *

(e) A salvage dealer or a governmental entity that sells a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a resident of the United States shall:

(1) stamp on the face of the title so as not to obscure any name, date, or mileage statement on the title the words "FOR EXPORT ONLY" in capital letters that are black; and

(2) stamp in each unused reassignment space on the back of the title the words "FOR EXPORT ONLY" and print the number of the dealer's salvage vehicle license or the name of the governmental entity, as applicable.

5. Section 1105(T) of the Act provides:

If a vehicle is sold to a foreign buyer pursuant to the provisions of the Automotive Dismantlers and Parts Recycler Act,[8] the licensed seller shall stamp the title with: "EXPORT ONLY. NONTRANSFERABLE IN THE UNITED STATES." The licensed seller shall supply the Tax Commission the title number, the vehicle identification number and the foreign buyer's bid identification number on a form prescribed by the Commission. The Commission shall cancel the title, and the vehicle identification number shall

[8] Footnote original "Title 47, § 591.1 et seq.".

be preserved in the computer files of the Tax Commission for a period of not less than five (5) years.

6. Based on the evidence presented, the application for revocation of Certificate of Title No. XYZ123 should be and the same is hereby sustained.

DISPOSITION

It is ORDERED that Certificate of Title No. XYZ123 issued to Respondents, CAR DEALER or OWNER, on the 2001 Oldsmobile, Vehicle Identification No. XXX, be revoked.

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.