

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$26,319.00, MORE OR LESS,
IN U.S. CURRENCY; ONE TAURUS .40
CALIBER SEMI-AUTOMATIC
HANDGUN, SERIAL NO: SZ103070;
ONE SEMI-AUTOMATIC .223 CALIBER
BUSHMASTER ASSAULT-STYLE
RIFLE, SERIAL NO: L415945; ONE
.40 CALIBER M&P SEMI-AUTOMATIC
HANDGUN, SERIAL NO: MPA5423

Defendant.

CIVIL ACTION NO.: 09-00482-KD-B

ORDER OF FORFEITURE

This matter is before the Court on plaintiff's Motion for Entry of Order of Forfeiture (Doc. 8). For cause shown, the Motion is granted.

On July 30, 2009, the plaintiff filed a verified Complaint for Forfeiture In Rem against the defendants, \$26,319.00, more or less, in U.S. currency, one Taurus .40 Caliber Semi-Automatic Handgun, Serial No: SZ103070, one Semi-Automatic .223 Caliber Bushmaster assault-style rifle, Serial No: L415945, and one .40 caliber M&P semi-automatic handgun, serial number MPA5423, (hereinafter "defendants"), to enforce Title 21, United States Code, Sections 881(a)(6), and 881(a)(11).

On July 30, 2009, in accordance with Supplemental Rule G(4)(b)(i) and G(4)(iii)(B), the plaintiff sent a copy of the Complaint for Civil Forfeiture In Rem, Warrant For Arrest and Notice of Forfeiture Action (“Notice”) to known potential claimants, Cedric T. Foster, Daniel Demetric Foster, and Gladys Thomas Foster. Based on the facts and circumstances set forth by the plaintiff in Doc. ____ the undersigned finds that the notice sent by plaintiff to the known potential claimants satisfies Supplemental Rule G(4)(iii)(A).

Any claim by the known potential claimants identified above was due within 35 days of the date notice was sent and any motion under Rule 12 or answer was due within 20 days thereafter. See Supplemental Rules G(4)(b)(C), G(5)(ii)(A) and G(5)(b). As a result, claims from the Fosters were due on or before September 3, 2009, and motions or answers on or before September 23, 2009. None of the Fosters has filed a claim, motion or answer and their time to do so has expired.

Supplemental Rule G(4) requires that the government publish notice of a civil forfeiture action. Supplemental Rule G(4)(iv)(C) deems internet publication a proper alternative to newspaper publication. In accordance with Supplemental Rule G(4)(iv)(C), beginning on September 16, 2009, plaintiff published notice on an official government internet forfeiture website at www.forfeiture.gov for 30 consecutive days. Any putative claimants who received notice via the internet had to file a claim no later than 60 days after the first date of publication; that is, no later than November 16, 2009. See Supplemental Rule G(5)(ii)(B). Rule 12 motions or answers were due within 20 days thereafter, on or

before December 7, 2009. No putative claimants who received notice by internet publication have filed a timely claim, motion or answer and the deadline to do so has expired. Supplemental Rule G(5)(b).

On October 1, 2009, in accordance with Supplemental Rule G(3)(b) and (3)(c), the U.S. Marshals Service (“USMS”) executed the Warrant For Arrest issued by the Clerk thereby arresting the defendant. As a result, the defendant is within the in rem jurisdiction of the Court enabling it to enter orders regarding its disposition. *United States v. All Funds Distributed to Weiss*, 345 F. 3d 49, 55 n.7, 56 n.8 (2d Cir. 2003) (seizure or constructive control of the property is necessary for the Court to exercise in rem jurisdiction); *Ventura Packers, Inc. v. F/V Kathleen*, 424 F. 3d 852, 853 (9th Cir. 2005) (In rem jurisdiction is obtained by serving an arrest warrant in rem.).

There are no claims or answers in opposition to forfeiture and the defendants are subject to forfeiture as set forth in Counts One and Two of the complaint. Therefore, this action is ripe for final disposition by entry of an order and judgment of forfeiture.

NOW, THEREFORE, the Court having considered the matter and having been fully advised in the premises, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

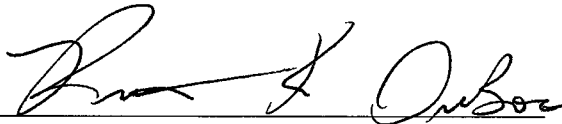
1. This Court has jurisdiction over the subject matter, and the complaint states a claim upon which relief may be granted.
2. In accordance with the verified complaint, the defendant, \$26,319.00, more

or less, in U.S. currency, is **ordered** to be forfeited to the United States of America pursuant to the provisions of Title 21, United States Code, Section 881(a)(6).

3. In accordance with the verified complaint, the defendants, one Taurus .40 Caliber Semi-Automatic Handgun, Serial No: SZ103070, one Semi-Automatic .223 Caliber Bushmaster assault-style rifle, Serial No: L415945, and one .40 caliber M&P semi-automatic handgun, serial number MPA5423, are **ordered** to be forfeited to the United States of America pursuant to the provisions of Title 21, United States Code, Section 881(a)(11).

4. This Order resolving all matters and issues joined in this action, the Clerk of Court is directed to close this file for administrative and statistical purposes.

DONE and ORDERED this 23rd day of December, 2009.


KRISTI K. DUBOSE
UNITED STATES DISTRICT JUDGE