



CITY OF  
**PORTLAND, OREGON**

HEARINGS OFFICE

1900 S.W. 4<sup>th</sup> Avenue, Room 3100

Portland, Oregon 97201

Telephone: (503) 823-7307

FAX: (503) 823-4347

TDD (503) 823-6868

[www.portlandonline.com/auditor/hearings](http://www.portlandonline.com/auditor/hearings)

**HEARINGS OFFICER'S ORDER**

APPEAL OF LATRICE TAYLOR

CASE NO. 1080364

DESCRIPTION OF VEHICLE: Buick LeSabre (OR 033CVT)

DATE OF HEARING: December 16, 2008

APPEARANCES:

Mr. Gregory Brown, representing Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

The Hearings Officer, on substantial evidence and based upon the record as a whole, finds as follows:

Ms. Latrice Taylor, the owner of the vehicle, requested a hearing and authorized Mr. Gregory Brown to appear and represent her at the hearing (Exhibit 1). Mr. Brown appeared and testified at the hearing on behalf of Ms. Taylor. Mr. Brown objected to Exhibit 13 and the Hearings Officer agreed that this document was not relevant to the police officer ordering Ms. Taylor's vehicle towed. Mr. Brown objected to the introduction of Exhibits 9 (Custody Report), Exhibit 10 and 11 (2 pages of Special Report), Exhibit 12 (non-connect special report), and Exhibit 15 (Property / Evidence Receipt). The Hearings Officer admitted Exhibits 9, 10, 11, 12 and 15 because they related to the events leading up to the tow. Exhibit 9 referred to the tow of Ms. Taylor's vehicle and described criminal charges against Mr. Brown arising from the discovery of controlled substances and Mr. Brown's failure to carry/present a license leading up to the tow. Exhibits 10 and 11 constitute a written narrative by the police officer describing events leading up to the tow of Ms. Taylor's vehicle. Exhibit 15 describes items discovered during the police officer's search of Ms. Taylor's vehicle. The Hearings Officer also admits exhibits which Mr. Brown did not object to; Exhibits 1 through and including 8, 12, 14, and 16. The Hearings Officer makes this decision based upon the testimony of Mr. Brown and the exhibits admitted into the evidentiary record.

Portland City Code 16.30.220 permits a police officer to order a vehicle towed, without prior notice, if the 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 the unlawful possession or delivery of a controlled substance.

Mr. Brown's primary argument related to whether or not the police officer who ordered the tow of Ms. Taylor's vehicle conducted a valid traffic stop. Mr. Brown testified that prior to being stopped on December 6, 2008, at approximately 1:30 a.m., he turned right from Stafford Road onto NE 6<sup>th</sup>. Mr. Brown testified that he used his right hand turn signal when turning right onto NE 6<sup>th</sup>. Mr. Brown stated that prior to his right turn signal going off he pulled to the right hand side of the road; up to the curb. Mr. Brown stated that he disagreed with the police officer's written report (Exhibit 10) that suggested that he pulled to the right hand curb without signaling. Mr. Brown stated that he pulled to the right curb so quickly after turning that his right turn signal didn't have time to stop. Mr. Brown asserted that the stop was also not legal because the police officer had no legal basis to pass Ms. Taylor's vehicle going the opposite direction and turn around and follow Ms. Taylor's vehicle only because the officer could not see inside.

The police officer who ordered the tow submitted narrative of the events leading up to the tow of Ms. Taylor's vehicle (Exhibits 10 and 11). The officer stated, in the report that "I turned my vehicle around and started to follow the car when I observed the vehicle signal to take a right hand turn on NE 6<sup>th</sup>. The vehicle turned right, then began to go strait only for a few feet. The vehicle quickly pulled to the curb and failed to signal to the curb. The vehicle parked at this location."

The Hearings Officer finds Mr. Brown's argument that the stop was not legal because the officer turned his vehicle around simply because he could not see who was inside is not relevant. The Hearings Officer finds that Ms. Taylor's vehicle was not stopped because the police officer could not see inside. The Hearings Officer finds that what is relevant to Mr. Brown's "illegal stop" argument is whether or not there is evidence in the record that the officer observed a traffic violation/infraction. In this case, the Hearings Officer must determine if the evidence supports a finding that the police officer observed Mr. Brown signal properly prior to pulling to the curb to park.

Mr. Brown's testimony is that because he pulled over quickly after making a right turn onto NE 6<sup>th</sup> his turn signal was still operating (indicating a turn to the right). The police officer's report is clear that Mr. Brown "failed to signal to the curb." The Hearings Officer finds the statement by the police officer to be more definite and credible. The Hearings Officer finds the police officer's statement that Mr. Brown failed to signal to the curb is clear and unambiguous. The Hearings Officer finds the statement by Mr. Brown to be based on what likely happened. Mr. Brown did not say he signaled independently, after the right turn onto NE 6<sup>th</sup>, to move from the travel lane to the curb. Mr. Brown appeared to be asking the Hearings Officer to find that simply because the place he pulled off was close to the corner his signal must have still been working. The Hearings Officer finds that the police officer did observe a traffic infraction (failure to properly signal a lane change) and therefore the stop was valid.

After announcing the Hearings Officer's finding that the stop was valid, the Hearings Officer asked Mr. Brown if he had additional evidence and/or arguments. Mr. Brown said that he did not. The Hearings Officer placed on the record a finding that the stop was valid and that the police officer had probable cause to believe that Ms. Taylor's vehicle had been used to commit or conceal the possession of a controlled substance.

At that point, Mr. Brown questioned how the Hearings Officer could find probable cause. The Hearings Officer noted that Exhibits 10, 11, 12 and 15 supported such finding. The Hearings Officer noted that the police officer had an objective basis for making such decision; strong odor of marijuana emitted from the vehicle, observation of several air fresheners hanging from the vehicle mirror, the officer's

finding of "two cut off top ends to plastic sandwich bags" on Mr. Brown's person. The Hearings Officer also finds that additional objective evidence was found in the vehicle including an electric gram scale, additional plastic sandwich bags containing suspected cocaine, and a "marijuana blunt."

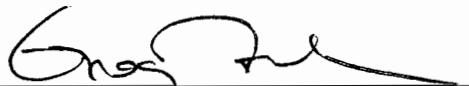
Mr. Brown then asked how the police officer had a right to search the vehicle. Mr. Brown did not specify any particular constitutional, statutory or other basis upon which the search was not legal. Without a clear description by Mr. Brown of his objection to the search, the Hearings Officer was unable to respond. The Hearings Officer finds that Mr. Brown did not clearly set forth any basis that the Hearings Officer could find the search of the vehicle unlawful.

The Hearings Officer finds that the police officer, in this case, had probable cause to believe that Ms. Taylor's vehicle had been used for the purpose of possession of a controlled substance (per 16.30.220 L.2). The Hearings Officer, therefore, finds that the tow of Ms. Taylor's vehicle on December 6, 2008 is valid.

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: December 17, 2008  
GJF: rs

  
Gregory J. Frank, Hearings Officer

Bureau: Police  
Tow Number: 32600

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 2 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Taylor, LaTrice	Received
2	Denial letter for Greg Brown	Taylor, LaTrice	Received
3	Towed Vehicle Notice	Taylor, LaTrice	Received
4	Notice of Impoundment Towing	Taylor, LaTrice	Received
5	Tow Desk printout	Hearings Office	Received
6	Hearing Notice	Hearings Office	Received
7	Tow Hearings Process Info. sheet	Hearings Office	Received
8	Towed vehicle record	Police Bureau	Received
9	Custody report	Police Bureau	Received
10	Special report / non-connect	Police Bureau	Received
11	Continuation report	Police Bureau	Received
12	Special report / non-connect	Police Bureau	Received
13	Circuit Court Booking sheet	Police Bureau	Rejected
14	Notice of Impoundment Towing	Police Bureau	Received
15	Property Evidence Receipt #1134776	Police Bureau	Received
16	Property Evidence Receipt #1134715	Police Bureau	Received