



3-29-2011

TENNESSEE DEPARTMENT OF SAFETY vs.  
One \$100 in U.S. Currency, Seized From: Anthony  
Johnson, Date of Seizure: August 20, 2010,  
Claimant: Anthony Johnson

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**BEFORE THE COMMISSIONER OF THE  
TENNESSEE DEPARTMENT OF SAFETY**

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT OF  
SAFETY**

**v.**

**One \$100 in U.S. Currency  
Seized From: Anthony Johnson  
Date of Seizure: August 20, 2010  
Claimant: Anthony Johnson**

**DOCKET NO: 19.01-111899J  
(D.O.S. Case No. K8166)**

**INITIAL DEFAULT ORDER**

This matter was heard in Memphis, Tennessee, on March 29, 2011, before Lynn M. England, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Joe Bartlett, Staff Attorney for the Department of Safety, represented the State.

The subject of this hearing was the proposed forfeiture of the subject property for its alleged use in violation of T.C.A. §53-11-201 et seq. and §40-33-201 et seq.

Anthony Johnson, Claimant, did not appear at the hearing. The State therefore moved for an initial **default** and dismissal of the case. The motion was **granted** based upon the following findings of fact and conclusions of law.

## FINDINGS OF FACT

1. Claimant was sent notice of the hearing by certified mail at his address of record. A copy of the Track and Confirm provided by the U.S. Postal Services shows the certified mail containing the Notice of Hearing was attempted to be served on the Claimant on February 16 & 17, 2011. In addition notice of attempt of service was left on both occasions.

2. Claimant failed to appear on the day of the hearing. Nor did an attorney appear on Claimant's behalf.

3. The State had its witnesses available and was ready to go forward to prove its case.

## CONCLUSIONS OF LAW AND ANALYSIS

1. Department of Safety Rule 1340-2-2-.17(1) provides, in relevant part:

- (d) No default shall be entered against a claimant for failure to attend except upon proof, by the filing of the return receipt card, that the Legal Division has given notice of hearing.
- (e) Upon default by a party, an administrative judge may enter either an initial default order or an order for an uncontested proceeding.

2. Department of Safety Rule 1340-2-2-.17(2) states, in relevant part:

Upon a default by a claimant, a claimant's claim shall be stricken by initial default order.

3. The State's motion for default being granted, it is therefore **ordered** that Claimant's **claim be stricken**. The claim being stricken, it is as if no claim had ever

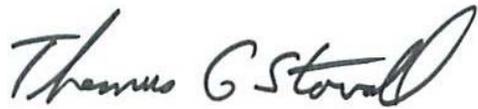
been filed, which constructively evokes T.C.A. §40-33-206(c). That section states: “If a claim . . . is not filed with the applicable agency within the time specified . . . the seized property shall be forfeited and disposed of as provided by law.”

This Initial Order entered and effective this 6th day of April, 2011.

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Lynn M. England  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 6th day of April, 2011.



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Thomas G. Stovall, Director  
Administrative Procedures Division