

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 17-cv-00452-CMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$114,700.00 IN UNITED STATES CURRENCY,

Defendant.

ORDER DENYING CLAIMANT’S MOTION FOR SUMMARY JUDGMENT

This matter is before the Court on Claimant Richard Roy Schwabe’s Motion for Summary Judgment. (Doc. # 90.) Claimant argues that the government cannot present evidence to support its allegation that the funds in question are proceeds traceable to an exchange of marijuana. (*Id.* at 1.) However, because genuine issues of material fact govern this dispute, the Court denies Defendant’s Motion.

Summary judgment is warranted when the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. *Turnkey Sols. Corp. v. Hewlett Packard Enter. Co.*, No. 15-cv-01541-CMA-CBS, 2017 WL 3425140, at *2 (D. Colo. Aug. 9, 2017). A fact is “material” if it is essential to the proper disposition of the claim under the relevant substantive law. *Id.* A dispute is “genuine” if the evidence is such that it might lead a reasonable jury to return a verdict for the nonmoving party. *Id.* When reviewing motions for summary judgment, a

court must view the evidence in the light most favorable to the non-moving party. *Id.* However, conclusory statements based merely on conjecture, speculation, or subjective belief do not constitute competent summary judgment evidence. *Id.*

Among others, the following material facts are genuinely disputed:

- Whether Claimant had a history of selling narcotics illegally (Doc. # 93 at 10);
- Whether Claimant's legitimate sources of income were sufficient to support his needs (*id.* at 13); and
- Whether—and how much of—the disputed funds were obtained by legitimate means (*id.* at 13–16).

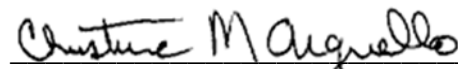
Contrary to Claimant's assertions that there are no genuine disputes of material fact, the government's brief in response to the instant motion (Doc. # 93) strongly suggests otherwise. The same factual disputes counter the government's argument that summary judgment should be entered in its favor. Without, at the very least, weighing the evidence supporting the parties' opposing versions of the facts referenced above, the Court cannot resolve this dispute. Therefore, viewing the facts in the light most favorable to the nonmovant, it is evident that there are genuine disputes of material fact, and summary judgment is not warranted at this time.

Accordingly, it is ORDERED that Claimant's Motion for Summary Judgment (Doc. # 90) is DENIED. It is

FURTHER ORDERED that to the extent the government argued that summary judgment should be entered in its favor (Doc. # 93 at 10), that relief is also DENIED.

DATED: February 5, 2019

BY THE COURT:

A handwritten signature in black ink that reads "Christine M. Arguello". The signature is written in a cursive style with a horizontal line underneath it.

CHRISTINE M. ARGUELLO
United States District Judge