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2-13-2013

DEPARTMENT OF SAFETY vs. Claimant: Adam Carroll

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**STATE OF TENNESSEE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:

Adam S. (M9221) Carroll

v.

**One 1995 Toyota 4-Runner
VIN NO.: JT3VN29V7S0045154
Seized From: Adam Carroll
Date of Seizure: February 17, 2012
Claimant: Adam Carroll
Lien Holder: None Filed**

**DOCKET NO: 19.05-120155J
(D.O.S. Case No. M9221)**

INITIAL DEFAULT ORDER

This matter was heard in Fall Branch, Tennessee, on February 13, 2013, before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Nina Harris, 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.

Adam Carroll, 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 postal green card shows Rick Carroll signed for the notice on January 12, 2013.
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

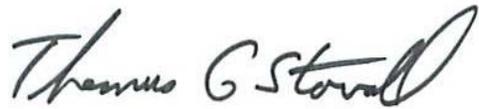
claim . . . is not filed with the applicable agency within the time specified . . . the seized property shall be forfeited and disposed of as provided by law.”

Accordingly, the 1995 Toyota 4-Runner is hereby forfeited to the seizing agency.

This Initial Order entered and effective this 22 day of February, 2013

Rob Wilson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 22 day of February, 2013



Thomas G. Stovall, Director
Administrative Procedures Division