

JURISDICTION: OKLAHOMA TAX COMMISSION DECISION
CITE: 2008-09-30-06 / NON-PRECEDENTIAL
ID: SJ-08-004-K
DATE: SEPTEMBER 30, 2008
DISPOSITION: REVOKED
TAX TYPE: TITLE REVOCATION
APPEAL: NO APPEAL TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Respondent, DEALERSHIP appears pro se. Complainant, the Title Correction Department of the Motor Vehicle Division of the Oklahoma Tax Commission (hereinafter "Division"), is represented by OTC ATTORNEY, Assistant General Counsel, Office of the General Counsel, Oklahoma Tax Commission.

STATEMENT OF THE CASE

The Division seeks revocation of Title No. 123A issued to Respondent on a 2007 Chevrolet Suburban, VIN XYZ123. On June 18, 2008, the 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 Act¹, the Uniform Tax Procedure Code² and the Rules of Practice and Procedure before the Oklahoma Tax Commission³. The revocation request was docketed as Case No. SJ-08-004-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 Respondent and the lien holder in accordance with 47 O.S. Supp. 2006, 1106(A)(2). The *Show Cause Hearing* was held on August 6, 2008. Respondent did not appear. SUPERVISOR, Supervisor-Lien and Title Corrections Section of the Division, testified regarding the records of the Division. Exhibits A and B 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. On June 15, 2007, WIFE AND/OR HUSBAND received an original certificate of title to the vehicle in question upon presentment of an assigned manufacturer's certificate of origin, Odometer Disclosure Statement, Lien Entry Form and Purchase Agreement. Exhibit B.

2. On March 14, 2008, Respondent received a 2003 Chevrolet Suburban, VIN XYZ456, in trade for a 2008 Saturn. Exhibit A.

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).

3. Upon application for title to the 2003 Chevrolet Suburban, the VIN of the vehicle in question was mistakenly utilized and Respondent received the "A" title to said vehicle. Exhibit A.

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 vehicle⁵, 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 Division's records conclusively show the "A" title to the vehicle in question was erroneously issued.

DISPOSITION

THEREFORE, IT IS ORDERED that the Certificate of Title No. 123A issued to DEALERSHIP on the 2007 Chevrolet Suburban, VIN XYZ123 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.

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."