

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28E-FILED on 09/29/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JOEL Y. MURANAKA,

Plaintiff,

v.

UNITED STATES OF AMERICA; MICHAEL
MUKASEY; THOMAS FOX, SA IRS; BRIAN
CASEY, SA DEA; ALFREDO CARDWOOD,
SA CDOJ; SCOTT BECKER, Deputy Sheriff,
San Benito Co.; BRUCE BALZANO, SA
DEA; ROBERT MUELLER, United States
Attorney,

Defendants.

No. C-08-00542 RMW

ORDER GRANTING DEFENDANTS'
MOTIONS TO DISMISS

[Re Docket Nos. 26, 30, 69]

On November 9, 1999, Joel Y. Muranaka ("Muranaka") was convicted of three marijuana-related offenses, money laundering, and one count of criminal forfeiture. Muranaka has exhausted his appeals and now, proceeding *pro se*, seeks the return of \$213,049 in forfeited cash. All defendants now move to dismiss Muranaka's complaint for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. For the reasons set forth below, the court grants defendants' motion to dismiss.

Muranaka alleges in his complaint that defendants "unlawfully took monies under the color of authority" totaling \$246,689 from his home and bank safe-deposit boxes. Pl.'s Compl. 3. Muranaka's complaint overstates the amount of cash seized from World Savings and Loan box 1456

1 by \$30,000. Federal Def.'s Mot. to Dismiss Ex. D 7. The complaint also fails to subtract the money
2 returned to Muranaka or applied to his fine or special assessment. Federal Def.'s Mot. to Dismiss
3 Ex. I. In fact, only \$213,049 was subject to criminal forfeiture. *Id.* Muranaka's complaint
4 articulates neither the manner in which the taking was unlawful, nor the basis for his action.

5 No matter how plaintiff grounds his claim, he may not collaterally attack the legality of the
6 prior criminal forfeiture. The Ninth Circuit applies the following criteria to collateral estoppel in
7 criminal matters:

8 (1) the prior conviction must have been for a serious offense so that the defendant
9 was motivated to fully litigate the charges; (2) there must have been a full and fair
10 trial to prevent convictions of doubtful validity from being used; (3) the issue on
11 which the prior conviction is offered must of necessity have been decided at the
12 criminal trial; and (4) the party against whom the collateral estoppel is asserted was a
13 party or in privity with a party to the prior trial.
14 *United States v. Real Property Located at Section 18*, 976 F.2d 515, 518 (9th Cir. 1992). Each of
15 these criteria is here met. Plaintiff was convicted of four felony counts after a full and fair trial.
16 The validity of the forfeiture was necessarily decided: it composed one count of plaintiff's
17 indictment and the jury found that most of the seized currency, as proceeds of plaintiff's criminal
18 acts, was subject to forfeiture under 21 U.S.C. 853(a)(1). Federal Defs.' Mot. to Dismiss Ex. I.
19 After satisfying plaintiff's fine and special assessment, plaintiff received the leftover balance. The
20 lawfulness of the conviction and resulting forfeiture are now beyond collateral challenge.

21 Because plaintiff's claim is barred by collaterally estoppel, the court need not consider
22 defendants' other grounds for dismissal.

23 Accordingly, the court grants the defendants' motion to dismiss. Because it does not
24 appear that plaintiff can plead facts to avoid dismissal, plaintiff's claims are dismissed with
25 prejudice.

26 DATED: 09/29/08

27 
28 RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been mailed to:**

2 **Plaintiff:**

3 Joel Y. Muranaka
4 185 Hemlock Court
5 Palo Alto, CA 94306
6 650-493-0862
7 PRO SE

8 **Notice of this document has been electronically sent to:**

9 **Counsel for Defendants:**

10 David Countryman	david.countryman@usdoj.gov
11 Paul T. Hammerness	paul.hammerness@doj.ca.gov
12 Susan Marie Hunt-McArthur	shunt-mcarthur@hurleylaw.com
13 Michael Charles Wenzel	wenzel@bfesf.com
14 Douglas Frank Young	dyoung@hurleylaw.com

15 Counsel are responsible for distributing copies of this document to co-counsel that have not
16 registered for e-filing under the court's CM/ECF program.

17
18
19
20
21
22
23
24
25
26
27
28

Dated: 09/29/08

JAS
Chambers of Judge Whyte