



10-24-2012

DEPARTMENT OF SAFETY vs. One 2003  
Dodge Pickup, V.I.N. # 1D7HU18D93S244510,  
One 2005 Honda Accord, V.I.N. #  
1HGCM82715A004300, One 2001 Ford Focus,  
V.I.N.# 1FAFP33P11W288230, Seized from:  
Tamaral Guzman, Date of Seizure: 12-14-10,  
Claimant: Tamaral Guzman

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

**IN THE MATTER OF:**

**DEPARTMENT OF SAFETY**

**V.**

**One 2003 Dodge Pickup  
V.I.N. # 1D7HU18D93S244510  
One 2005 Honda Accord  
V.I.N. # 1HGCM82715A004300  
One 2001 Ford Focus  
V.I.N.# 1FAFP33P11W288230  
Seized from: Tamaral Guzman  
Date of Seizure: 12-14-10  
Claimant: Tamaral Guzman**

**DOCKET NO: 19.01-113022J  
D.O.S. # L2276, L2277, L2278**

**INITIAL DEFAULT ORDER**

This matter was heard in Knoxville, Tennessee, on October 24, 2012, before J. Randall LaFevor, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Ms. Nina Harris, Staff Attorney for the Department of Safety, represented the State on behalf of the Seizing Agency.

This hearing was convened to consider the proposed forfeiture of the seized property pursuant to T.C.A. §53-11-201, §55-10-401, §55-50-504 and/or §40-33-201, et seq.

The Claimant did not appear at the hearing, either in person or through legal counsel. The State therefore moved for a Default Order and dismissal of the case. The motion was granted based upon the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. Notice of the hearing was sent to the Claimant's address of record. [See Hearing Exhibit #1, establishing completed notification or reasonable efforts.]
2. The Claimant failed to appear on the day of the hearing, and no attorney appeared on the Claimant's behalf.
3. The State's witnesses were available and ready to proceed when the case was called.

**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. Having granted the State’s motion for default, Rule 1340-2-2-.17(2) requires that the Claimant’s claim be stricken from the record. Once a claim is 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 Claimant is found to be in default, the claim is stricken from the record, and the Claimant’s interest in the subject property is forfeited to the Seizing Agencies, the 5<sup>th</sup> Judicial District Task Force, the Tennessee Bureau of Investigation, and the Knox County Sheriff’s Department.

This Initial Order is entered and effective this 29 day of October, 2012

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J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 29 day of October, 2012



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Thomas G. Stovall, Director  
Administrative Procedures Division