

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BARRY E. SHELLEY,	:
	:
Plaintiff,	:
	:
v.	: Case No. 3:04-cv-01-JFC-KAP
	:
TIMOTHY MAPES, WARDEN,	:
SOMERSET COUNTY JAIL,	:
	:
Defendant.	:

OPINION

On May 18, 2021, the court issued an Order to Show Cause why the settlement proceeds in this case should not be deposited in the Treasury pursuant to 28 U.S.C. § 2042 (ECF No. 89). Defendant Timothy Mapes (“Mapes”) filed a response, asserting that the Order to Show Cause correctly describes the procedural history of this case and applicable law, and representing that they are not aware of any reason the funds should not be returned to the Treasury (ECF No. 91). Plaintiff Barry Shelley (“Shelley”) filed a response to the Order to Show Cause (ECF No. 90), in which he continues to assert that the case never settled. Shelley plainly did not claim the settlement proceeds.

It is conclusively established that, despite Shelley’s opposition, the settlement in this case is valid and enforceable. *See* Memorandum Order dated January 21, 2014 (ECF No. 81) (granting a motion by Mapes to enforce the settlement); Third Circuit Court of Appeals Opinion dated November 6, 2014 (ECF No. 87-1) (holding that the settlement agreement was enforceable, and affirming this court’s order of January 21, 2014).

The settlement proceeds of \$8,420.42 were deposited with the clerk of court on February 18, 2015 (ECF No. 88). Those proceeds, plus accrued interest, have been maintained by the clerk of court ever since that date. As confirmed by his response to the show cause order, Shelley continues to disclaim the settlement proceeds.

Congress provided that under these circumstances, unclaimed money should be transferred to the Treasury, as follows:

In every case in which the right to withdraw money deposited in court under section 2041 has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, such court shall cause such money to be deposited in the Treasury in the name and to the credit of the United States. Any claimant entitled to any such money may, on petition to the court and upon notice to the United States attorney and full proof of the right thereto, obtain an order directing payment to him.

28 U.S.C. § 2042.

An appropriate Order will be entered.

Dated: July 15, 2021

BY THE COURT:

/s/ Joy Flowers Conti
JOY FLOWERS CONTI
SENIOR UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

Barry Shelley
364 Covered Bridge Road
Rockwood, PA 15557