



5-1-2006

DEPARTMENT OF SAFETY vs. JPX Sub  
Woofers, Sony Sub Woofers, Power Tel Cell Phone,  
Sanyo VCR, Frigette Refrigerator, Phillips  
Magnavox Radio, DVD JPX Player, VCR  
Controller, Wireless X10 Camera, Rubbermaid  
Containers, Sony Stereo System, Can full of change,  
HP 912 Digital Camera, Grove Box, Seized From:  
Eric Gonzalez, Date of Seizure: June 2, 2002,  
Claimants: Eric Gonzalez, Sandra Gonzalez, 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.**

**JPX Sub Woofer, Sony Sub Woofer, Power Tel  
Cell Phone, Sanyo VCR, Frigette Refrigerator,  
Phillips Magnavox Radio, DVD (JPX) Player,  
VCR Controller, Wireless X10 Camera,  
Rubbermaid Containers, Sony Stero System,  
Can full of change, HP 912 Digital Camera,  
Grove Box  
Seized From: Eric Gonzalez  
Date of Seizure: June 2, 2002  
Claimants: Eric Gonzalez, Sandra Gonzalez  
Lien Holder: N/A**

**DOCKET NO: 19.01-092643J  
(D.O.S. Case No. B3014)**

**INITIAL DEFAULT ORDER**

This matter was heard in Nashville, Tennessee, on May 1, 2006, before Phillip D. Barber, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Orvil Orr, 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.

Neither Eric or Sandra Gonzalez, Claimants, appeared 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. Claimants were sent notice of the hearing by certified mail at his address of record.
2. Claimants failed to appear on the day of the hearing, and neither did an attorney appear on Claimants' behalf.
3. The State's witnesses were available and 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:

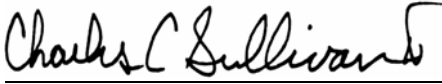
Upon a default by a claimant, a claimant's claim shall be stricken by initial default order.
3. The State's motion for default being granted, it is therefore **ordered** that Claimant's **claim be stricken**. The claim being stricken, it is as if no claim had ever been filed, which constructively evokes 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."

This Initial Order entered and effective this 5th day of September, 2006.

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Phillip D. Barber  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 5th day of September, 2006.



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Charles C. Sullivan, II, Director  
Administrative Procedures Division