



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF V. MYCHAL A. REDTHUNDER

CASE NO. 1090221

DESCRIPTION OF VEHICLE: Ford Bronco (WA 452YRS)

DATE OF HEARING: October 9, 2009

APPEARANCES:

Mr. Mychal A. RedThunder, appellant

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer makes this decision based upon Mr. RedThunder's testimony and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 14).

The officer's report (Exhibit 6) indicated that on October 6, 2009 the appellant's vehicle was stopped for a routine traffic violation. The appellant, who was driving, displayed an Oregon ID card, which was not valid for an operator's license in Oregon. The appellant stated that he had a WA driver's license, but forgot it at home. The officer located the appellant's WA license information via a computer check, and found that it was revoked on September 18, 2009 because of child support issues. Driver displayed a month's old expired insurance card. Driver was cited and car impounded for no insurance and no operator's license.

The appellant testified that he did not have his wallet when the officer contacted him. The appellant stated that he showed the officer his Oregon ID card and an expired insurance card, and told the officer that he had a valid WA driver's license and current insurance card in his wallet. The appellant stated that after ordering the appellant's vehicle towed, the officer found the appellant's wallet in the vehicle. The officer then handed the wallet to the appellant. The appellant stated that he retrieved his Washington license and current insurance card from the wallet and attempted to show them to the officer. The appellant stated that the tow truck arrived at about this time and the officer made no comment about the appellant's WA license or current insurance card.

The Hearings Officer finds that the City Code authorizes an officer to tow a vehicle if the officer has probable cause to believe that the driver is driving with a suspended or revoked license, or is driving without insurance. In this case, the Hearings Officer finds that when the officer learned via a computer check that the appellant's WA license was revoked, this gave the officer probable cause to believe that the appellant was driving with a revoked license. The appellant's eventually presenting the officer with the WA license from his wallet made no difference as to the computer check. The Hearings Officer finds that when the appellant presented the officer with the current insurance card, this might have raised an issue about whether the officer still had probable cause to tow the vehicle based on a lack of insurance. However, the Hearings Officer finds that the officer having probable

cause to believe the appellant was driving with a revoked license was a sufficient basis for towing the vehicle. Given these circumstances, the Hearings Officer finds that this was a valid tow. Please note the relevant code sections below.

16.30.220 Towing Without Prior Notice.

(Amended by Ordinance Nos. 165980, 170912, 176352, and 176442, effective May 1, 2002.) Any authorized officer may, without prior notice, order a vehicle towed, when:

K. A police officer has probable cause to believe that the vehicle's operator has committed any of the following offenses:

1. Driving uninsured (ORS 806.010);
2. Driving while suspended or revoked (ORS 811.175 or ORS 811.182);
3. Operating a vehicle without driving privileges or in violation of license restrictions (ORS 807.010) and the operator's license has been expired for 60 days or more, or that the operator has not had a valid driver's license within the previous 60 days.

806.011 Insurance card required. An unexpired card issued as provided in ORS 742.447, or other current proof of compliance with financial or future responsibility requirements approved by rule by the Department of Transportation, shall be carried in each motor vehicle that is operating in this state and that is not exempt from compliance with financial or future responsibility requirements. Failure of the driver of a motor vehicle to show a valid card or other proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010.

Therefore, it is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: October 14, 2009
IS:rs/cb



Ian Simpson, Hearings Officer

Bureau: Police
Tow Number: 19786

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	RedThunder, V. Mychal A.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Traffic Violation Tow Report	Police Records	Received
7	Oregon Uniform Citation and Complaint	Police Records	Received
8	Notice of Impoundment Towing	Police Records	Received
9	Investigation Report	Police Records	Received
10	Custody Report	Police Records	Received
11	Property/Evidence Receipt	Police Records	Received
12	Copy of Geico ID card	RedThunder, V. Mychal A.	Received
13	License Suspension Cancellation Notice dated 9/9/09	RedThunder, V. Mychal A.	Received
14	License Suspension Cancellation Notice dated 10/7/09	RedThunder, V. Mychal A.	Received