

ALLSTATE INSURANCE COMPANY
P.O. Box 147
Gadsden, AL 35902,
DIVISION

§ STATE OF ALABAMA
DEPARTMENT OF REVENUE
§ ADMINISTRATIVE LAW

Petitioner,

§ DOCKET NO. MV. 00-297

v.

§

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

FINAL ORDER

The Revenue Department denied an application for a certificate of title filed by Allstate Insurance Company ("Petitioner") for a 1998 Chevrolet Malibu, VIN 1G1NG52M9W6126315. The Petitioner appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a). A hearing was conducted on January 10, 2001. Tim Sims represented the Petitioner. Scott Linton represented Lisa Smith ("Smith"). Assistant Counsel John Breckenridge represented the Department.

ISSUE

The issue in this case is whether the Department should revoke the outstanding certificate of title for the subject vehicle in the name of Lisa Smith, and thereafter issue a new certificate of title to the Petitioner.

FACTS

The Department issued a certificate of title for the vehicle to Julia B. Clark ("Clark") in November 1998. Clark reported to the City of Hoover police on December 20, 1999 that the vehicle had been stolen.

On March 13, 2000, the Department received an application for a certificate of title for the vehicle from Smith. Smith also submitted (1) a bill of sale showing she had sold the vehicle to herself as an abandoned motor vehicle,

and (2) a Report of Sale of an Abandoned Motor Vehicle that had been filed with the Jefferson County Circuit Clerk. Because the vehicle had been recovered and was no longer listed as stolen, the Department approved the application and issued Smith a title for the vehicle on March 28, 2000.

The Petitioner had insured the vehicle for Clark. The Petitioner determined that the stolen vehicle would not be recovered, and consequently paid the listed lienholder, AmSouth Bank, in full, with a small balance going to Clark. When the vehicle was later recovered, the Petitioner applied to the Department for a title for the vehicle on April 4, 2000. The Petitioner provided a police report stating that the vehicle had been recovered by the Birmingham Police Department on March 22, 2000. The Department denied the application. The Petitioner appealed.

Smith testified at the January 10 hearing that someone abandoned the vehicle on her property in September 1999. After approximately three months, Smith contacted the Jefferson County Revenue Commissioner's Office for instructions on how to sell the vehicle as an abandoned motor vehicle. An employee instructed her to obtain a Report of Sale of an Abandoned Motor Vehicle from the Jefferson County Circuit Clerk, and also publish notice of the sale in a newspaper. Smith published notice of the sale in the *Birmingham News* on December 7 and December 14, 1999. She also obtained a Report of Sale from the Jefferson County Circuit Clerk.

In March 2000, Smith returned to the Commissioner's Office, completed a bill of sale, which was notarized by an employee in the Office, and submitted her application for title and accompanying documents to the Department. As indicated, the Department processed the application and issued Smith a title for the vehicle in late March 2000.

The Petitioner's representative asserted various facts at the January 10 hearing to the effect that Smith had obtained the vehicle by deceit. Smith denied that claim. However, as explained below, there is no need for the Administrative Law Division to address that issue.

ANALYSIS

Any person that purchases an abandoned motor vehicle pursuant to the Abandoned Motor Vehicle Act is entitled to the vehicle free and clear of all liens and encumbrances. Code of Ala. 1975, §32-13-3(c). Consequently, upon receipt of Smith's application for title, with the accompanying bill of sale and the Report of Sale from the Jefferson County Circuit Clerk, the Department properly issued Smith a certificate of title free of all liens and encumbrances.

If the Petitioner wishes to contest how Smith obtained and sold the vehicle as an abandoned motor vehicle, it may do so in the appropriate circuit or district court as provided at Code of Ala. 1975, §32-13-4(a). The Petitioner may, of course, also pursue other legal remedies against Smith.

The Petitioner's request for a certificate of title was properly denied by the Department. The Department should take no further action concerning the title at this time. This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered January 12, 2001.