University of Tennessee, Knoxville
Trace: Tennessee Research and Creative Exchange

Tennessee Department of State, Opinions from the Administrative Procedures Division

Law

6-19-2012

TENNESSEE DEPARTMENT OF SAFETY v. One 1990 Nissan Maxima,VIN No.: JN1HJO1P8LT410191, Date of Seizure: December 22, 2011, Claimant: Lawrence Dowell, Lienholder: N/A

Follow this and additional works at: http://trace.tennessee.edu/utk_lawopinions

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact administrative.procedures@tn.gov

BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY

IN THE MATTER OF:	)	
	)	
TENNESSEE DEPARTMENT OF SAFETY	)	
	)	
	)	DOCKET NO. 19.05-117355J
	)	[D.O.S. CASE NO. M 2154]
v.	)	
	)	
One 1990 Nissan Maxima	)	
VIN No.: JN1HJO1P8LT410191	)	
Seized from: Lawrence Dowell	)	
Date of Seizure: December 22, 2011	)	
Claimant: Lawrence Dowell	)	
Lienholder: N/A	)	
	)	

NOTICE OF DEFAULT;
INITIAL ORDER

A hearing was held in this matter on June 19, 2012 in Memphis, Tennessee, before Mattielyn B. Williams, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting for the Commissioner of the Tennessee Department of Safety. Mr. Joe Bartlett, Staff Attorney, Tennessee Department of Safety, represented the State. Claimant Lawrence Dowell had been representing himself, but did not appear for the hearing.

No attorney appeared on the Claimant's behalf. The Claimant had not moved that the hearing be continued.

The subject of the hearing was the proposed forfeiture of the subject 1990 Nissan Maxima, seized by the Memphis Police Department, for its alleged

operation by an individual whose driving privileges had been revoked or suspended for driving a motor vehicle while under the influence of an intoxicant ("DUI"), pursuant to Tennessee Code Annotated §55-50-504(h)2 and 55-10-403.

The State moved that the Claimant be held in default. Exhibit 1, a photocopy of a USPS postal receipt, showed that "Terry Dowell," at Claimant's address of record, signed on May 15, 2012, acknowledging receipt of the Notice of Hearing.

It was **DETERMINED** that the State made a reasonable and adequate effort to provide the Claimant notice of the date, time, and location of the hearing. The State's Motion for Default was **GRANTED**.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE CLAIMANT THAT THE CLAIMANT HAS BEEN HELD IN DEFAULT FOR THE CLAIMANT'S FAILURE TO APPEAR AT A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. CLAIMANT HAS FIFTEEN (15) DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, SUITE 800, WILLIAM R. SNODGRASS BUILDING, 312 ROSA L. PARKS AVENUE,

NASHVILLE, TENNESSEE 37243, WITHIN THAT 15-DAY PERIOD. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE CLAIMANT'S FAILURE TO ATTEND. IF SUFFICIENT REASONS ARE GIVEN, THE ORDER MAY BE SET ASIDE AND A NEW HEARING SCHEDULED. IF THE CLAIMANT DOES NOT REQUEST THE DEFAULT TO BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-4469.

Claimant may move to have the Default Set Aside within fifteen (15) days, for good cause shown.

ORDER

The State moved that the claim of Lawrence Dowell be struck, for failure to appear and come forward. The State's Motion to Strike Claimant Dowell's claim was **GRANTED**.

The State also moved that Claimant Dowell's interest, if any, in the subject vehicle, be forfeited to the seizing agency for disposition as provided by law. The State's Motion to Forfeit Claimant Dowell's interest, if any, was **GRANTED**.

The State advised that there were no other claims pending for the return of the seized vehicle.

Therefore, it is hereby **ORDERED** that the seized 1990 Nissan Maxima is hereby **FORFEITED** to the seizing agency, for disposition as provided by law, free from the claim and interest of Claimant Lawrence Dowell.

This Initial Order entered and effective this 16 day of July, 2012

_____
Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State this 16 day of July, 2012

_____
Thomas G. Stovall, Director
Administrative Procedures Division