

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Chief Judge Wiley Y. Daniel**

Civil Action No. 10-cv-02539-WYD-MEH

UNITED STATES OF AMERICA,

Plaintiff,

v.

5910 SOUTH OGDEN COURT,

Defendant.

ANA OROZCO,

Claimant.

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**ORDER**

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I. INTRODUCTION

THIS MATTER is before the Court on the United States' Motion for Summary Judgment (ECF No. 33), filed March 19, 2012. The United States seeks summary judgment on its claim against Defendant 5910 South Ogden Court ("Defendant Ogden Court"), alleging that Defendant Ogden Court is subject to forfeiture under 21 U.S.C. § 881(a)(6). On April 10, 2012, Claimant Ana Orozco ("Claimant") filed her Response (ECF No. 38) to the United States' motion indicating that a genuine issue of material fact exists as to whether Defendant Ogden Court is properly subject to forfeiture. The United States filed a Reply (ECF No. 41) on April 23, 2012.

On April 9, 2012, Claimant's Motion for Leave to Amend Answer Pursuant to Fed. R. Civ. P. 15(a)(2), (ECF No. 35), was filed in order to properly assert the

Claimant's innocent owner defense. Magistrate Judge Michael E. Hegarty recommended that Claimant's motion be denied. (ECF No. 42, Recommendation at 1). Further, the parties were advised that written objections were due within fourteen (14) days after service of a copy of the Recommendation. However, no objections were filed. I affirmed and adopted the Recommendation and the Claimant's motion was denied. (ECF No. 55). For the reasons discussed below, the United States' Motion for Summary Judgment is granted.

## II. FACTUAL BACKGROUND

By way of background, on October 18, 2010, the United States initiated this *in rem* forfeiture action against Defendant Ogden Court under 21 U.S.C. § 881(a)(6), alleging that it was purchased with drug proceeds. The facts material to my analysis are set forth below. I have, however, reviewed and considered all the admissible facts and evidence.

### A. Drug Trafficking Organization

In 2007, Gregory Montgomery ("Mr. Montgomery") and Daniel Russell Valdez ("Mr. Valdez") were arrested in Kansas after a Kansas Highway Patrol Officer found 24 kilograms of cocaine hidden in the gas tank of their vehicle. At the time of the arrest Mr. Montgomery and Mr. Valdez were driving a 2003 Land Rover owned and registered to Joseph S. Torrez, III ("Mr. Torrez"). Following their arrest, Mr. Montgomery and Mr. Valdez stated that they were travelling from Denver, Colorado to Atlanta, Georgia, to transport cocaine for a Drug Trafficking Organization ("DTO") headed by Samuel Orozco ("Mr. Orozco"). Mr. Montgomery was recruited in 2006 and transported cocaine