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June 2015

## Anna L. Huff vs. Safety

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

June 25, 2015

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

Anna L. Huff  
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Maryville, TN 37804

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Staff Attorney  
Tennessee Department of Safety &  
Homeland Security  
7175 Strawberry Plains Pike, Suite #102  
Knoxville, TN 37914-7002

RE: In the Matter of: Anna L. Huff (Q2966)

Docket No. 19.05-130820J

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:**

**ANNA L. HUFF**

**DOCKET NO. 19.05-130820J**

**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 10, 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, 8<sup>th</sup> 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:**

**TENNESSEE DEPARTMENT OF  
SAFETY AND HOMELAND  
SECURITY**

**DOCKET NO: 19.05-130820J  
D.O.S. Case No. Q2966**

**v.**

**One 2003 Toyota Tacoma  
VIN: 5TEWM72N73Z232759  
Seized from: Corey Alan Dalton  
Date of Seizure: Sept. 17, 2014  
Claimant: Anna L. Huff  
Lienholder: N/A**

**INITIAL ORDER**

This matter was heard on April 14, 2015, in Knoxville, Tennessee, before Rachel L. Waterhouse, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety and Homeland Security (Department). Department attorney Patrick Rice represented the State. The Claimant, Anna L. Huff, was present and represented herself, waiving legal counsel.

The subject of the hearing was the proposed forfeiture of the above-described seized vehicle for its alleged use in violation of T.C.A. §§ 55-50-504 and 40-33-201 *et seq.* As a preliminary matter, the Department challenged the Claimant's legal standing to pursue her claim for the seized property. Upon full consideration of the entire record in this matter, it is **DETERMINED** that the Claimant failed to establish her legal standing to pursue the claim filed in this matter, and that her claim should therefore be dismissed. This decision is based upon the following Findings of Fact and Conclusions of Law.

## FINDINGS OF FACT

1. The sole Claimant, Anna L. Huff, filed a Petition For Hearing claiming the vehicle, which had been seized on September 17, 2014. See Hearing Exhibit 1, Petition For Hearing form.

2. On September 17, 2014, the Claimant's grandson, Corey Alan Dalton, was driving the vehicle when he was stopped and it was determined that his drivers license was in a revoked status for a prior DUI.

3. The sole owner of the vehicle is Mr. Dalton.

4. The Certificate of Title shows only Mr. Dalton's name as the owner of the vehicle. See Hearing Exhibit 2, State of Tennessee Certificate of Title.

5. The Claimant's letter dated October 2, 2014, and titled Petition For Hearing, stated that Mr. Dalton is the owner of the seized vehicle. See Hearing Exhibit 3.

6. The Claimant testified that Mr. Dalton is the owner of the vehicle, Mr. Dalton has exclusive use of the vehicle and the family considers Mr. Dalton to be the owner of the vehicle.

## CONCLUSIONS OF LAW and ANALYSIS

1. The Department challenged the Claimant's legal standing to assert her claim for the seized vehicle. The Department of Safety's *Rules of Procedure for Asset Forfeiture Hearings* provide that, once the issue is raised, the Claimant has the burden of proving legal standing to pursue a claim. Rule 1340-2-2-.15(3), TENN. COMP. R. & REGS.; *see also* TENN. CODE ANN. §53-11-201(f)(A). Also pursuant to Departmental Regulations, once it is property raised, the issue of standing must be determined prior to a ruling on the merits of a contested case. If standing is not proven, the claim may be dismissed, and, when no other valid claims have been filed, the property may be forfeited to the Seizing Agency. Rule 1340-2-2-.16(1)(g)(3), TENN. COMP. R. & REGS.; *See also, Jones v. Greene*, 946 S.W.2d 817 (Tenn. App. 1996).

2. To prove legal standing, the Claimant must establish an ownership interest in the seized property that was acquired in good faith. TENN. CODE ANN. § 53-11-201(f)(1) & *Urquhart v. Department of Safety*, 2008 WL 2019458 (Tenn. Ct. App.). Without such an ownership interest, a party lacks standing to challenge the forfeiture. See *Jones v. Greene, supra*; *U.S. v. \$515,060.42 in U.S. Currency*, 152 F.3d 491, 497 (6<sup>th</sup> Circuit 1998).

3. The Claimant failed to offer any proof of her ownership of the vehicle.

4. From the state of the record, it cannot be concluded that the Claimant is the owner of the seized vehicle.

It is **CONCLUDED** that the Claimant has failed to prove that she owns any legal interest in the seized vehicle, and therefore she has failed to prove that she is entitled to file and pursue a claim for its return.

**IT IS THEREFORE ORDERED** that the Claimant's Claim (Petition for Hearing) is hereby **DISMISSED**, and, since there are no other claims pending, the vehicle is hereby forfeited to the Seizing Agency for disposition as provided by law.

This Initial Order entered and effective this 25<sup>TH</sup> day of JUNE 2015.

Rachel L. Waterhouse  
RACHEL L. WATERHOUSE  
ADMINISTRATIVE JUDGE  
ADMINISTRATIVE PROCEDURES DIVISION  
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this  
25<sup>th</sup> day of JUNE 2015.

*J. Richard Collier*

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, 8<sup>th</sup> 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.