

1 from such relief. [28 U.S.C. § 1915\(e\)\(2\)](#). If the court determines that the complaint fails to state
2 a claim, leave to amend may be granted to the extent that the deficiencies of the complaint can be
3 cured by amendment.
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5 In reviewing a complaint under this standard, the Court must accept as true the
6 allegations of the complaint in question, [Hospital Bldg. Co. v. Trustees of Rex Hospital, 425](#)
7 [U.S. 738, 740 \(1976\)](#), construe the pro se pleadings liberally in the light most favorable to the
8 Plaintiff, [Resnick v. Hayes, 213 F.3d 443, 447 \(9th Cir. 2000\)](#), and resolve all doubts in the
9 Plaintiff's favor, [Jenkins v. McKeithen, 395 U.S. 411, 421 \(1969\)](#).

10 **B. Allegations**

11 Plaintiff is a resident of Huron, California. She alleges that the Coalinga Police
12 Department seized \$154,679 in U.S. Currency, along with other items that are being held as
13 evidence in the criminal trial of Salvador Bravo. The U.S. Currency at issue reportedly was
14 seized under the authority of [21 U.S.C. § 881](#) and ultimately was transferred to DOJ on April 9,
15 2012. Plaintiff received notice of the seizure on September 21, 2012. She now asserts her
16 interest in the property as an innocent owner pursuant to [21 U.S.C. § 983\(d\)](#).
17

18 **C. Analysis**

19 According to the complaint, the currency at issue in this case was seized for forfeiture
20 pursuant to [21 U.S.C. § 881\(a\)\(6\)](#), which provides that all funds traceable as proceeds to a
21 violation of the federal narcotics laws are subject to forfeiture by the United States. [21 U.S.C. §](#)
22 [881\(a\), \(d\)](#). A party seeking to challenge the forfeiture of its property in a judicial forum must
23 file a claim with the relevant Federal agency not later than the deadline set forth in the notice of
24 seizure letter. [18 U.S.C. § 983\(a\)\(2\)\(B\)](#). The claim is then transferred to a United States
25 Attorney who must initiate a judicial forfeiture action in a federal district court within ninety (90)
26 days or return the seized property. See [18 U.S.C. § 983\(a\)\(3\)](#). In the subsequent civil forfeiture
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1 proceedings, the government bears the burden of proving, by a preponderance of the evidence,
2 that the property is subject to forfeiture. [18 U.S.C. § 983\(c\)\(1\)](#).

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4 In this instance, Plaintiff has not asserted that she has filed a claim with the appropriate
5 Federal agency, that the Federal agency has commenced civil judicial forfeiture proceedings or
6 that she is moving to set aside a declaration of forfeiture. [18 U.S.C. § 983\(a\),\(e\)\(1\)](#). Rather, she
7 has filed the instant action seeking return of her interest in the currency. The district court lacks
8 jurisdiction over such a complaint for return of currency. See, e.g., [McKinney v. U.S. Dep't of](#)
9 [Justice Drug Enforcement Admin.](#), 580 F.Supp.2d 1, 3-4 (D.D.C. 2008).

10 **CONCLUSION AND RECOMMENDATION**

11 For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be
12 dismissed for failure to state a claim for which relief can be granted.

13 These Findings and Recommendations will be submitted to the Honorable Lawrence J.
14 O'Neill pursuant to the provisions of [Title 28 U.S.C. § 636\(b\)\(1\)](#). Within **fourteen (14) days**
15 after being served with these findings and recommendations, Plaintiff may file written objections
16 with the Court. [Fed. R. Civ. P. 72\(b\)](#); Local Rule 304(b). The document should be captioned
17 "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that
18 failure to file objections within the specified time may waive the right to appeal the District
19 Court's order. [Martinez v. Ylst](#), 951 F.2d 1153 (9th Cir. 1991).
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23 IT IS SO ORDERED.

24 Dated: December 10, 2012

/s/ Dennis L. Beck
25 UNITED STATES MAGISTRATE JUDGE