



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF LUCAS M. MOORE

CASE NO. 1080310

DESCRIPTION OF VEHICLE: BMW 325 (OR 644DPY)

DATE OF HEARING: October 21, 2008

APPEARANCES:

Mr. Lucas Moore, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Lucas Moore appeared and testified on his own behalf. Mr. Moore objected to the entry of Exhibit 7. The basis of Mr. Moore's objection was that the Oregon Police Traffic Report (Exhibit 7) contained information that was not true and therefore the Exhibit was not relevant. Mr. Moore stated that there was no "hit and run" and therefore the report referenced incomplete and/or unsupported allegations/information; i.e., it did not relate to Mr. Moore's alleged "driving while suspended." The Hearings Officer found that Exhibit 7 did relate to one of the reasons that Mr. Moore's vehicle was towed; Portland City Code 16.30.220 G. (a vehicle may be towed without prior notice when a police officer reasonably believes that the vehicle or its contents constitute evidence of any offense, if such towing is reasonably necessary to objection or preserve such evidence). The Hearings Officer admitted exhibits 1 through and including 9 into the evidentiary record. The Hearings Officer makes this decision based upon the testimony of Mr. Moore and the admitted exhibits.

Mr. Moore testified that the police officer who ordered his vehicle towed acted improperly. Mr. Moore stated that he did have an interaction with a woman and man at an intersection but that both persons left the intersection (walked away from Mr. Moore's vehicle). Mr. Moore stated that the police officer did not contact Mr. Moore at the intersection where the interaction with the couple occurred. Mr. Moore stated that he felt the assertion of a "hit and run" involving his vehicle and a woman at the intersection was false. Mr. Moore stated that the man and woman did not make any attempt to exchange information with him despite his waiting for a period of time at the intersection.

The officer who ordered Mr. Moore's vehicle towed prepared an Oregon Police Traffic Crash Report (including a continuation report, Exhibit 7). The police officer, in Exhibit 7 (continuation report) stated that he/she responded to a woman in the vicinity of NW 21st/NW Glisan. According to Exhibit 7, the woman told the police officer that as she was in the crosswalk at NW Glisan at NW 21st, she was struck by a white BMW, Oregon license 644DPY. The police officer stated, in Exhibit 7, that the driver of the BMW drove off as the woman "banged on his car to get him to stop." The woman, according to the report (Exhibit 7) drove away westbound on Glisan. The police report (Exhibit 7) stated that the police officer located the BMW (Oregon license 644DPY) which was

unoccupied at NW 24th/NW Pettygrove. The police officer stated that BMW was towed "for further investigation."

The Towed Vehicle Report indicates that Mr. Moore's BMW was towed for "DWS/POL/HR." The Hearings Officer finds no support in the police report (Exhibit 7) that Mr. Moore was driving while suspended.

Portland City Code 16.30.220 authorizes a police officer to tow a vehicle if he/she reasonably believes that the vehicle constitutes evidence of a crime. Hit and run is a criminal offense and the officer had a reasonable belief based on what the woman told him.


The Hearings Officer appreciates Mr. Moore's argument that the woman who reported the "hit and run" to the police officer was not telling the truth. However, whether or not the woman told the police officer the truth is not determinative in this case. The Hearings Officer must find a tow valid if the Hearings Officer finds that the police officer who ordered the tow followed the relevant rules and laws. In this case the Hearings Officer finds that the police officer had Mr. Moore's vehicle towed because he/she reasonably believed that Mr. Moore's vehicle was involved in a hit and run. Further, the Hearings Officer finds that the police officer, based upon his/her reasonable belief that Mr. Moore's vehicle was involved in a hit and run accident, a criminal offense, and that Mr. Moore's vehicle itself constituted evidence of such offense, acted appropriately in ordering the vehicle towed to preserve such evidence.

The Hearings Officer finds the tow valid.

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 22, 2008
GJF: cb/rs



Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 26709

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Moore, Lucas M.	Received
2	Copy of Notice of Towed Vehicle	Moore, Lucas M.	Received
3	Tow desk report printout	Hearings Office	Received
4	Hearing notice	Hearings Office	Received
5	Tow hearing info. sheet	Hearings Office	Received
6	Towed Vehicle Record	Police Records	Received
7	Oregon Police Traffic Crash Report	Police Records	Received
8	Oregon Driver License	Police Records	Received
9	Vehicle Release	Police Records	Received