



6-29-2006

DEPARTMENT OF SAFETY vs. One 1994
Chevrolet Camaro 7 V.I.N. #
2G1FP22S7R2149669, Seized from: Carol A.
Counts, Date of Seizure: 01-30-06, Claimant: Carol
A. Counts and Maxie Counts, Lienholder:
Southeastern Title Loans Inc. U.S. Currency of
\$320.01, Seized from: Carol A. Counts, Date of
Seizure: 01-30-06, Claimant: Carol A. Counts

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

IN THE MATTER OF:)	
)	
DEPARTMENT OF SAFETY)	
)	
V.)	
)	DOCKET # 19.01-092593J
One 1994 Chevrolet Camaro)	D.O.S. # E-9467
V.I.N. # 2G1FP22S7R2149669)	
Seized from: Carol A. Counts)	
Date of Seizure: 01-30-06)	
Claimant: Carol A. Counts and Maxie Counts)	
Lienholder: Southeastern Title Loans Inc.)	
)	
U.S. Currency of \$320.01)	
Seized from: Carol A. Counts)	
Date of Seizure: 01-30-06)	
Claimant: Carol A. Counts)	

ORDER OF DEFAULT

This matter was heard on June 29, 2006 before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety in Knoxville, Tennessee. Mr. Will Lundy, Staff Attorney for the Department of Safety, represented the State. Neither claimant was present nor was an attorney present on their behalf.

The subject of this hearing was the proposed forfeiture of the subject property. The matter was heard upon the State's Motion to be granted an Initial Default Order due to the Claimants failure to appear at the hearing after receiving proper notice thereof. After consideration of the record it is determined that the State's Motion is proper and should be **GRANTED**. It is further **ORDERED** that the subject property should be

FORFEITED to the seizing agency, subject to the interest of the lienholder. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The subject of this hearing was the seizure of a 1994 Chevrolet Camaro and \$ 320.01 seized from Carol A. Counts by the Tennessee Highway Patrol on January 30, 2006.
2. Carol Counts claimed an interest in both the currency and vehicle but did not appear at the hearing. The notice of hearing was sent to Carol A. Counts, by certified mail, and was returned “unclaimed”.
3. Maxie Counts claimed an interest in the vehicle but did not appear at the hearing. The notice of hearing was sent to Maxie Counts, by certified mail, and received on May 15, 2006.
4. The State’s witnesses were present and the State was prepared to proceed with the hearing.

CONCLUSIONS OF LAW

1. Department of Safety Rule 1340-2-2-.17(1) provides in 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 the 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. It appearing that the State made all reasonable attempts to provide notice of the hearing to the Claimants and they failed to appear, it is determined that the State has complied with the requirements of the above referenced Rule.

3. Accordingly, it is determined that the State's motion should be **GRANTED** and the Claimants be held in **DEFAULT**. It is further **ORDERED** that the subject property be **FORFEITED** to the seizing agency, subject to the interest of the lienholder, Southeastern Title Loans, who filed a valid claim to the vehicle.

This Initial Order entered this 11th day of July 2006.

Leonard Pogue
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 11th day of July 2006.

Charles C. Sullivan, II, Director
Administrative Procedures Division