JURISDICTION: **OKLAHOMA TAX COMMISSION DECISION**
CITE: **2008-07-01-03 / NON-PRECEDENTIAL**
ID: **SJ-08-001-K**
DATE: **JULY 1, 2008**
DISPOSITION: **REVOKED**
TAX TYPE: **TITLE REVOCATION**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Complainant, COMPLAINANT and Respondent, RESPONDENT appears pro se. The Motor Vehicle Division of the Tax Commission (hereinafter "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. 123J issued to Respondent on a 1993 Isuzu Rodeo, VIN XYZ123, was filed by Complainant. On March 3, 2008, 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 revocation request was docketed as Case No. SJ-08-001-K and assigned to ALJ, Administrative Law Judge.[4]

A *Notice to Show Cause Why the Registration and Certificate of Title should not be Revoked* was served on Complainant and Respondent in accordance with 47 O.S. Supp. 2006, 1106(A)(2). The *Show Cause Hearing* was held on April 2, 2008. Neither Complainant nor Respondent appeared at the hearing. SUPERVISOR, Supervisor-Title Section of the Division, testified regarding the records of the Division. Exhibits A through C were identified, offered and admitted into evidence.

FINDINGS OF FACT

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

1. The "H" title to the vehicle in question, a transfer title, was issued to Complainant on June 9, 2006. Exhibit B.

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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).

2. Complainant, the owner of the vehicle in question, applied for and received the "I" title, a duplicate title, on April 24, 2007, upon an *Application for Replacement Certificate of Title for Vehicle/Boat/Motor.* Exhibit A.

3. On November 16, 2007, Respondent applied for and received the "J" title to the vehicle, a transfer title, upon presentment of the assigned "H" title. Exhibit B.

CONCLUSIONS OF LAW

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

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

2. The Oklahoma Vehicle License and Registration Act was not enacted for the purpose of determining the ownership of a licensed vehicle[5], and the issuance or revocation of a certificate of title by the Commission is not 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. The Tax Commission is the custodian of the records and 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. If at any time, the Tax Commission determines that an applicant for a certificate of title to a vehicle is not entitled thereto, it may refuse to issue such certificate or to register such vehicle and for a similar reason, after ten (10) days' notice and a hearing, it may revoke the registration and the certificate of title already acquired on any outstanding certificate of title. 47 O.S. Supp. 2004, § 1106(A)(1) and (2).

5. Here, the records of the Division conclusively show that the "J" title issued to Respondent should be revoked since the title used to make the transfer was not the predecessor title.

DISPOSITION

THEREFORE, IT IS ORDERED that the Certificate of Title No. 123J issued to RESPONDENT on the 1993 Isuzu Rodeo, VIN XYZ123, be revoked.

OKLAHOMA TAX COMMISSION

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[5] *But Cf.*, ***Volvo Commercial Finance LLC The Americas v. McClellan***, 2003 OK CIV APP 27, ¶ 27, 69 P.3d 274, which cited with approval ***Mitchell Coach Manufacturing Company, Inc. v. Stephens***, 19 F.Supp.2d 1227, 1233 (N.D.Okla.1998), wherein the Court held that certificates of title under the Act are "proof of ownership" citing 47 O.S. 2001, § 1103. Distinguished by ***In Re Robinson***, 285 B.R. 732, 49 UCC Rep.Serv.2d 327 (W.D.Okla.2002) which cites ***Sutton v. Snider***, 2001 OK CIV APP 117, ¶ 9, 33 P.3d 309, 312, for the proposition that ***Mitchell*** "addresses the issue of perfecting security interests" and "the person who held the paper title in ***Mitchell*** was in essence a bona fide purchaser for value."

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.