



10-20-2008

DEPARTMENT OF SAFETY, EASTERN
DIVISION, vs. \$2,353.00 U. S. Currency, Seized
From: Mona Harvin, Date of Seizure: April 24,
2008, Claimant: Mona Harvin, Agency: Knox
County Sheriff's Office

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

IN THE MATTER OF:

**DEPARTMENT OF SAFETY,
EASTERN DIVISION,**

v.

**\$2,353.00 U. S. Currency
Seized From: Mona Harvin
Date of Seizure: April 24, 2008
Claimant: Mona Harvin
Agency: Knox County Sheriff's Office**

**DOCKET NO: 19.01-101285J
D.O. S. CASE NO. H3567**

INITIAL DEFAULT ORDER

This Matter was heard in Knoxville, Tennessee on 20 October 2008, before William J. Reynolds, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Lori Long represented the Department. The claimant, Mona Harvin, Failed To Appear.

The Subject of this hearing was the proposed forfeiture of the subject property for its alleged use in violation of *Tennessee Code Annotated §55-11-201 et seq.* and *§40-33-201 et seq.*

Mona Harvin, Claimant, did not appear at the hearing. Therefore, the Department moved for an initial default and dismissal of the case. The motion was granted, and the Department permitted to proceed *ex parte*, 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. A copy of the return receipt reveals the Claimant signed for Notice on 18 September 2008..

2. The claimant did not appear on the day of the hearing, nor did an attorney appear on Claimant's behalf. The Department forwarded Notice through the U.S. Mail Return Receipt Requested to: .Mona L. Harvin, Apt 11, 701 Cedar Lane, Knoxville, TN 37912-3104. This is the same address of record provided from the Claimant on the June 24, 2008 Petition for Hearing.

3. It appears Claimant chose not to pursue her claim by Failing To Appear or otherwise prosecute her claim. Her conduct indicates she voluntarily gave up her sole remedy and opportunity to be heard.

4. *The Rules of Procedure For Asset Forfeiture Hearings, Rule 1340-2-2-.17 (g)*, provides that "No party shall be required by the administrative judge to call or inquire as to the whereabouts of a missing party."

5. The Department was ready to go forward to prove its case.

6. There is no lien of record.

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 Department'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 *Tennessee Code Annotated, §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."

It is therefore **ORDERED** the subject property is forfeited to the seizing agency.

ORDERED AND ENTERED this 16th day of December, 2008.

WILLIAM J. REYNOLDS
ADMINISTRATIVE JUDGE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 16th day of December, 2008.



THOMAS G. STOVALL, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION