



University of Tennessee, Knoxville  
**Trace: Tennessee Research and Creative  
Exchange**

---

Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

4-2-2012

Betsey M0429 Davis 2002 Ford Escape VIN:  
1FMCU03142KB01521, Seized From: Betsey  
Davis, Date of Seizure: October 17, 2011,  
Claimant: Betsey Davis, Lienholder: Credit Accept  
Corp

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_lawopinions](http://trace.tennessee.edu/utk_lawopinions)

 Part of the [Administrative Law Commons](#)

---

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact [administrative.procedures@tn.gov](mailto:administrative.procedures@tn.gov)

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

**IN THE MATTER OF:**

**Betsey (M0429) Davis  
2002 Ford Escape  
VIN: 1FMCU03142KB01521  
Seized From: Betsey Davis  
Date of Seizure: October 17, 2011  
Claimant: Betsey Davis  
Lienholder: Credit Accept Corp**

**DOCKET NO: 19.05-116532J**

**INITIAL DEFAULT ORDER**

This matter was heard in Memphis, Tennessee, on April 2, 2012, before Joyce Carter-Ball, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Joe Bartlett, Staff Attorney for the Department of Safety, represented the Seizing Agency.

This hearing was convened to consider the proposed forfeiture of the subject property pursuant to T.C.A. §53-11-201 et seq and 40-33-201 et seq.

The Claimant did not appear at the hearing, either in person or through legal counsel. Counsel for the Department made an oral motion pursuant to T.C.A. §4-5-309, requesting that the Claimant be held in default. The motion was granted based upon the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. The Claimant's property was seized pursuant to law, resulting in the issuance of a Property Forfeiture Warrant. The Claimant filed a claim seeking the return of the property, and requesting that a hearing be scheduled to consider that claim.
2. The Claimant was sent notice of the hearing by certified mail at her address of record.
3. The Claimant failed to appear on the day of the hearing, April 2, 2012.
4. The State's witnesses were available and ready to go forward to prove their case.

## CONCLUSIONS OF LAW AND ANALYSIS

1. Department of Safety Rule 1340-2-2-.11(2) provides, in relevant part:

The Department of Safety is entitled to rely upon the address of record in providing notice to a claimant.

2. 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.

3. Department of Safety Rule 1340-2-2-.17(2) provides, in relevant part:

Upon a default by a claimant, a claimant's claim shall be stricken by initial default order.

4. The State's motion for default being granted, it is therefore **ordered** that the Claimant's **claim is stricken from the record**. 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."

Accordingly, it is hereby **ORDERED** that the seized property be **forfeited to the Seizing Agency, subject to the interest of the lien holder, Credit Accept Corp.**

**IT IS SO ORDERED.**

This Initial Order entered and effective this 10 day of April, 2012

---

Joyce Carter-Ball  
Administrative Judge