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4-18-2006

BRENDA MALDONADO vs. One 1999 Dodge  
Caravan VIN NO.: 1B4GP25382B524445, Seized  
From: Brenda Maldonado, Date of Seizure: 5/26/  
05, Claimant: Brenda Maldonado, Lien Holder: N/  
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**BEFORE THE COMMISSIONER OF THE  
TENNESSEE DEPARTMENT OF SAFETY**

**IN THE MATTER OF:**

**BRENDA MALDONADO**

**v.**

**One 1999 Dodge Caravan  
VIN NO.: 1B4GP25382B524445  
Seized From: Brenda Maldonado  
Date of Seizure: 5/26/05  
Claimant: Brenda Maldonado  
Lien Holder: N/A**

**DOCKET NO: 19.01-090943J  
(D.O.S. Case No. E2760)**

**INITIAL DEFAULT ORDER**

This matter was heard Nashville, Tennessee, on April 18, 2006, before Margaret R. Robertson, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Jason Bergeron, Metro Nashville Attorney, under the supervision of 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.

Brenda Maldonado, 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 her address of record. The notice was returned to the Department of Safety on March 17, 2006 by the U.S. Post Office marked “attempted, not known”. The Claimant has a responsibility to keep the department apprised of her address. The address of record was the address on her request for a hearing. There has been no further contact with the Claimant since she filed the request for hearing.

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."

This Initial Order entered and effective this 24th day of July 2006.

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Margaret R. Robertson  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 24th day of July 2006.

  
Charles C. Sullivan, II, Director  
Administrative Procedures Division