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April 2016

Preston Stanton vs. Safety

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Department of State
Administrative Procedures Division
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8th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
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April 13, 2016

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Nashville, TN 37249-1000

RE: In the Matter of: Preston Stanton (P1200)

Docket No. 19.01-125687J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

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

IN THE MATTER OF:

PRESTON STANTON

DOCKET NO. 19.01-125687J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **April 28, 2016.**

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472.** PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:

**Preston (P1200) Stanton
2009 Chevrolet 1500
VIN: 3GCEC23JX9G288180
Seized from: Preston Stanton
Seizure date: August 16, 2013
Claimant: Ally Financial**

DOCKET NO: 19.01-125687J

INITIAL ORDER

This matter was set to be heard on March 31, 2016, before Joyce Carter-Ball, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Karen Litwin, Staff Attorney for the Department of Safety and Homeland Security, represented the State.

The subject of this hearing was the proposed forfeiture of the subject vehicle based on allegations that its possession and/or receipt was in violation TCA §53-11-201 et seq and §40-33-201 et seq. After review of the record and arguments of the parties, it is DETERMINED that the subject vehicle should be **returned to the Claimant**.

This conclusion is based on the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The subject property was seized pursuant to the law, resulting in the issuance of a Property Forfeiture Warrant. The Claimant filed a claim seeking the return of the subject property, and requesting that a hearing be scheduled to consider its claim.

2. The Parties negotiated an agreement to award custody of the subject property to the Claimant upon its compliance with certain conditions. The Claimant **has complied** with the terms of that agreement.

3. A show-cause hearing was scheduled on March 31, 2016, for the Claimant to demonstrate why the forfeiture provision of the agreement should not be put into effect.

4. The Claimant, represented by Attorney Todd Hancock, appeared at the show-cause hearing. Mr. Hancock explained how Claimant agreed to pay \$1,000.00 to pick up the subject vehicle. He further explained that Claimant appeared to pick up the vehicle on January 7, 2016, but was advised that Claimant needed to make an appointment to pick up the vehicle and that additional paper work was required.


5. **Claimant has since made several attempts to pick up the vehicle, without success.**

6. No one was present on behalf of the Seizing Agency.

CONCLUSIONS OF LAW AND ANALYSIS


It is determined that Claimant, Ally Financial, **has met** the terms of the settlement agreement, pursuant to an Order of Compromise and Settlement dated December 29, 2015. Therefore, based on the foregoing proof, it is ORDERED that the subject vehicle be **RETURNED** to the Claimant. It is further ORDERED that the subject vehicle be **released** to the Claimant by **April 14, 2016**.

This Initial Order entered and effective this 13TH day of APRIL 2016.



Joyce Carter-Ball
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 13TH day of APRIL 2016.



J. Richard Collier, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.