



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

---

Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

---

7-8-2014

## Cole, Candice & Titlemax of TN Inc vs. Safety

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 OF THE  
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT OF  
SAFETY AND HOMELAND  
SECURITY**

**DOCKET NO: 19.01-126339J  
(D.O.S. Case No. N1209)**

**v.**

**One 2007 Chevrolet Cobalt  
VIN NO.: 1G1AL55FX77253682  
Seized From: Rodrick Stafford  
Date of Seizure: September 26, 2012  
Claimant: Candice Cole  
Lien Holder: Titlemax of TN, Inc.**

**INITIAL DEFAULT ORDER**

This matter was heard in Nashville, Tennessee, on June 9, 2014, before Lynn M. England, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Karen Litwin, Staff Attorney for the Department of Safety, represented the State, Cynthia Gross, Assistant Metropolitan Attorney represented Metro Nashville Police Department..

The subject of this hearing was the proposed forfeiture of the subject property for its alleged use in violation of T.C.A. §53-11-201 et seq. and §40-33-201 et seq.

Candice Cole, Claimant, did not appear at the hearing. The State 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 her address of record. The letter was returned as undeliverable. It is determined that the state made reasonable efforts to provide Claimant with notice of the hearing.

2. Claimant failed to appear on the day of the hearing. Nor did an attorney appear on Claimant's behalf.

3. The State had its witnesses available and was ready to go forward to prove its case.

## 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 State'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 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.”

It is therefore ordered that the property be forfeited to the seizing agency, subject to the interest of the lienholder.

This Initial Order entered and effective this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

---

Lynn M. England  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this \_\_\_\_\_ day of \_\_\_\_\_ 2014.



---

J. Richard Collier, Director  
Administrative Procedures Division