

Office of the Attorney General



JONATHAN SKRMETTI
ATTORNEY GENERAL AND REPORTER

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January 18, 2023

Arthur Jay Hirsch
1029 W. Gaines St.
Lawrenceburg, TN 38464

RE: Public Records Request

Dear Mr. Hirsch:

The Tennessee Department of Safety and Homeland Security ("Department") is in receipt of your request for copies of the following records pursuant to Tennessee's Public Records Act:

- 1) Photo copy (front and back) of driver license on file
- 2) Photo copy (front and back) of application for driver license on file
- 3) Copy of document showing date and location of written and driving skill test taken to qualify for driver license
- 4) Copy of date receipt for driver license fee paid
- 5) Copy of document stating what business/occupational activity requestor is engaged in requiring privilege license & tax
- 6) Copy of record(s) showing the name (or employee ID number) and title of the individual who issued requestor's Tennessee driver license # 133629637, and the date of said issuance
- 7) Copy of record(s) showing the name (or employee ID number) and title of the individual who first entered requestor's Tennessee driver license #133629637, into State's driver license record database and date of said entry
- 8) Copy of record(s) showing the name (or employee ID number) and title of the individual who is the custodian of requestor's physical and/or electronic file containing his application, driver license and driver identification records as required by statute (per TCA Title 55-50-321 Applications), to wit

- 49 CFR § 384.231(d) Record keeping requirements. The State must conform to the record keeping requirements which include driver records and driver identification records, etc.
§ 384.231(e) The department shall maintain a copy of all licenses as issued, and
 - TCA Title 55-50-204 Records to be kept by department – Fee for furnishing copies
 - (a) The department of safety shall file every application for a license received by it and shall maintain suitable indices containing in alphabetical order.
- 9) Copy of record(s) showing the address of the physical location of requestor's driver license file referenced in ¶ 8 above where said record file can be personally inspected by him.
 - 10) Copy of record(s) showing when requestor's driver license #133629637, was first issued and expiration date, i.e., the dates between which the license is valid
 - 11) Copy of record(s) showing the responsible person's name (or EE#), title and the date for first setting up and assigning requestor's MVR "history only" account (#133629637) to track his driving offenses in Lawrence County, Tennessee.

Tenn. Code Ann. § 10-7-503(a) provides the following:

(2)(B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the records to be promptly available for inspection, the custodian shall within seven (7) business days:

- (i) Make such information available to the requestor;
- (ii) Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial;
or
- (iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce such record or information.

The Department has previously advised you in a letter dated December 27, 2022 that it does not have any records responsive to this request. A copy of this letter is enclosed. Additionally, in response to a subpoena that you issued in *State of Tennessee, et al. v. Arthur Jay Hirsch*, Lawrence County General Sessions Court No. 36138, the Department's Associate Counsel testified under penalty of perjury that it has no record of you ever applied for a Tennessee driver's license and

that no Tennessee's driver's license has ever been issued to you. A copy of that Declaration is also enclosed.

However, in order to be fully clear, the Department will once again reiterate its responses to each of your requests listed above.

- 1) **Photo copy (front and back) of driver license on file**
The Department has no record of a Tennessee driver's license issued to Arthur Jay Hirsch on file.
- 2) **Photo copy (front and back) of application for driver license on file**
The Department has no record of an application for Tennessee driver's license submitted by Arthur Jay Hirsch.
- 3) **Copy of document showing date and location of written and driving skill test taken to qualify for driver license**
The Department has no record of a written and driving skill test taken by Arthur Jay Hirsch to qualify for a Tennessee driver's license.
- 4) **Copy of date receipt for driver license fee paid**
The Department has no record of a driver's license fee paid by Arthur Jay Hirsch.
- 5) **Copy of document stating what business/occupational activity requestor is engaged in requiring privilege license & tax**
The Department has no document from Arthur Jay Hirsch stating what business or occupation activity he is engaged in requiring privilege license & tax.
- 6) **Copy of record(s) showing the name (or employee ID number) and title of the individual who issued requestor's Tennessee driver license # 133629637, and the date of said issuance**
The Department has no record of a Tennessee driver's license issued to Arthur Jay Hirsch on file.
- 7) **Copy of record(s) showing the name (or employee ID number) and title of the individual who first entered requestor's Tennessee driver license #133629637, into State's driver license record database and date of said entry**
The Department has no record of a Tennessee driver's license issued to Arthur Jay Hirsch on file or entered into the State's driver license record database.
- 8) **Copy of record(s) showing the name (or employee ID number) and title of the individual who is the custodian of requestor's physical and/or electronic file containing his application, driver license and driver identification records as required by statute (per TCA Title 55-50-321 Applications), to wit**
 - 49 CFR § 384.231(d) Record keeping requirements. The State must conform to the record keeping requirements

which include driver records and driver identification records, etc.

§ 384.231(e) The department shall maintain a copy of all licenses as issued, and

- TCA Title 55-50-204 Records to be kept by department – Fee for furnishing copies
- (b) The department of safety shall file every application for a license received by it and shall maintain suitable indices containing in alphabetical order.

The Department has no record of an application for Tennessee driver's license submitted by Arthur Jay Hirsch and no record of a Tennessee driver's license or a Tennessee identification card issued to Arthur Jay Hirsch.

- 9) Copy of record(s) showing the address of the physical location of requestor's driver license file referenced in ¶ 8 above where said record file can be personally inspected by him.

The Department has no record of an application for Tennessee driver's license submitted by Arthur Jay Hirsch and no record of a Tennessee driver's license or a Tennessee identification card issued to Arthur Jay Hirsch and, therefore, has no driver license file for Arthur Jay Hirsch.

- 10) Copy of record(s) showing when requestor's driver license #133629637, was first issued and expiration date, i.e., the dates between which the license is valid

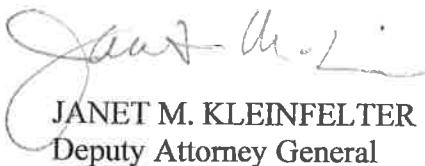
The Department has no record of a Tennessee driver's license issued to Arthur Jay Hirsch on file.

- 11) Copy of record(s) showing the responsible person's name (or EE#), title and the date for first setting up and assigning requestor's MVR "history only" account (#133629637) to track his driving offenses in Lawrence County, Tennessee.

The Department has previously advised that Susan Lowe, Director of the Department's Financial Responsibility Section, is responsible for establishing the "History Only" account for Arthur Jay Hirsch.

Please be advised that the Department has fully responded to your requests and will not respond to any future requests for the same information.

Respectfully,



JANET M. KLEINFELTER
Deputy Attorney General



December 27, 2022

Arthur Jay Hirsch
1029 W. Gaines St.
Lawrenceburg, TN 38464
E-mail: veritas2004@gmail.com

VIA U.S. MAIL and E-MAIL

Dear Mr. Hirsch,

On December 15, 2022, the Tennessee Department of Safety & Homeland Security received your Public Records request for the documents identified on the attached form.

Tennessee Code Annotated § 10-7-503(a) provides the following:

(2)(B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall within seven (7) business days:

- (i) Make such information available to the requestor;
- (ii) **Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial; or [emphasis added]**
- (iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce such record or information.

This Office has completed the process of retrieving and reviewing the responsive documents. Your request has produced zero (0) pages of responsive documents. This Department must deny your request on the grounds that responsive records do not exist.

If you have any additional questions, please feel free to contact me.

Sincerely,

Casey Goggin

Casey Goggin
Associate Counsel



TENNESSEE DEPARTMENT OF REVENUE PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access open public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist.

This form should be used to request records for the Department of Revenue, which administers and collects state taxes and works with Tennessee's 95 county clerks to administer vehicle title and registration. This form is not necessary to obtain a taxpayer's own tax information, which may be obtained by submitting a written request to the Records Custodian of the Tennessee Department of Revenue, Andrew Jackson Building, 500 Deaderick Street, Nashville, Tennessee, 37242

This form is not necessary to obtain motor vehicle records, which, subject to Tennessee's confidentiality laws, may be obtained by submitting a Vehicle Information Request form.

Please complete this form and email it to TNRRevenue.PublicRecords@tn.gov.

To: Tennessee Department of Revenue, Public Records Request Coordinator

From: Arthur Jay Hirsch

Is the requestor a Tennessee citizen? ☒ Yes ☐ No

Request: ☐ Inspection
☒ Copy/Duplicate (Note: Fees may apply)

If costs for copies are assessed, the requestor has a right to receive an estimate. Do you wish to waive your right to an estimate and agree to pay copying and duplication costs in an amount not to exceed \$ 20.00? If so, initial here: _____

Delivery preference: ☐ On-Site Pick-Up
☒ USPS First-Class Mail
☐ Electronic

Records Requested:

Provide a detailed description of the record(s) requested, including: (1) type of record; (2) timeframe or dates for the records sought; and (3) subject matter or key words related to the records. Under the TPRA, record requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your record request must provide enough detail to enable the records custodian responding to the request to identify the specific records you are seeking.

(1) COPY OF MOTOR VEHICLE REGISTRATION - DRIVER LICENSE # 133629637, TO INCLUDE
(2) VIN NUMBER OF VEHICLE
(3) LICENSE PLATE/TAG NUMBER
(4) DATE OF REGISTRATION
(5) AMOUNT OF PRIVILEGE TAX/FEE PAID - COPY OF RECEIPT AND CHECK NUMBER TENDERED
(6) CLERK'S NAME OR EE NUMBER WHO PROCESSED REGISTRATION

Arthur Jay Hirsch 12/12/2022
Signature of Requestor Date Submitted

Signature of Coordinator Date Received

**IN THE GENERAL SESSIONS COURT FOR THE STATE OF TENNESSEE
TWENTY-SECOND JUDICIAL DISTRICT, LAWRENCE COUNTY**

STATE OF TENNESSEE and JEFF LONG,)	
Department of Safety and Homeland)	
Security,)	
)	
Plaintiffs,)	No. 36138
v.)	
)	
ARTHUR JAY HIRSCH, Pro Se,)	
)	
Defendant.)	
)	

DECLARATION OF CASEY GOGGIN

1. I am an adult over eighteen years of age and competent to testify. I provide the information below to the best of my knowledge, under penalty of perjury.

2. I am an Associate Counsel for the Tennessee Department of Safety & Homeland Security ("TDSHS"). As part of my duties, I regularly coordinate with the Attorney General's Office to respond to subpoenas directed TDSHS, its officers, and employees. I am familiar with TDSHS's maintenance of driver's license files, and regularly work with TDSHS Driver License Division to search these files and produce them in the course of litigations, criminal prosecutions, and Public Records Act requests.

3. I am in receipt of the subpoena issued in the above-captioned case by Defendant Arthur Jay Hirsch to Jeff Long, Commissioner of the Department of Safety and Homeland Security, attached as Exhibit 1.

4. The subpoena includes an attachment that asks TDSHS for ten categories of documents:

- i. Application: Copy of defendant's application for a Tennessee [sic] driver license maintained on file, including the date the application was received and approved;
- ii. Application Processor: The name, title and department of person who processed and approved said application for licensure;
- iii. License issuance: Copy of defendant's issued driver license on file (#133629637 – front and back) showing photo ID and physical description;
- iv. Classification: Copy of document showing the class or type of commercial motor vehicle defendant has been authorized to operate;
- v. Record custodian: Custodian's name, title and department of defendant's application & license documents;
- vi. Examination: Copy of document showing the place, date and time of defendant's requisite written licensing knowledge examination and driving skill test was administered, and the name, title and department of person(s) who was in charge of said written exam, driving skill test and license issuance;
- vii. Receipt: Copy of receipt(s) of defendant's payment of requisite licensing fee(s);
- viii. Driving history: Copy of defendant's driving history, including suspension(s) and reasons for adverse action;
- ix. Permissive privilege: Copy of documentary evidence on file showing that defendant is engaged in a privileged business or occupational commerce [sic] activity transporting passengers and/or property for hire on the public highways;
- x. Data base: [sic] Identification of all state and federal data base [sic] systems containing any information about defendant's driving history/record, and the date said information was entered and by whom it was entered

(Exhibit A, p. 2.)

5. I have performed a search for the documents sought by Mr. Hirsch's subpoena. As part of my search I contacted the Director of Financial Responsibility and the Driver Control Manager for State-to-State documents. The Financial Responsibility Section maintains Driver

License information for individuals licensed and residing in the state of Tennessee. The Driver Control Manager for State-to-State documents maintains and processes the driver license information provided by other states related to individuals who have been licensed or reside in other states and move to Tennessee or obtain violations in Tennessee, and maintains and processes driver information provided by other states related to individuals who are licensed or reside in Tennessee who have violations outside of Tennessee.

6. Mr. Hirsch has a History Only account because his license was provided by the state of Virginia; however, when he was cited for traffic violations, he reported a Tennessee address to the court. As a result, the State of Tennessee created a History Only account to record the violations for Mr. Hirsch. History Only accounts do not have an application process, documents, or fees, and do not require a written knowledge test or driving skills test. History Only accounts are not issued in a physical format.

7. Mr. Hirsch has no other type of account, other than a History Only account, and therefore it appears that he has never applied for a Tennessee driver's license, and has never submitted such an application or taken the associated knowledge and skills tests.

8. We have located one document responsive to Mr. Hirsch's subpoena. The document is maintained by the Financial Responsibility Section. It is part of Mr. Hirsch's History Only account and is titled "Administrative MVR." MVR stands for "Motor Vehicle Record."

9. Mr. Hirsch's MVR is attached as Exhibit 2, with redactions to protect his personally-identifying information. An unredacted copy of the MVR was also mailed to Mr. Hirsch at the address listed on the subpoena on or before January 19, 2022.

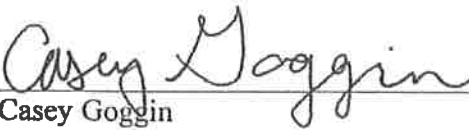
10. I did not locate any other documents in TDSHS's possession responsive to Mr. Hirsch's subpoena, and specifically, I iterate below the results of my searches for each category of information Mr. Hirsch seeks in his subpoena:

- i. Application: This document does not exist. Specifically, as explained above, Mr. Hirsch has only a History Only account in Tennessee and has not applied for a Tennessee license.
- ii. Application Processor: This document does not exist. Specifically, as explained above, Mr. Hirsch has only a History Only account in Tennessee and has not applied for a Tennessee license; therefore, there is no application processor.
- iii. License issuance: There is no copy of Mr. Hirsch's physical driver's license on file. The MVR only shows the details of the license, such as date issued and type, and any suspensions or revocations.
- iv. Classification: The MVR shows that Mr. Hirsch has been issued a History Only account.
- v. Record custodian: The name of the records custodian is listed on the MVR as Susan Lowe, Director of Financial Responsibility.
- vi. Examination: This document does not exist. Specifically, as explained above, Mr. Hirsch has only a History Only account in Tennessee and has not applied for a Tennessee license. As such, Mr. Hirsch has not completed any written licensing knowledge and driving skill test.
- vii. Receipt: This document does not exist. Specifically, as explained above, Mr. Hirsch has only a History Only account in Tennessee and has not applied for a Tennessee license. As such, Mr. Hirsch has not paid any licensing fees.
- viii. Driving history: This document has been provided in the form of the MVR.
- ix. Permissive privilege: This document does not exist. It would only exist in the event that Mr. Hirsch had been issued a commercial driver license. As explained above, a search of the records indicates that Mr. Hirsch has not applied for a Tennessee license and thus has not been issued a commercial driver license, so there are no documents to reflect that he is "engaged in a privileged business or occupational commerc [sic] activity transporting passengers and/or property for hire on public highways."
- x. Data base: The identity of the state database containing Mr. Hirsch's driving information is confidential pursuant to Tenn. Code Ann. § 10-7-504(i)(3)(B) as

a vendor that provides to the state goods and services to protect citizen information. TDSHS does not have the identity of any federal database that would contain this information.

11. I consulted Commissioner Long's calendar, and he is unavailable to appear on January 28, 2022, the date indicated on the subpoena, due to prior medical appointment.

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in cursive script, reading "Casey Goggin", written over a horizontal line.

Casey Goggin

Associate Counsel

Tennessee Department of Safety and Homeland Security