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 United States of America  
 6  
 7

8 IN THE UNITED STATES DISTRICT COURT  
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,	)	2:10-cv-02167 MCE-KJM
	)	
12 Plaintiff,	)	STIPULATION FOR STAY OF
	)	FURTHER PROCEEDINGS AND
13 v.	)	ORDER [PROPOSED]
	)	
14 APPROXIMATELY \$7,960.00 IN	)	
U.S. CURRENCY,	)	
15	)	DATE: N/A
16 APPROXIMATELY \$2,260.00 IN	)	TIME: N/A
U.S. CURRENCY,	)	COURTROOM: N/A
	)	
17 APPROXIMATELY \$3,195.00 IN	)	
U.S. CURRENCY,	)	
18	)	
19 APPROXIMATELY \$3,927.00 IN	)	
U.S. CURRENCY, and	)	
	)	
20 2007 CADILLAC ESCALADE EXT,	)	
VIN: 3GYFK62837G222266, LICENSE	)	
21 NUMBER 8W03721,	)	
	)	
22 Defendants.	)	

23  
 24 Plaintiff United States of America and claimants Jamarus  
 25 Smith, Monique Banks, and Lilah Thomasson submit the following  
 26 Joint Request for Stay and request that the Court enter an order  
 27 staying all further proceedings in this civil forfeiture action  
 28 until the proceedings in the related criminal case,

1 U.S. v. Jamarus Smith, 2:10-cr-00187 MCE, have concluded. The  
2 parties request this stay for the following reasons:

3 1. The parties request this stay pursuant to 18 U.S.C. §§  
4 981(g) (1) and 981(g) (2). The United States contends that the  
5 defendant currency is forfeitable to the United States because it  
6 is the proceeds of drug trafficking. The United States also  
7 contends that the defendant vehicle was purchased with drug  
8 proceeds, and that it was used to facilitate the transportation  
9 and sale of controlled substances. During the search of the  
10 vehicle officers found 10 bottles of cough syrup with codeine  
11 (available only by prescription); marijuana, and mailing boxes  
12 and packaging material (styrofoam "peanuts") and delivery  
13 receipts. Based on this evidence and other items seized during  
14 the search of claimant Smith's residence, the United States  
15 contends that claimant Smith was mailing controlled substances to  
16 customers as far away as Arkansas. The details of the underlying  
17 criminal investigation are set forth in the Verified Complaint  
18 for Forfeiture In Rem filed on August 12, 2010. Claimants deny  
19 these allegations.

20 2. Some of the defendant currency (\$7960 and \$2260) was  
21 seized on or about January 27, 2010, in Vallejo during a routine  
22 vehicle stop involving claimant Jamarus Smith for speeding. The  
23 remaining currency and the defendant vehicle were seized on April  
24 29, 2010, during the execution of federal search warrants.

25 3. The United States intends to depose claimants about the  
26 claims they filed in this case and the facts surrounding claimant  
27 Smith's alleged involvement in the drug trafficking.

28

1 If discovery proceeds, claimant Smith would be placed in the  
2 difficult position of either invoking his Fifth Amendment right  
3 against self-incrimination and losing the ability to protect his  
4 alleged interest in the defendant property, or waiving his Fifth  
5 Amendment right and submitting to a deposition and potentially  
6 incriminating himself in the pending criminal matter. If  
7 claimant invokes his Fifth Amendment right, the United States  
8 will be deprived of the ability to explore the factual basis for  
9 the claim he filed in this action.

10 4. In addition, claimants intend to depose law enforcement  
11 officers who were involved in underlying drug-trafficking  
12 investigation, and the execution of the federal search and arrest  
13 warrants. Allowing depositions of these officers would adversely  
14 affect the ability of the federal government to properly  
15 prosecute the case.

16 5. Accordingly, the parties recognize that proceeding with  
17 this action at this time has potential adverse affects on the  
18 prosecution of the related-criminal case and/or upon claimants'  
19 ability to prove their claims to the property and to contest the  
20 government's allegations that the property is forfeitable.

21 6. For these reasons, the parties jointly request that  
22 this matter be stayed until the related criminal case has  
23 concluded. Within 30 days after the conclusion of the related  
24 criminal case claimants will file their Answer to the Verified  
25 Complaint for Forfeiture In Rem, and the parties will submit a  
26 joint status report addressing the matters set forth in the  
27 August 13, 2010, Order Requiring Joint Status Report.

28 //

1 Dated: October 15, 2010

BENJAMIN B. WAGNER  
United States Attorney

2  
3 By /s/ Kristin S. Door  
KRISTIN S. DOOR  
Assistant U.S. Attorney

4  
5 Dated: October 15, 2010

DANIEL BRODERICK  
Federal Defender

6  
7 By /s/ Michael Petrik, Jr.  
MICHAEL PETRIK, Jr.  
Assistant Federal Defender  
8 (As authorized on 10/14/10)  
9 Attorney for Claimants Monique  
10 Banks, Lilah Thomasson, and  
11 Jamarus Smith (as to the \$3195,  
\$3927, \$2260, and the Cadillac  
12 Escalade only)

13 Dated: October 15, 2010

/s/ Harold Rosenthal  
HAROLD ROSENTHAL  
14 (As authorized on 10/15/10)  
15 Attorney for Claimant Jamarus  
Smith (as to the \$7960 only)

16 **ORDER**

17 For the reasons set forth above, this matter is stayed  
18 pursuant to 18 U.S.C. §§ 981(g) (1) and 981(g) (2) until the  
19 conclusion of the related criminal case. Within 30 days after the  
20 criminal case has concluded claimants will file their Answer to  
21 the Verified Complaint for Forfeiture In Rem, and the parties will  
22 submit a joint status report addressing the matters set forth in  
23 the August 13, 2010, Order Requiring Joint Status Report.

24 IT IS SO ORDERED.

25 Dated: October 19, 2010

26  
27 

MORRISON C. ENGLAND, JR.  
28 UNITED STATES DISTRICT JUDGE