

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 12, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELSA LETICIA TORRES,

Defendant.

NO: 1:17-CV-3217-RMP

ORDER OF SALE

On November 22, 2019, the Court entered its judgment in favor of the United States of America against Defendant Elsa Leticia Torres. ECF Nos. 28 and 29. The Court further ordered that “[a]fter the 10-day automatic stay of proceedings to enforce a judgment, Plaintiff may present a motion for an order of sale.” ECF No. 28 at p. 3. More than 10 days has passed since the entry of Judgment in this matter. Accordingly, the United States now presents this Order of Foreclosure Sale and to Vacate in accordance with the Court’s prior order.

Accordingly, **IT IS HEREBY ORDERED** that the United States’ Motion for an Order of Foreclosure Sale and to Vacate, **ECF No. 31**, is **GRANTED**. The

1 United States Marshal for the Eastern District of Washington, or his representative
2 (collectively, "Marshal"), is directed, in accordance with the judgment rendered in
3 the above-entitled cause, to sell the property situated in Yakima County,
4 Washington, more particularly described as follows:

5 REAL PROPERTY

6 Tract B of Short Plat recorded in Book M of Short
7 Plats, page 42, as recorded under Auditor's File No.
8 2485900, records of Yakima County, Washington;
9 EXCEPT that portion thereof described as follows:
10 Beginning at the Northeast corner of Tract A of said
11 Short Plat; Thence 89°57'58" East, parallel to the
12 South line of said Tract B, 113.96 feet Thence South
13 0°10'43" East, parallel to the East line of said Tract B,
14 86.25 feet; Thence North 89°57'58" West, 11.23 feet,
15 to the Southeast corner of Tract A; Thence North
16 2°19'30" West, 86.32 feet to the point of beginning.
17 AND EXCEPT that portion of Tract B lying North of
18 the Roza Irrigation Canal District Canal.

19 Postal Address: 3273 Roza Drive, Yakima County,
20 Washington, 98953, Tax No. 201112-41402

21 (hereinafter collectively the "Property").

You are commanded to provide notice of this Order to Defendant, and any
other resident of the Property by hand delivery or by leaving it in a prominent
location on the Property. You are further commanded to make return hereon, with
your doings thereon indicated, within sixty (60) days after this date.

1. The terms of the Order of Sale shall be as follows:

- a. The United States Marshal for the Eastern District of
Washington or his representative will be authorized and directed

1 under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell
2 the Property.

3 b. The Marshal or his representative is authorized to have free
4 access to the Property and to take all actions necessary to preserve the
5 Property, including, but not limited to, retaining a locksmith or other
6 person to change or install locks or other security devices on any part
7 of the property, until the deed to the Property is delivered to the
8 ultimate purchaser.

9 c. The sale of the real property and personal property shall be free
10 and clear any right, title, or interest of Defendant Elsa Leticia Torres,
11 except to the extent that Defendant has a right of redemption under
12 RCW § 6.23 or excess funds under RCW § 6.21. The redemption
13 period shall be 12 months.

14 d. The sale shall be subject to building lines, if established; all
15 laws, ordinances, and governmental regulations (including building
16 and zoning ordinances) affecting the real and personal property; and
17 easements and restrictions of record, if any.

18 e. The Sale shall be held at the courthouse of the county in which
19 the real property is located, on the real property's premises, or at any
20 other place in accordance with the provisions of 28 U.S.C. §§ 2001
21 and 2002, and shall be announced in the Notice of Sale. The date and

1 time for sale are to be announced by the United States Marshal, or
2 his/her representative, in the Notice of Sale.

3 f. The date and time for sale are to be announced by the United
4 States Marshal, his/her representative in the Notice of Sale.

5 g. The Notice of Sale shall be published once a week for at least
6 four consecutive weeks before the sale in at least one newspaper
7 regularly issued and of general circulation in Yakima County, and, at
8 the discretion of the Marshal or his/her representative, by any other
9 notice deemed appropriate. The notice shall contain a description of
10 the real property and personal property; the time, date, and location of
11 the sale as determined by the United States Marshal or his/her
12 representative; the minimum bid as determined by the United States;
13 and the terms and conditions of sale listed in subparagraphs i-o below.

14 h. The minimum bid for the Real Property will be set by the
15 United States. If the minimum bid is not met or exceeded, the
16 Marshal or his/her representative, with concurrence of the United
17 States, may without further permission of this Court, and under the
18 terms and conditions in this order of sale, hold a new public sale, if
19 necessary, and reduce the minimum bid as set by the United States, or
20 sell to the highest bidder.

1 i. The successful bidder for the real property shall be required to
2 deposit at the time of the sale with the Marshal, or his/her
3 representative, a minimum of ten percent (10%) of the bid, with the
4 deposit to be made by certified or cashier's check payable to the
5 United States District Court for the Eastern District of Washington, or
6 cash. Before being permitted to bid at the sale, bidders shall display
7 to the Marshal, or his/her representative, proof that they are able to
8 comply with this requirement. No bids will be received from any
9 person(s) who have not presented proof that, if they are the successful
10 bidder(s), they can make the deposit required by this order of sale.

11 j. The balance of the purchase price for the real property is to be
12 paid to the United States Marshal within twenty (20) days after the
13 date the bid is accepted, by a certified or cashier's check payable to
14 the United States District Court for the Eastern District of
15 Washington. If the bidder fails to fulfill this requirement, the deposit
16 shall be forfeited and shall be applied to cover the expenses of the
17 sale, including commissions due under 28 U.S.C. § 1921(c), with any
18 amount remaining to be applied to the Judgment at issue herein. The
19 real property shall again be offered for sale under the terms and
20 conditions of this order of sale, or, in the alternative, sold to the
21 second highest bidder if consented to by the United States.

1 k. The sale of the real property shall be subject to confirmation by
2 this Court. The Marshal shall file a report of sale with the Court,
3 together with a proposed order of confirmation of sale and proposed
4 deed, within thirty (30) days from the date of receipt of the balance of
5 the purchase price.

6 l. On confirmation of the sale, the Marshal shall execute and
7 deliver a deed of judicial sale conveying the real property to the
8 purchaser.

9 m. On confirmation of the sale, all interests in, liens against, or
10 claims to, the real property and appurtenances that are held or asserted
11 by all parties to this action are discharged and extinguished, except to
12 the extent that such Defendant has rights of redemption under RCW §
13 6.23.

14 n. On confirmation of the sale, the recorder of deeds, Yakima
15 County, Washington, shall cause transfer of the real property and
16 appurtenances to be reflected upon that county's register of title.

17 o. The sale shall be "as is" without warranty of any kind.

18 **2. Order to Vacate Property.**

19 a. Until the real property and personal property is sold, all
20 Defendants shall take all reasonable steps necessary to preserve the
21 real and personal property (including all buildings, improvements,

1 fixtures and appurtenances on the real property) in their current
2 condition including, without limitations, maintaining a fire and
3 casualty insurance policy. They shall neither commit waste against
4 the real property nor cause nor permit anyone else to do so. They
5 shall neither do anything that tends to reduce the value or
6 marketability of the real or personal property nor cause nor permit
7 anyone else to do so. They shall not record any instruments, publish
8 any notice, or take any other action (such as running newspaper
9 advertisements or posting signs) that may directly or indirectly tend to
10 adversely affect the value of the real property or that may tend to deter
11 or discourage potential bidders from participating in the public
12 auction, nor shall they cause or permit anyone else to do so.

13 b. All persons occupying the real property shall leave and vacate
14 the real property permanently within ten (10) days of the date of this
15 Order, each taking with them his or her personal property (but leaving
16 all improvements, buildings, fixtures, and appurtenances to the real
17 property). If any person fails or refuses to leave and vacate the
18 property by the time specified in this Order, the United States
19 Marshal's Office is authorized to take whatever action it deems
20 appropriate to remove such person from the premises. Specifically,
21 the United States Marshal (or his/her designee) is authorized and

1 directed to take all reasonable actions necessary to enter the real
2 property at any time of the day or night and evict and eject all
3 unauthorized persons located there, including Defendants, or any
4 other occupants. To accomplish this and to otherwise enforce this
5 Order, the United States Marshal (or his/her designee) shall be
6 authorized to enter the real property and any and all structures and
7 vehicles located thereon, and to use force as reasonably necessary.
8 When the United States Marshal concludes that all unauthorized
9 persons have vacated, or been evicted from the property, he/she shall
10 relinquish possession and custody of the property to the United States,
11 or more specifically the FSA, or its designee. No person shall be
12 permitted to return to the property and/or remain thereon without the
13 express written authorization by the United States Marshal and/or the
14 FSA, and/or the United States Department of Justice, or their
15 respective representatives and/or designees. Unauthorized persons
16 who re-enter the real property during the time this order is in effect
17 may be ejected by the United States Marshal without further order of
18 the Court.

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1 c. If any person fails or refuses to remove his or her personal
2 property from the real property by the time specified herein, the
3 personal property remaining on the real property thereafter is deemed
4 forfeited and abandoned, and the United States Marshal's Office is
5 authorized to remove it and to dispose of it in any manner it deems
6 appropriate, including sale, in which case the proceeds of the sale are
7 to be applied first to the expenses of sale and the balance to be paid
8 into the Court for further distribution.

9 **3. Distribution of Proceeds.**

10 a. The proceeds arising from sale are to be paid to the Clerk of
11 this Court and applied as far as they shall be sufficient to the
12 following items, in the order specified:

- 13 1. To the United States for the costs of the sale, including the costs
14 and commissions of the United States Marshal and any
15 professional auctioneer if retained and the costs of advertising,
16 selling, and conveying the property incurred by the Government.
- 17 2. To the United States to be applied to the Judgment plus all
18 interest and costs due and owing thereon.
- 19 3. Any balance remaining after the above payments shall be held by
20 the Clerk's Registry only to be disbursed whoever may be
21 lawfully entitled to such funds by further order of the Court.

