

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 16-12478
HON. DENISE PAGE HOOD

v.

ONE SPRINGFIELD ARMORY PISTOL,
SN: S3153418;
ONE KIMBER ULTRA RAPTOR II
PISTOL, CALIBER 45, SN: KU265526;
ONE NEW FRONTIER ARMORY LW-15
RIFLE, CALIBER 223, SN: NLV73012;

Defendants *in rem*.

**ORDER GRANTING GOVERNMENT'S MOTION FOR
ENTRY OF DEFAULT JUDGMENT AND FINAL ORDER OF
FORFEITURE AGAINST ALL INTERESTED PARTIES AS TO
DEFENDANTS *IN REM* [#12]**

I. BACKGROUND

On June 30, 2016, the Government filed a Complaint for Forfeiture against Defendants *in rem* One Springfield Armory Pistol, SN: S3153418; One Kimber Ultra Raptor II Pistol, caliber 45, SN: KU265526; and One New Frontier Armory LW-15 Rifle, caliber 223 SN: NLV73012 claiming that Defendant *in rem* are forfeitable to the United States of America because they were involved in or used in knowing violations of 18 U.S.C. § 922(g). (Doc # 1) Defendants *in rem* were

seized on or about February 1, 2016 in Southfield, Michigan by Agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) from Alan Justice.

The Court issued a Warrant of Arrest, and Notice *In Rem* for each Defendant *in rem* on June 30, 2016. (Doc # 2; Doc # 3; Doc # 4) The Government provided proof of service of the Complaint in Forfeiture and the Warrants of Arrest and Notices *In Rem* made upon Jason Justice, Stephanie Justice, and Alan Justice. (Doc # 5, filed July 1, 2016) On September 26, 2016, the Government filed a Declaration of Publication indicating that Notice of Civil Forfeiture was posted on an official government internet site for at least 30 consecutive days beginning on July 8, 2016. (Doc # 6) The Government provided proof of service of the Complaint in Forfeiture and the Warrants of Arrest and Notices *In Rem* made upon Stephanie Justice and Debra Justice. (Doc # 7, filed October 31, 2016)

On November 1, 2016, having received no claim to Defendants *in rem*, an answer, or any other responsive pleading, the Government requested a Clerk’s Entry of Default against all interested parties with respect to Defendants *in rem*. (Doc # 8) On November 1, 2016, the Clerk entered Default as to all Defendants. (Doc # 10) On November 4, 2016, the Government filed the instant Motion for Entry of Default Judgment and Final Order of Forfeiture Against All Interested Parties as to the Defendants *In Rem* with an accompanying Affidavit. (Doc # 11;

Doc # 12) The Court held a hearing on December 14, 2016. To date, no interested party has filed a claim, answer, or response, or otherwise appeared.

II. ANALYSIS

A. Standard of Review

An Entry of Default under Rule 55 of the Federal Rules of Civil Procedure is the first procedural step necessary to obtain a default judgment. *Shepard Claims Serv. Inc. v. Williams Darrah & Assoc.*, 796 F.2d 190, 193 (6th Cir. 1986). “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). A default judgment may be entered by the clerk when the plaintiff’s claim is for a sum certain or a sum which can be made certain, and the defendant is not an infant or an incompetent person. Fed. R. Civ. P. 55(b)(1). The court may conduct an accounting, determine amount of damages, establish the truth of any allegations by evidence, or investigate any other matter. Fed. R. Civ. P. 55(b)(2).

B. Default Judgment

The Court finds that the Government has met the requirements under the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, including filing the civil forfeiture complaint, sending direct notice to persons who reasonably appear to be potential claimants, and publishing notice of

the forfeiture action. *See* Fed. R. Civ. P. Supp. R. G; Doc # 9. The time for any interested party to file a claim for Defendants *in rem* has now expired. *See* Fed. R. Civ. P. Supp. R. G(5). No interested party has filed a claim, answer, or response. The Government has filed an Affidavit indicating that, based on an investigation conducted by ATF, it is informed and believes that potential claimants Alan Justice, Jason Justice, Stephanie Justice, and Debra Justice are not minors, incompetent persons, or in the military service of the United States. (Doc # 11) A Clerk's Entry of Default was entered on November 1, 2016. (Doc # 10)

Plaintiffs now seek a default judgment under Rule 55. Plaintiffs submitted proof of service indicating that potential claimants were served with the Clerk's Entry of Default, the Government's instant Motion, and the Proposed Default Judgment and Final Order of Forfeiture. (Doc # 13) The Clerk served the Notice of Hearing on the Motion for Default Judgment. (Doc # 14) The Court grants the Government's Motion for Entry of Default Judgment and Final Order of Forfeiture Against All Interested Parties as to the Defendants *In Rem*.

III. CONCLUSION

For the reasons set forth above,

IT IS HEREBY ORDERED that the Government's Motion for Entry of Default Judgment and Final Order of Forfeiture Against All Interested Parties as to the Defendants *In Rem* (Doc # 12) is GRANTED.

S/Denise Page Hood
Denise Page Hood
Chief Judge, United States District Court

Dated: April 27, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 27, 2017, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager