



11-19-2008

DEPARTMENT OF SAFETY, EASTERN  
DIVISION, vs. One 2001 Chrysler Voyager, VIN  
NO. 1C4GJ25311B275778, Seized From: Ralph  
Wilson, Date of Seizure: May 16, 2008, Claimant:  
Wilma Wilson, Agency: Englewood Police  
Department

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_lawopinions](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](mailto:administrative.procedures@tn.gov)

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

**IN THE MATTER OF:**

**DEPARTMENT OF SAFETY,  
EASTERN DIVISION,**

**v.**

**One 2001 Chrysler Voyager  
VIN NO. 1C4GJ25311B275778  
Seized From: Ralph Wilson  
Date of Seizure: May 16, 2008  
Claimant: Wilma Wilson  
Agency: Englewood Police Department**

**DOCKET NO: 19.05-101100J  
D.O. S. CASE NO. H3719**

**INITIAL DEFAULT ORDER**

This Matter was heard in Chattanooga, Tennessee on November 19, 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, Wilma Wilson, 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 §55-50-504 et seq.* and *§40-33-201 et seq.*

Wilma Wilson, 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 was permitted to proceed *ex parte.*, Based upon the following, the Court makes these findings of fact and conclusions of law:

## **FINDINGS OF FACT**

1. Claimant was sent notice of the hearing by certified mail at the address of record. A copy of the envelope reveals three attempts at delivery and a “Not Deliverable as Addressed” notation.

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: Wilma Wilson, 292 Shaddon Road, Tellico Plains, TN 37385.

3. It appears Claimant chose not to pursue the claim by Failing To Appear or otherwise prosecute the claim. This conduct indicates voluntarily surrender of the 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. The property secures a lien to JP Morgan Chase Bank, P.O. Box 11606, Lexington, KY 40576-1606.

## **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 EXCEPT, and subject to , to the secured interest of the Lien Holder.

**ORDERED AND ENTERED** this 10th day of December, 2008.

---

WILLIAM J. REYNOLDS  
ADMINISTRATIVE JUDGE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 10th day of December, 2008.



---

THOMAS G. STOVALL, DIRECTOR  
ADMINISTRATIVE PROCEDURES DIVISION