

10-23-09

Tennessee Department of Safety

Petition For Declaratory Order
Notice Of Hearing
And
Notice To Potentially Interested Persons

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1 Petitioner's Name: Robert Ryan Armstrong

2. Petitioner's Attorney: Jim Todd, Esq.
Address: 117 Union Street
Nashville, TN 37201

Telephone Number: 615-255-9595

3. Background:

On August 14, 2006, Petitioner pled guilty to vehicular homicide (driver intoxication). In addition to the jail and probation time imposed, the trial judge ordered the Petitioner's driver license revoked for three (3) years. The Department, pursuant to Tenn. Code Ann. § 55-50-501(a)(1), revoked Petitioner's driver license for the term of the jail and probation sentence imposed for a total of eight (8) years. Following the three year judicial prohibition, Petitioner obtained a court order purporting to reinstate his driving privileges.

4. Summary of the Relief Requested:

Petitioner seeks a declaratory order that the provisions of Tenn. Code Ann. § 39-13-213(c) applies to the revocation of his driver license, and not Tenn. Code Ann. § 55-50-501(a)(1), and that the General Assembly, in passing Tenn. Code Ann. § 39-13-213(c) repealed Tenn. Code Ann. § 55-50-501(a)(1) by implication. Petitioner seeks the reinstatement of his driving privileges.

5. Summary of Statutes:

Tenn. Code Ann. § 39-17-213 Vehicular Homicide:

(c) The court shall prohibit a defendant convicted of vehicular homicide from driving a vehicle in this state for a period of time not less than three (3) years nor more than ten (10) years.

55-50-501. Mandatory revocation of licenses — Causes — Suspension of license until judgment for personal or property damage paid. —

- (a) The department shall forthwith revoke the license of any operator or chauffeur upon receiving a record of the operator's or chauffeur's conviction of any of the following offenses, when the conviction has become final:
- (1) Manslaughter or vehicular homicide resulting from the operation of a motor vehicle. The period of revocation in this instance shall extend for the term of the sentence received by the convicted person. If the person is released on parole prior to the end of the sentence, an operator's license may be reissued on petition of the person's probation and parole officer and upon satisfactory completion of a complete licensing examination, subject to the approval of the commissioner;

6. Time, Date, and Place of Oral Argument:

The Department will hear oral arguments on this matter on November 23, 2009, at 9:00 AM. The hearing will be held at 1150 Foster Avenue, McCord Hall Room 108, Nashville, TN 37249.

7. Notice to Interested Parties:

If you are interested in intervening or participating in this case in any way or think that you may be affected by the possible outcome of this case, you must file a Petition to Intervene, stating your specific interest(s) in the case and your legal position/argument regarding those interests. Filings must be received by the Department by close of business on November 18, 2009, in order to be considered, and must include case title "In Re: Armstrong".

Original filings should be mailed to:

Deborah Martin, Commissioner's Designee
Tennessee Department of Safety
1150 Foster Avenue
Nashville, TN 37249

Copies of filings should be mailed to:

Lizabeth Hale, Staff Attorney
Gerry Crownover, Staff Attorney
Tennessee Department of Safety
1150 Foster Avenue
Nashville, TN 37249

Jim Todd, Esq.
117 Union Street
Nashville, TN 37201

Submitted for Publication by:

Lizabeth Hale (BPR #022111)
Staff Attorney
Tennessee Department of Safety
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Nashville, TN 37249
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The Notice of Hearing of Petition for Declaratory Order set out herein was properly filed in the Department of State on the 26th day of October, 2009.



Lizabeth Hale, Staff Attorney