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October 2013

## Christian Ayala vs. Safety

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

**IN THE MATTER OF:**

**DEPARTMENT OF SAFETY**

**V.**

**One 2000 Ford F350**

**V.I.N. # 1FTSE34L4YHA49361**

**Seized from: Christian Ayala**

**Date of Seizure: 06-05-13**

**Claimant: Christian Ayala**

**DOCKET NO: 19.01-123248J**

**D.O.S. # N9019**

**INITIAL ORDER OF DEFAULT AND DISMISSAL**

This matter was heard on October 17, 2013 before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety in Nashville, Tennessee. Ms. Karen Litwin, Staff Attorney for the Department of Safety, represented the State. Claimant was not present nor was an attorney present on his 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 an Initial Default Order due to the Claimant's failure 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 2000 Ford F350 from Christian Ayala by the Smyrna Police Department on June 5, 2013.
2. Christian Ayala claimed an interest in the vehicle but did not appear at the hearing. The State provided proof that service of the notice of hearing was made at Claimant's address of record on September 18, 2013.
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 Claimant and he 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 Claimant be held in **DEFAULT**. It is further **ORDERED** that the subject vehicle be **FORFEITED** to the seizing agency.

This Initial Order entered this \_\_\_\_\_ day of October, 2013.

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Leonard Pogue  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this  
\_\_\_\_\_ day of October, 2013.

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J. Richard Collier, Director  
Administrative Procedures Division