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June 2015

Michelle C. Hancock Ivy vs. Safety

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State of Tennessee
Department of State
Administrative Procedures Division
312 Rosa L. Parks Avenue
8th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

June 22, 2015

Commissioner Bill Gibbons
Tennessee Department of Safety
23rd Floor, William R. Snodgrass Tower
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243-1102

Michelle C. Hancock-Ivy
12295 Macon Road
Collierville, TN 38017

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Tennessee Department of Safety &
Homeland Security
Legal Division
6174 Macon Avenue
Memphis, TN 38134-7502

RE: In the Matter of: Michelle C. Hancock Ivy (Q2669) Docket No. 19.05-130658J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

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

IN THE MATTER OF:

MICHELLE C. HANCOCK-IVY

DOCKET NO. 19.05-130658J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **July 7, 2015**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

**BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF
SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:

Dept. of Safety and Homeland Security,

Vs.

**One 2005 Honda Pilot
VIN: 2HKYF18195H566141
Seized From: Michelle C. Hancock-Ivy
Date of Seizure: 9/28/14
Claimant(s): Michelle C. Hancock-Ivy
Lienholder: None Filed**

**DOCKET NO: 19.05-130658J
SAFETY NO: Q2669**

INITIAL ORDER

This matter was heard on March 25, 2015, in Memphis, Tennessee before Michael Begley, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division and designated to sit for the Commissioner of the Tennessee Department of Safety and Homeland Security. Attorney Andre Thomas represented the State. Claimant was present and chose to waive her right to counsel and represent herself.


The issue in this case is whether the State properly seized Claimant's interest in the above referenced vehicle for a violation of the State's DUI laws.

Claimant was present and prepared to move forward. The State had no witness present, and it had no extraordinary grounds by which it could request a continuance based on the unavailability of its witness. Therefore, the State was unable to prove its case in the absence of its witness, and the subject vehicle shall be returned to Claimant immediately.

It is **CONCLUDED** that considering the totality of the evidence, Claimant has shown, by a preponderance of the evidence, that Claimant was not in violation of any laws that would lead to her vehicle being seized and forfeited to the seizing agency.


IT IS THEREFORE ORDERED that the Forfeiture Warrant filed in this matter is hereby **DISMISSED**, and the subject property shall be returned to Claimant immediately. Claimant shall not be assessed any storage fees or other costs associated with this action as long as she claims the vehicle within five (5) working days following the date this Order becomes a Final Order.

This Initial Order entered and effective this 22ND day of JUNE 2015.



Michael Begley
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 22ND day of JUNE 2015.



J. Richard Collier, Director
Administrative Procedures Division

**APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES**

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.