UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

DECISION AND ORDER
01-CV-719S

ONE 2000 TOYOTA TACOMA AUTOMOBILE,

Defendant.

1. This case involves the forfeiture of funds generated by the sale of the defendant automobile and the claims filed by two individuals — Manuel Hernandez and Maria Gonzalez — that they are entitled to the proceeds of the sale.

2. On September 25, 2008, this Court referred this matter to the Honorable Hugh B. Scott, United States Magistrate Judge, for all pretrial matters pursuant to 28 U.S.C. § 636(b)(1)(A). (Docket No. 27.)

3. On January 2, 2009, counsel for Maria Gonzalez filed a Motion to Withdraw as counsel, citing the fact that Gonzalez had not been in contact with him for many years and did not respond to his repeated attempts to contact her. (Docket No. 34.)

4. On March 3, 2009, Judge Scott filed an Order granting counsel's Motion to Withdraw. (Docket No. 44.) Also on that date, Judge Scott filed a Report and Recommendation, in which he recommends that Gonzalez's claim be deemed abandoned and dismissed in light of her failure to prosecute her claim and remain active in this case. (Docket No. 43.) No objections have been filed to the Report and Recommendation.

5. This Court has thoroughly reviewed Judge Scott's Report and Recommendation and the circumstances giving rise to Gonzalez's attorney's withdrawal from this case. Upon due consideration, this Court will accept the recommendation that Gonzalez's claim be deemed abandoned and dismissed for the reasons stated in the Report and Recommendation.

6. On a procedural note, this Court did not initially grant Judge Scott authority to report on dispositive motions under 28 U.S.C. § 636(b)(1)(B) and (C). Here, however, the issue of whether Gonzalez abandoned her claim arose from her counsel's Motion to Withdraw, which fell within Judge Scott's authority, not by way of a separate dispositive motion. Nonetheless, to the extent necessary, this Court grants Judge Scott authority to hear and report on dispositive motions in this case *nunc pro tunc* to September 25, 2008. See 28 U.S.C. § 636(b)(1)(B) and (C). Dispositive authority will remain in place through the conclusion of this matter.

IT HEREBY IS ORDERED, that this Court REFERS this case to Judge Scott pursuant to 28 U.S.C. § 636(b)(1)(B) and (C) *nunc pro tunc* to September 25, 2008.

FURTHER, that this Court accepts Judge Scott's Report and Recommendation (Docket No. 43) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that any claim to the proceeds from the sale of the defendant automobile filed or asserted by Maria Gonzalez is hereby deemed ABANDONED and is DISMISSED.

SO ORDERED.

Dated: April 17, 2009
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge