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11-2-2010

DEPARTMENT OF SAFETY vs. One 2000
GMC Yukon VIN # 1GKEK63R1YR179612,
Seized from: Kelvin Davis, Date of Seizure:
04-09-10, Claimant: Kelvin Davis

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

IN THE MATTER OF:

DEPARTMENT OF SAFETY

V.

**One 2000 GMC Yukon
VIN # 1GKEK63R1YR179612
Seized from: Kelvin Davis
Date of Seizure: 04-09-10
Claimant: Kelvin Davis**

DOCKET NO: 19.05-110173J

D.O.S. # K3861

INITIAL ORDER

This matter came to be heard on November 2, 2010, before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety in Memphis, Tennessee. Mr. Andre Thomas, Staff Attorney for the Department of Safety, represented the State. The Claimant, Kelvin Davis, was present and represented himself.

The subject of this hearing was the proposed forfeiture of the subject property.

On the date of the hearing, the Seizing Agency's witness failed to appear at the hearing room. The Seizing Agency did not seek a continuance of the hearing. It was therefore DETERMINED that the Seizing Agency failed to attend the hearing without justification, after receiving proper notice of the hearing. The Claimant appeared and was ready to offer his proof.

The State bears the burden of proof but was unable to prove its case, because the Seizing Agency's witness had failed to appear for the hearing. Failure to carry the burden of proof operates as a bar to the proposed forfeiture.

It is therefore **ORDERED** that the Forfeiture Warrant filed in this matter is hereby **DISMISSED**, and the subject property shall be returned to the Claimant immediately. **The Claimant shall not be assessed any storage fees or other costs associated with this action as long as he claims his vehicle within five (5) working days following receipt of this Order.**

This Initial Order entered this 8th day of November, 2010.

Thomas Stovall, Director

Administrative Procedures Division