

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civil Action 2:08-CV-009
Magistrate Judge King

TWENTY SEVEN THOUSAND SEVEN
HUNDRED SEVENTY AND 00/100
DOLLARS (\$27,770.00) IN
UNITED STATES CURRENCY,

Defendant.

OPINION AND ORDER

This is a forfeiture action under 21 U.S.C. §881(a)(6) in which the United States alleges that the defendant currency was used in connection with or constitutes proceeds of a drug transaction. Jeffrey A. Corby [hereinafter "Claimant"], who is now proceeding without the assistance of counsel, see *Order*, Doc. No. 67, has asserted a claim to the currency.¹ The action was previously stayed pending resolution of a related criminal prosecution of Claimant. *Order*, Doc. No. 28. Following resolution of those proceedings, at which Claimant pled guilty to a felony charge of possession of cocaine, see *Motion to Vacate*, Doc. No. 58, the stay was vacated. *Order*, Doc. No. 59. On July 6, 2011, plaintiff's unopposed motion to deem admitted its requests for admission was granted. *Order*, Doc. No. 72.

With the consent of the parties under 28 U.S.C. §636(c), this matter is now before the Court on plaintiff's motion for summary judgment. *Motion for Summary Judgment*, Doc. No. 73. Although Claimant was expressly advised of his right to respond to the motion, and of the

¹Notice of the action was provided to a number of persons, see *Summonses Issued*, Doc. No. 3; *Service by Publication*, Doc. No. 7; *Certificate of Service by Plaintiff*, Doc. No. 8. Only Claimant filed a verified claim.

consequences of his failure to do so, *see Order*, Doc. No. 74; *Order*, Doc. No. 76,² there has been no response to the motion for summary judgment.

Summary judgment is appropriate if the record establishes that there exists no genuine issue of material fact. Rule 56(a), F.R. Civ. Pro. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). The mere existence of a scintilla of evidence in support of the opposing party's position will be insufficient; there must be evidence on which the jury could reasonably find for the opposing party. *Anderson*, 477 U.S. at 251. *See also Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

According to the *Verified Complaint*, Doc. No. 2, Claimant was stopped by officers of the Columbus Police Department on July 15, 2007, while driving a vehicle which Claimant claimed as belonging to him. Hidden inside the vehicle were 71.5 grams of cocaine and \$27,000.00 in U.S. currency. Claimant had an additional \$770.00 on his person. *Id.*, p.2.

By his deemed admissions, *see Exhibit* attached to Doc. No. 71, Claimant has admitted that he pled guilty to a state felony charge of possession of cocaine arising out of the events of July 15, 2007. *Id.*, pp.1-2. Claimant intended to distribute the cocaine found in the vehicle. *Id.*, p.2. The defendant currency "represents moneys intended to be furnished in exchange for a controlled substance, or represents proceeds of trafficking in a controlled substance, or was used or intended to be used to facilitate one or more violations of 21 U.S.C. §841 *et seq.*" *Id.*, p. 3.

These uncontroverted facts establish that the defendant currency

²The Court's first order, which was mailed to Claimant at the address provided by him, was returned undelivered. Claimant - who is apparently no longer incarcerated - has not provided a different address to the Court.

constitutes proceeds of, or was used to further illegal drug trafficking, and is forfeitable to the United States. Plaintiff is therefore entitled to summary judgment.

WHEREUPON the *Motion for Summary Judgment*, Doc. No. 73, is meritorious and it is therefore **GRANTED**.

The defendant currency is **ORDERED FORFEITED** to the United States

The Clerk shall enter **FINAL JUDGMENT**.

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge

October 6, 2011

