



4-27-2011

DEPARTMENT OF SAFETY vs. D.O.S. Case #
K4632 ONE 1990 GMC 1500 VIN:
1GTDK14Z5LZ522330, Seized From: Jeff Groves,
Seizure Date: 4/23/10, Claimant: Jeff Graves
Seizing Agency: Pulaski Police Dept

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

IN THE MATTER OF:)	
)	
DEPARTMENT OF SAFETY)	
)	
v.)	DOCKET # 19.01-112389J
)	D.O.S. Case # K4632
ONE 1990 GMC 1500)	
VIN: 1GTDK14Z5LZ522330)	
Seized From: Jeff Groves)	
Seizure Date: 4/23/10)	
Claimant: Jeff Graves)	
Seizing Agency: Pulaski Police Dept)	

ORDER OF FORFEITURE FOLLOWING SHOW-CAUSE HEARING

This matter was heard in Lawrenceburg, Tennessee on April 27, 2011, before Rob Wilson, Administrative Judge assigned by the Secretary of State, Administrative Procedures Division, sitting for the Commissioner of the Tennessee Department of Safety. Mr. Orvil Orr, Staff Attorney for the Tennessee Department of Safety, represented the State. The Claimant was not present, either in person or through legal counsel.

The subject of this hearing was the proposed forfeiture of the subject vehicle for its alleged use in violation of the Tennessee Drug Control Act. Upon the Claimant's failure to appear at the Show-Cause Hearing, counsel for the State made an oral motion for an order finding the Claimant to be in default, pursuant to TCA § 4-5-309. Upon full consideration of the evidence received at the hearing and the entire record in this case, the State's motion was granted. The Claimant was found to be in default, and his claim to the subject property was dismissed, as supported by the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Claimant's vehicle was seized pursuant to law, resulting in the issuance of a Property Forfeiture Warrant. The Claimant filed a notice of his interest, and sought possession of the vehicle.

2. On October 1, 2010, an Order of Compromise and Settlement was entered, awarding the seized property to the Claimant subject to terms specified in the Order. The Claimant failed to take possession of the vehicle pursuant to the terms of that Order. In such event, the Claimant's interest may be forfeited following a Show-Cause Hearing.

3. A Show-Cause Hearing was scheduled on April 27, 2011, for the Claimant to demonstrate why his interest in the vehicle should not be forfeited, as provided by the Order. The Claimant was notified of the hearing time and location by certified mail.

4. The Claimant did not appear at the show-cause hearing, and was not otherwise represented. Based on the Claimant's failure to appear, the State made an oral motion for the entry of an Order of Default.

CONCLUSIONS OF LAW and ANALYSIS

1. Tennessee Code Annotated § 4-5-309(a) provides that "if a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative judge . . . may hold the party in default . . ." An order holding an absent party in default is authorized by Rule 1340-2-2-.17(1)(a), TENN. COMP. R. & REGS., *Rules of Procedure for Asset Forfeiture Hearings*.

2. Department of Safety Regulations governing asset forfeiture hearings also provide:

(d) No default shall be entered against a claimant for failure to attend [the hearing] except upon proof by the filing of the return receipt card, that the legal division has given notice of the hearing per Rule 1340-2-2-.11(3).

(e) Upon default by a party, an administrative judge may enter either an initial default order or an order for an uncontested proceeding . . .

Rule 1340-2-2-.17(1), TENN. COMP. R. & REGS., *Rules of Procedure for Asset Forfeiture Hearings*.

Upon a default by a claimant, a **claimant's claim shall be stricken by initial default order**, or, if the agency requests, the agency may proceed uncontested.

See, Rule 1340-2-2-.17(2)(b), TENN. COMP. R. & REGS., *Rules of Procedure for Asset Forfeiture Hearings*. (Bold emphasis added.)

3. In accordance with the law, as set forth above, it is determined that the State's motion is well-taken. The Claimant was notified of the show-cause hearing and failed to appear at the hearing. Pursuant to the cited authority, the Claimant is hereby found to be in default for failing to appear at the show-cause hearing scheduled to consider his claim.

Accordingly, it is hereby ORDERED that the Claimant's claim is dismissed. The subject property is Ordered forfeited to the Seizing Agency, the Pulaski Police Department, for disposition as provided by law.

Entered and effective this 16th day of May, 2011.

Rob Wilson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 16th day of May, 2011.

A handwritten signature in black ink that reads "Thomas G. Stovall". The signature is written in a cursive style with a large, sweeping initial 'T' and a long, horizontal flourish at the end.

Thomas G. Stovall, Director
Administrative Procedures Division