

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:17-CV-00923-ODS
)	
BERETTA USA CORP. PICO PISTOL,)	
380 CALIBER, SERIAL NUMBER)	
PC013705, et al.,)	
)	
Defendants.)	

ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Pending is Plaintiff's motion for summary judgment. Doc. #15. As detailed below, the Court grants Plaintiff's motion for summary judgment.

On October 31, 2017, Plaintiff United States of America filed a complaint for forfeiture in rem against Defendant property.¹ Doc. #1. The complaint was mailed to Desiree and Walter Marble ("Claimants"), from whom the property was seized. Docs. #2-3. On December 6, 2017, Claimants filed a joint verified claim to Defendant property. Doc. #3. On December 22, 2017, Claimants filed an answer to the complaint. Doc. #5. On March 5, 2018, Plaintiff served Claimants with Requests for Admissions. Doc. #15-5. Claimants did not respond to Plaintiff's Requests for Admissions, and the deadline for doing so has passed. Therefore, the requests are deemed admitted. Fed. R. Civ. P. 36(a)(3).

¹ The following defendant firearms and ammunition were seized from Claimants' residence, and itemized on a Receipt for Property Form (ATF Form 3400.23) on June 2, 2017: Beretta USA Corp. PICO Pistol, 380 Caliber, Serial Number PC013705; CZ (Ceska Zbrojovka) CZ2075 RAMIP. Pistol 9 Caliber, Serial Number A759326; Century Arms International C308 Sporter Rifle, 308 Caliber, Serial Number C308E00604; Norinco (North China Industries) SKS Rifle, 762 Caliber, Serial Number 25006277; Harrington & Richardson 1871 Inc. Pardner Shotgun, 12 Caliber, Serial Number NZ627565; Mossberg Unknown Shotgun, Unknown Caliber, Serial Number C21689; Marlin Firearms Co., 60 Rifle, .22 Caliber, Serial Number 00234792; and 2238 Rounds of Assorted Ammunition and Multiple Caliber.

On April 24, 2018, Plaintiff filed a motion for summary judgment. Doc. #15. Claimants did not respond to Plaintiff's motion. Accordingly, on May 22, 2018, the Court issued an order directing Claimants to show cause why the Court should not grant Plaintiff's motion for summary judgment. Docs. #16-17. The Court specifically warned Claimants that failure to respond by June 12, 2018, would result in the Court deeming Plaintiff's motion ripe for consideration. *Id.* The Order was sent, via regular mail and certified mail, to Claimants at (1) the address where the Defendant property was seized, and (2) the address provided in Claimants' answer. *Id.* Claimants did not respond to the Court's Order, and the time for doing so has passed.

Because Claimants did not respond to Plaintiff's motion for summary judgment, the Court considers the facts set forth by Plaintiff to be undisputed and admitted. See Fed. R. Civ. P. 56(e)(2); L. R. 56.1(b)(1). Based upon the record and applicable law, the Court finds Plaintiff is entitled to summary judgment. Fed. R. Civ. P. 56(e)(3). Accordingly, Plaintiff's motion for summary judgment is granted in its favor and against Claimants.

Also pending is Plaintiff's motion for default judgment, which is rendered moot by the Court's decision on Plaintiff's motion for summary judgment. Doc. #18.

IT IS SO ORDERED.

DATE: June 27, 2018

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT