

IN THE UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
 FORT WORTH DIVISION

LORI BETH HABERMAN,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	NO. 4:13-CV-1018-A
	§	
UNITED STATES OF AMERICA,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION
 and
ORDER

Before the court for consideration and decision is the motion of defendant, United States of America, to dismiss or, in the alternative, for summary judgment, seeking dismissal of the claims asserted by plaintiff, Lori Beth Haberman, against defendant in the above-captioned action. After having considered such motion and its supporting brief and appendix, plaintiff's objection thereto, the pleading by which the above-captioned action was initiated, titled "Motion for Returned [sic] of Seized and Forfeited Property,"¹ filed December 23, 2013, the court has concluded that the relief sought by defendant's motion should be granted, and that all relief sought by plaintiff in her motion for return of seized and forfeited property should be denied.


¹Plaintiff's motion initially was filed in a criminal case styled "United States of America v. Lori Beth Haberman," bearing Case No. 4:07-CR-188-A. The court characterized the motion as a civil action under 28 U.S.C. § 1331, and caused it to be re-docketed as a civil action styled "Lori Beth Haberman, Plaintiff, v. United States of America, Defendant," bearing Case No. 4:13-CV-1018-A.

By final order regarding forfeiture issued August 7, 2008, in Case No. 4:07-CR-188-A on the docket of this court, styled "United States of America v. Lawrence Allan Haberman," to which plaintiff, Lori Beth Haberman, was a party, the court ordered forfeiture of a number of items, including the real property to which plaintiff makes reference in her motion for return of seized and forfeited property. The August 7, 2008 final order recognizes plaintiff's interest in such real property, and orders that upon the sale of the property fifty percent of the net sales proceeds be paid by the United States Marshals Service ("USMS"), for plaintiff's benefit, to the clerk of court for the Northern District of Texas to be applied on a criminal fine imposed on plaintiff in Case No. 4:07-CR-188-A.

The affidavit of Tanya Miller, submitted to the court in the appendix in support of defendant's brief, establishes that the real property in question was sold as authorized by the August 7, 2008 order and that one-half of the net sales proceeds were paid for application on plaintiff's fine obligation, as directed and authorized by the August 7, 2008 order. Therefore, the record affirmatively establishes that the relief sought by plaintiff by her motion for return of seized and forfeited property is without merit.

For the reasons stated above, the court ORDERS that all relief sought by plaintiff by her motion for return of seized and forfeited property be, and is hereby, denied.

SIGNED March 20, 2014.



JOHN McBRYDE
United States District Judge