



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

Tennessee Department of State, Opinions from the
Administrative Procedures Division

Law

10-23-2008

DEPARTMENT OF SAFETY, EASTERN
SECTION, vs. One 1994 Chevrolet Cavalier, VIN
NO.: 1G1JC1440R7360378, Seized From: Jordan
Duran Tinnel, Date of Seizure: 08 February 2008,
Claimant: Jordan Tinnel, Lien Holder: Cash
Express, Agency: 5TH Judicial Drug Task Force

Follow this and additional works at: http://trace.tennessee.edu/utk_lawopinions

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

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

IN THE MATTER OF:

**DEPARTMENT OF SAFETY,
EASTERN SECTION,**

v.

**One: 1994 Chevrolet Cavalier
VIN NO.: 1G1JC1440R7360378
Seized From: Jordan Duran Tinnel
Date of Seizure: 08 February 2008
Claimant: Jordan Tinnel
Lien Holder: Cash Express
Agency: 5TH Judicial Drug Task Force.**

**DOCKET NO: 19.01-101286J
D.O.S. Case No. H1044**

INITIAL DEFAULT ORDER

This matter was heard in Knoxville, Tennessee, on October 23, 2008, before William Jay 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 Failed To Appear.

The subject of this hearing was for the Claimant, Jordan Tinnel, to show cause why his interest in the subject property should not be forfeited pursuant to the terms and conditions of the July 14, 2008 Order of Compromise and Settlement.

Jordan Tinnel, Claimant, did not appear at the hearing. The Department 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 his address of record. A copy of the postal green card shows Jordan Tinnel signed for the notice.
2. The issues at controversy were resolved July 14, 2008 by Order of Compromise and Settlement. The Department alleged the Claimant failed to comply with the terms and conditions of the July 14, 2008 Order of Compromise and Settlement within the appropriate time frame specified.
3. Claimant did not appear on the day of the hearing, nor did an attorney appear on Claimant's behalf.
4. The Department had its witnesses available and was ready to go forward to prove its case.
5. It appears the subject property secures an indebtedness to Cash Express, 30 Brook Street, Crossville, TN 38555-4423.

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 Claimant failed to show cause or provide a valid legal reason for failure to comply with the July 14, 2008 Order of Compromise and Settlement. The Department's motion for default being granted, it is therefore **ordered** that the Claimant's original **claim should 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." Accordingly, it is ordered the subject property be forfeited to the seizing agency EXCEPT, and subject to, the lien of record.

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

WILLIAM JAY 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