



1-20-2011

DEPARTMENT OF SAFETY vs. One 1985  
Nissan Pickup Truck VIN:  
1N6ND01S1FC327053, Seized From: Rodney  
Pipes, Date of Seizure: June 14, 2010, Claimant:  
Sylvester L. Stamps, Lien Holder: N/A

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

**IN THE MATTER OF:**

**DEPARTMENT OF SAFETY**

**v.**

**One 1985 Nissan Pickup Truck  
VIN: 1N6ND01S1FC327053  
Seized From: Rodney Pipes  
Date of Seizure: June 14, 2010  
Claimant: Sylvester L. Stamps  
Lien Holder: N/A**

**DOCKET NO: 19.05-111114J  
D.O.S. Case No. K5928**

**INITIAL ORDER AND NOTICE OF DEFAULT**

This matter was heard in Memphis, Tennessee, on January 20, 2011, before Steve R. Darnell, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Andre Thomas, Staff Attorney for the Department of Safety, represented the seizing agency. Claimant was not present nor was anyone present on Claimant's behalf.

This was a "show cause" hearing to determine why the subject vehicle should not be forfeited to the Seizing Agency because the Claimant has failed to comply with the Order of Compromise and Settlement entered on July 27, 2010. The Department moved for an initial order granting default and dismissal of Claimant's claim. The motion was granted based upon the following findings of fact and conclusions of law.

## **FINDINGS OF FACT**

1. This vehicle 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 vehicle, and requesting that a hearing be scheduled to consider the claim.

2. The Parties negotiated an agreement to award possession of the vehicle to the Claimant upon compliance with certain conditions. The Claimant failed to comply with the terms of the agreement. In the event of such a failure, the agreement provides for forfeiture of the vehicle to the seizing agency.

3. A show-cause hearing was set for January 20, 2011, for the Claimant to appear and demonstrate why the forfeiture provision of the agreement should not be put into effect.

4. Claimant signed for and accepted notice of the hearing on November 24, 2010. Claimant failed to appear at the hearing.

5. The Department moved for an order of default as to Claimant and the forfeiture provisions of the parties' agreement be enforced.

## **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 Commissioner's ruling regarding the proper procedure for default proceedings, as set forth in the forfeiture case *In re: Taliaferro*, Docket No. 19.05-049400J (April 12, 2004), is that the Claimant's claim be stricken.

4. 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."

**IT IS THEREFORE ORDERED THAT** the Department's motion for default is granted, Claimant's claim is stricken, and the above described vehicle is **FORFEITED** to the seizing agency.

This Initial Order entered and effective this 24th day of February, 2011.

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Steve R. Darnell  
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 24th day of February, 2011.



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Thomas G. Stovall, Director  
Administrative Procedures