

**BEFORE THE ADMINISTRATIVE HEARING OFFICE  
FOR THE MUNICIPALITY OF ANCHORAGE**

MUNICIPALITY OF ANCHORAGE,	)	
Plaintiff,	)	<b>FINAL ORDER</b>
	)	
v.	)	May 12, 2025
	)	
	)	
MYRNA A. HILL,	)	
Defendant.	)	AHO Case No.: 25-0033
<hr style="width: 45%; display: inline-block; vertical-align: middle;"/>	)	APD Case No.: 25-013366

<u>Vehicle:</u> 1998 Jeep CHK	<u>Seizure Date:</u> 05/04/2025
<u>License Plate:</u> [REDACTED]	
<u>VIN:</u> [REDACTED]	
<u>Basis for Seizure:</u> AMC 9.28.026.A	<u>Hearing Date:</u> 05/08/2025

**POST-SEIZURE PROBABLE CAUSE DECISION:**

- |                                                                   |                                                                                                   |
|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> For Defendant<br>No Probable Cause Found | <input checked="" type="checkbox"/> Against Defendant<br>Probable Cause Found<br>To Seize Vehicle |
|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|

**I. Procedural Background**

On May 4, 2025, the Anchorage Police Department (APD) seized the vehicle listed above pursuant to AMC 9.28.026 based on their belief that Myrna Hill operated the vehicle with a suspended license. Ms. Hill requested a probable cause hearing on May 7, 2025. Before the hearing, the administrative hearing officer provided Ms. Hill a copy of the police report from APD Officer Boehringer and advised Ms. Hill of her right under AMC 9.28.026(C)(13) to request the presence of the officer at the hearing. Ms. Hill elected not to have the officer appear for questioning.

The hearing was held on May 8, 2025. Ms. Hill was advised of her rights at the hearing, including her right to be represented by counsel, and she elected to proceed without counsel. The hearing was recorded, and all evidence was presented on the record. Ms. Hill testified and presented legal argument on her own behalf. The following exhibits were admitted without objection.

- (1) Notice of Seizure Letter
- (2) Police report from APD Officer Boehringer

- (3) APD Impound Report
- (4) Body camera footage from Officer Boehringer
- (5) Google Maps printout showing location of vehicle parked on street

## **II. Findings of Fact**

1. At 11:14 a.m. on May 4, 2025, a caller reported a person slumped over behind the wheel of a parked vehicle at 926 East 10<sup>th</sup> Avenue.
2. APD Officer Boehringer responded and saw a 1998 Jeep Cherokee with plate [REDACTED] parked on the side of the street. The vehicle was legally parked, and the engine was not running. The vehicle had a rolling upright walker stored on the roof of the vehicle. The walker did not appear to be secured or tied down.
3. Officer Boehringer approached the vehicle and saw Ms. Hill in the driver's seat, another occupant in the passenger seat, and a third person in the backseat. Ms. Hill was alert and not slumped over.
4. Officer Boehringer told Ms. Hill that APD was getting calls from "happy neighbors" complaining that she was passed out in the vehicle.
5. Officer Boehringer did not see any signs that she was impaired. In the video, Ms. Hill appears awake and alert. As Officer Boehringer was talking to Ms. Hill, a neighbor shouted that Ms. Hill was in her vehicle all day "doing drugs."<sup>1</sup> Officer Boehringer asked her if that was true, and she replied that it was not. He then asked her and the other occupants, "So what are you doing in here, holding a bible study?"
6. Ms. Hill said she was living in her vehicle. She said her boyfriend was disabled and used a walker. The occupant in the passenger seat appeared to be preparing some sort of food or beverage. The vehicle had a large amount of personal belongings in it, consistent with it being used to live it.
7. Ms. Hill told Officer Boehringer that her license was suspended, and she did not have insurance for the vehicle. Officer Boehringer took the vehicle's key from Ms. Hill and confirmed that her license was suspended.
8. He then issued her a citation for operating the vehicle with a suspended license

---

<sup>1</sup> The neighbor's statement was hearsay, and I did not consider it as any evidence that Ms. Hill was in fact doing drugs. There was no indication Ms. Hill was under the influence of any substances and the police did not notice the presence of any drugs in the vehicle. However, I do believe the statement provides support in showing that the police's motivation for impounding the vehicle was because homeowners in the neighborhood did not want Ms. Hill parked there.

and told her he would be impounding the vehicle. The impound documents he provided her showed that the vehicle was impounded because she operated it with a suspended license.

9. Vulcan towing arrived and towed the vehicle.

10. Ms. Hill and the two other occupants left on foot, with Ms. Hill's boyfriend using the walker for assistance as he left.

11. The vehicle was parked in a safe and legal parking spot on the side of 10<sup>th</sup> ave. It was not obstructing traffic or blocking any driveways. Other vehicles were parked on the same street in a similar manner.

12. Ms. Hill testified that she has been living in her car for about a year. Her vehicle was parked in Mountain View for most of the winter. She said she has a friend that lives near 926 E. 10<sup>th</sup> Ave. who said she could park her car near the friend's house. She said that on May 4, 2025, her cousin moved her car from Mountain View to 926 E. 10<sup>th</sup> Ave. so she could continue living in the car there, near her friend's house. She said she had her cousin move the car because she knows her license is suspended. Her cousin left the car keys in the front seat of the vehicle after he moved the car, which she then gave to Officer Boehringer when he asked her for them.

13. She provided paperwork showing that the impound of her vehicle cost her \$712.00, which she said she does not have. Her vehicle continues to accrue storage fees of \$34.00 for every day it remains in storage and will likely be sold or crushed if she does not retrieve it.

### **III. Conclusions of Law**

#### *Jurisdiction and standard of proof*

Anchorage Municipal Code (AMC or Code) 9.28.020 grants the Administrative Hearing Officer (AHO) jurisdiction over post-seizure probable cause hearings. The purpose of the hearing is to determine whether there was probable cause to seize a vehicle.<sup>2</sup> Probable cause exists "where a police officer is aware of facts and circumstances, based on reasonably trustworthy information, which are 'sufficient in themselves to warrant a [person] of reasonable caution in the belief' that an offense has been or is being committed."<sup>3</sup> Where a person of reasonable caution would be justified in

---

<sup>2</sup> AMC 9.28.026.C.13

<sup>3</sup> *State v. Grier*, 791 P.2d 627, 631 (Alaska App. 1990), citing *Brinegar v. United States*, 338 US 160, 175-176 (1949); see also *State v. Campbell*, 198 P.3d 1170, 1173 (Alaska App. 2008). "It is important to stress that "[i]n dealing

the belief that an offense has been committed and the defendant has committed it, probable cause is established.<sup>4</sup> This is the case “even though the facts known to the officer could also be reconciled with innocence.”<sup>5</sup>

Under AMC 9.28.019A, it is illegal for a person to operate or drive a motor vehicle without a valid operator’s license. Any vehicle operated, driven, or in the actual physical control of an individual arrested for or charged with an alleged violation of 9.28.019 may be impounded pursuant to 9.28.026. Therefore, APD had the discretion to seize the vehicle so long as there was probable cause to believe the vehicle was being operated, driven, or in the actual physical control of an individual in violation of 9.28.019.

*There was probable cause to impound the vehicle*

Ms. Hill told Officer Boehringer that her license was suspended, and his check of her records confirmed this fact. She conceded this fact at the hearing. She argued that she did not drive the vehicle with a suspended license, because she specifically had her cousin move the vehicle earlier, and it was parked with the engine off the entire time she was in the vehicle.

However, AMC 9.28.019A makes it illegal for a person to operate or drive a motor vehicle without a valid operator’s license. Under Alaska law, the concept of ‘operating’ a motor vehicle includes being in actual physical control of the vehicle, regardless of whether the vehicle is moving.<sup>6</sup> AMC 9.28.020(E)(4) defines physical control as follows:

*Physical control* means to be behind the steering apparatus of a motor vehicle, whether asleep or awake, while the engine is running or any electrical or mechanical devices are turned on, or to be in a position to exercise exclusive control over the operation of the vehicle while possessing the apparent means to start the vehicle and the apparent ability to do so.

In this case, Ms. Hill was in a position to exercise exclusive control over the operation of the vehicle because she was sitting in the driver’s seat. She also had the means and ability to start the vehicle because she had the keys in the front seat and she told Officer Boehringer that the vehicle had been moved earlier by someone else, indicating that the vehicle was operational and capable of being started. Therefore, her actual physical control of the vehicle was sufficient to establish probable cause that she “operated” the vehicle. Because there was

---

with probable cause, . . . we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent [people], not legal technicians, act." *Brinegar*, 338 U.S. at 175.

<sup>4</sup> *Grier*, 791 P. 2d at 632.

<sup>5</sup> *Id.*

<sup>6</sup> *Kingsley v. State*, 11 P.3d 1001 (Alaska App. 2000).

probable cause to believe Ms. Hill operated the vehicle with a suspended license in violation of AMC 9.28.019A, APD had the discretionary authority to impound the vehicle pursuant to AMC 9.28.026A.1.

*The AHO lacks jurisdiction to grant other relief*

Impounding Ms. Hill's vehicle was not in accordance with APD policy and likely violated her fourth amendment rights. However, for the reasons outlined below, I believe the AHO only has jurisdiction to make a probable cause determination, and I do not have jurisdiction to address these other issues.

*a. Impounding Ms. Hill's vehicle was not a valid exercise of the police's community caretaker authority*

AMC 9.28.026, as written, authorizes the temporary impound and towing of a vehicle without a court order<sup>7</sup> based on a finding of probable cause that it was being operated by a driver with a suspended license. The United States Supreme Court held that police are sometimes acting within a "community caretaker" authority when they impound vehicles that are blocking a roadway or that pose a safety hazard if left where parked, and it is a constitutional exercise of the police's community caretaker function for police regulations to give arresting officers the discretion to impound an arrestee's vehicle rather than leaving it locked and parked in a safe place, so long as the officer's decision was governed by standardized, objectively ascertainable criteria.<sup>8</sup> Applying that decision, the Alaska Court of Appeals found that the Anchorage impoundment ordinance was not justified under a community caretaker rationale when, at the time, APD had no standardized policies in place to set criteria for when a vehicle should be impounded.<sup>9</sup> The court noted that as written, AMC 9.28.026 would allow the police to impound a vehicle without a court order, even if the vehicle was safely parked in the owner's driveway, and even if the underlying offense of DUI or driving with a suspended license had occurred days or weeks earlier, without any regard to whether the vehicle poses a public danger or inconvenience at the time it was seized.<sup>10</sup>

After the *Taha* decision, the Anchorage Police Department adopted written policies and procedures governing vehicle impounds, which are publicly available.<sup>11</sup> Under APD's policy, vehicles should only be impounded when they cannot be safely and lawfully left where stopped or safely and lawfully transported from the scene. The policy defines both of those scenarios as follows:

---

<sup>7</sup> AMC 9.28.026.E.3.c.

<sup>8</sup> *Colorado v. Bertine*, 428 U.S. 264, 369 (1972).

<sup>9</sup> *Taha v. State*, 366 P.3d 544 (Alaska App. 2016).

<sup>10</sup> *Id.* at 547.

<sup>11</sup> PI 3.03.010 – *Towing- Vehicle Impounds*, ANCHORAGE POLICE DEPARTMENT, Policy, Regulations, and Procedures Manual, available at <https://public.powerdms.com/ANCHOR/tree/documents/406808>

A vehicle can be safely and lawfully left where stopped when:

- (1) It is properly and legally parked on a public roadway, so long as it is not blocking or impeding traffic; or
- (2) It is parked on the property of the registered owner, in a parking lot of the registered owner's residence or parked legally on the street near the registered owner's residence.

A vehicle can be safely and lawfully transported from the scene when:

- (1) The registered owner is on scene, sober, is licensed and insured, is free to leave, and elects to drive the vehicle; or
- (2) The registered owner is on scene and identifies another person on scene who is sober, licensed and insured, is free to leave, and the owner authorizes the other person to take the vehicle.<sup>12</sup>

Here, Ms. Hill's vehicle was safely and lawfully parked by the side of 10<sup>th</sup> Avenue and posed no traffic hazard if left parked there. Therefore, APD's policy outlines that the vehicle should have been left parked at the scene rather than being impounded. It is likely that the real reason for the impound was that nearby homeowners found Ms. Hill's continued presence in their neighborhood undesirable. The housing shortage in Anchorage creates complex problems that sometimes defy easy solutions. It is understandable that most homeowners would not want people living in vehicles parked in front of their houses. But there are other processes for the municipality to undertake abatement efforts of vehicles that are creating public nuisances or causing health and sanitation problems. AMC 9.28.026 does not grant the police unlimited power to avoid those processes and summarily seize and impound Ms. Hill's vehicle, without a warrant, court order, or any other due process, simply because she happened to have a suspended driver's license as she was living in her vehicle. This was not a valid exercise of the community caretaker authority, as outlined in APD's policy, and it was therefore very likely an unreasonable seizure under the fourth amendment.

b. *The AHO's authority is limited to making a probable cause determination*

The AHO position and jurisdiction is outlined in Title 14 of municipal code. The AHO only has jurisdiction of administrative matters and civil violations when jurisdiction is specifically granted in the code. AMC 9.28.026C.13.a specifies that the purpose of a post-seizure hearing is to determine whether there was probable cause to seize the vehicle. The AHO is prohibited from making "a final adjudication of impoundment or forfeiture of the vehicle."<sup>13</sup> By contrast, courts have independent power under Article III to invoke the judicially created exclusionary rule to deter constitutional violations by law

---

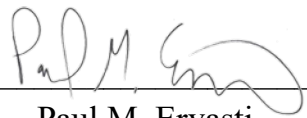
<sup>12</sup> *Id.* at \*3.

<sup>13</sup> *Id.*

enforcement.<sup>14</sup> It is not clear whether the rule applies at an administrative hearing, or if an administrative hearing officer would have any authority to invoke it.<sup>15</sup> In this case, since the code specifically limits the power of the AHO to making a probable cause determination, I do not believe the AHO has authority to make a determination on whether the seizure of Ms. Hill's vehicle was a constitutional violation or violated police policy. There may be other ways for Ms. Hill to pursue those claims.

"Nothing can destroy a government more quickly than its failure to observe its own laws."<sup>16</sup> Since APD's seizure of Ms. Hill's vehicle was not in accordance with its policy outlining the proper exercise of the community caretaker function, it is recommended that the fees associated with the impound be refunded. But that is only a recommendation. The only holding of this final order is that there was probable cause to believe Ms. Hill operated her vehicle with a suspended license.

DATED and effective as of this 12<sup>th</sup> day of May 2025, Anchorage, Alaska.

By:   
Paul M. Ervasti  
Administrative Hearing Officer

### **APPEAL RIGHTS**

This order is final. The parties have thirty (30) days from the effective date to appeal the order to the Alaska Superior Court, Third Judicial District, State of Alaska, pursuant to Rule 602(A)(2), of Appellate Rules of Procedure. Any person seeking reconsideration shall serve all parties with a copy of the request for reconsideration and proof of service.

#### Certificate of Service

I, Paul Ervasti hereby certify that I mailed a true and correct copy of the foregoing to:

Myrna A. Hill  
General Delivery  
Anchorage AK 99530

on May 12, 2025

  
\_\_\_\_\_

<sup>14</sup> *Mapp v. Ohio*, 367 U.S. 643 (1961).

<sup>15</sup> *See State v. Sears*, 553 P.2d 907 (Alaska 1976); *Nevers v. Alaska DMV*, 2004 WL 51190089 (Alaska Super., Feb. 11, 2004) (trial order).

<sup>16</sup> 367 U.S. at 659.