



8-25-2011

TENNESSEE DEPARTMENT OF SAFETY vs.  
One 2001 Ford Taurus VIN NO.:  
1FAFP53U11A210268, Seized From: Travis  
Gentry, Date of Seizure: March 17, 2011, Claimant:  
Betty Gentry, Lien Holder: N/A

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

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT OF  
SAFETY**

**v.**

**One 2001 Ford Taurus  
VIN NO.: 1FAFP53U11A210268  
Seized From: Travis Gentry  
Date of Seizure: March 17, 2011  
Claimant: Betty Gentry  
Lien Holder: N/A**

**DOCKET NO: 19.01-113729J  
(D.O.S. Case No. L4573)**

**INITIAL DEFAULT ORDER**

This matter was heard in Lawrenceburg, Tennessee, on August 25, 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. Orvil Orr, Staff Attorney for the Department of Safety, represented the State. Deanna Johnson, with the Williamson County Bar represented the Claimant, Betty Gentry.

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.

**FINDINGS OF FACT**

1. This matter was set for hearing at 10:00 a.m. CDT on August 25, 2011, in Lawrenceburg, Tennessee.

2. The Claimant and her counsel were present and ready to proceed at the required time of 10:00 a.m CDT.
3. The Petitioner, having received proper notice, failed to appear at the hearing.<sup>1</sup>
4. Upon motion of the Claimant, the Petitioner was held in **DEFAULT** and the matter was **DISMISSED**.

### CONCLUSIONS OF LAW AND ANALYSIS

1. Rule 1360-4-1-.15(1)(a) of the “Uniform Rules of Procedure for Hearing Contested Cases before State Administrative Agencies” provides:

The failure of a party to attend or participate in a prehearing conference, hearing or other stage of contested case proceedings after due notice thereof is cause for holding such party in default pursuant to T.C.A. §4-5-309.

2. Rule 1360-4-1-.02(3) states, in pertinent part:

The “petitioner” in a contested case proceeding is the “moving” party, i.e., the party who has initiated the proceedings. The petitioner usually bears the ultimate burden of proof.

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

(a) The failure of a party to attend or participate in a prehearing conference, a party’s non-attendance at a second setting of a hearing on the merits in a case or a party’s non- attendance at another stage of contested case proceedings after notice thereof are each causes for holding such party in default pursuant to *T.C.A. § 4-5-309*.

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<sup>1</sup> Officer M. Thomason did finally appear at the hearing at 11:45 a.m. Counsel for the State had telephoned the officer several times that morning after he failed to appear at 10:00 a.m.

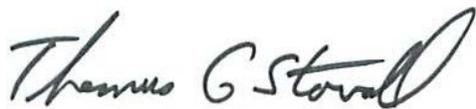
(c) In any situation set out in parts (a) and (b) of this rule, a motion may be made to hold the absent party in default and to enter an initial order or to continue on an uncontested basis.

(e) Upon default by a party, an administrative judge may enter either an initial default order or an order for an uncontested proceeding.

Because the Petitioner did not appear for the hearing after receiving proper notice and; therefore, failed to carry the burden of proof, it is **ORDERED** that this matter be **DISMISSED** and the seized property, the 2001 Ford Taurus be **RETURNED** to the Claimant.

This Initial Order entered and effective this 2 day of September, 2011 England  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this \_\_\_\_\_ day of September, 2012.



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Thomas G. Stovall, Director  
Administrative Procedures Division