



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1900 S.W. 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
FAX: (503) 823-4347
TDD (503) 823-6868

HEARINGS OFFICER'S ORDER

APPEAL OF EZRA T. CURRY

CASE NO. 1080277

DESCRIPTION OF VEHICLE: Chevrolet TBZ (SC 3062DX)

DATE OF HEARING: September 9, 2008

APPEARANCES:

Mr. Ezra T. Curry, appellant

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole and receiving Exhibits 1 through 18 into the record without objection, finds as follows:

The towing officer's report (Exhibits 11 through 13) stated that the appellant was stopped for a traffic infraction. The appellant gave the officer permission to search his vehicle. The officer found a digital scale in the front passenger's seat rear pouch, and a baggie of white powder in the center vehicle console (emergency vehicle brake area). The officer asked the appellant what the powder was, and the appellant answered that it looked like cocaine. The appellant denied that the powder or scale were his.

The appellant stated that the vehicle should not have been towed because the cocaine was not on his person and was not his. The City Code authorizes an officer to tow a vehicle if he has probable cause to believe that the vehicle was used to possess or deliver a controlled substance. In this case, the vehicle was being used to transport cocaine. The Code section does not distinguish whether the driver or owner knew of the controlled substance or not.

Given these circumstances, this was a valid tow. Please note the relevant city code sections below concerning this matter.

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:

L. A police officer has probable cause to believe that the vehicle has been used or is possessed for the purpose of being used to commit or conceal the commission of one or more of these offenses:

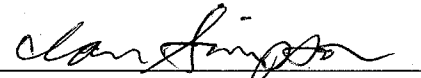
2. Unlawful delivery of imitation controlled substance (ORS 475.991), Unlawful possession, delivery, or manufacture of controlled substance (OR 472.992), Unlawful distribution of controlled substance to minors

(ORS 475.995), Unlawful manufacture or delivery of controlled substance within 1,000 feet of school (ORS 475.999), or any attempt, solicitation, or conspiracy of one of these offenses.

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: September 12, 2008
IS: cb


Ian Simpson, Hearings Officer

Bureau: Police
Tow Number: 23730

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Curry, Ezra T.	Received
2	Tow desk report	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Custody Report	Police Records	Received
7	Fingerprints	Police Records	Received
8	FBI Info. Services Division form	Police Records	Received
9	Custody Report	Police Records	Received
10	Fingerprints	Police Records	Received
11	Custody Report	Police Records	Received
12	Fingerprints	Police Records	Received
12	Custody Report - Desmond Bernard Shepard	Police Records	Received
13	Special Report	Police Records	Received
14	Special Report	Police Records	Received
15	Notice of Impoundment Towing	Police Records	Received
16	Property/Evidence Receipt - Jennifer Perkins	Police Records	Received
17	Property/Evidence Receipt	Police Records	Received
18	Property/Evidence Receipt - Desmond Shepard	Police Records	Received