



7-17-2008

DEPARTMENT OF SAFETY vs. One 1998
Dodge Stratus, V.I.N. # 1B3EJ46X6WN112359,
Seized from: Erica Yorgensen, Date of Seizure:
1-29-08, Claimant: David Yorgensen, Erica
Yorgensen

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

IN THE MATTER OF:

DEPARTMENT OF SAFETY

V.

**One 1998 Dodge Stratus
V.I.N. # 1B3EJ46X6WN112359
Seized from: Erica Yorgensen
Date of Seizure: 1-29-08
Claimant: David Yorgensen, Erica
Yorgensen**

**DOCKET NO: 19.01-099632J
D.O.S. # HO598**

INITIAL ORDER OF DEFAULT & DISMISSAL

This matter was heard on July 17, 2008 before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety in Nashville, Tennessee. Mr. Orville Orr, Staff Attorney for the Department of Safety, represented the State. Claimants were not 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 a Default Order due to Claimants failing 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. 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 1998 Dodge Stratus seized from Erica Yorgensen by the 19th Judicial District Drug Task Force on January 29, 2008.

2. Erica Yorgensen and David Yorgensen claimed an interest in the vehicle but did not appear at the hearing. Notice of the hearing was delivered to Claimants on June 16, 2008.

3. 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

This Initial Order entered this 21st day of July, 2008.

Thomas G. Stovall, Director
Administrative Procedures Division