

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No. 2:12-0073

EIGHT HUNDRED TWENTY-FIVE (825) FIREARMS,
more or less,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending are the United States' motions to strike the Verified Claim, filed October 22, 2012, and to suspend the order and notice, filed the same day, and the interested parties' motion to continue deadlines, filed October 23, 2012.

The United States' motion to strike notes that interested party Kevin Britton filed a Verified Claim, individually and as the owner and operator of Britton's Gun & Pawn, Inc. It further asserts that approach transgresses Supplemental Admiralty Rule G(5). That supplemental rule provides as follows:

A person who asserts an interest in the defendant property may contest the forfeiture by filing a claim in the court where the action is pending. The claim must:

- (A) identify the specific property claimed;
- (B) identify the claimant and state the claimant's interest in the property;
- (C) be signed by the claimant under penalty of perjury; and
- (D) be served on the government attorney designated under Rule G(4) (a) (ii) (C) or (b) (ii) (D).

Supp. Admir. R. G(5) (a). The entirety of the Verified Claim provides as follows:

I, Kevin W. Britton, individually, and as Owner/Operator of Britton's Gun & Pawn, [Inc.,] assert an interest in defendant property, identified in Exhibit A to the Second Amended Verified Complaint of Forfeiture as Eight Hundred Twenty-Five (825) Firearms, more or less, based upon the fact that the specified firearms are the lawfully owned and possessed property of the Interested Parties.

(Verif. Claim. at 1). The thrust of the Verified Claim is that both interested parties, who appear to be separate entities, are asserting joint ownership in the defendant property.

In the event that reading of the Verified Claim is inaccurate, the interested parties are directed, no later than November 26, 2012, to file separate Verified Claims setting forth their respective ownership interests in the defendant property in accordance with Supplemental Admiralty Rule G(5). The court, accordingly, orders that the motion to strike the Verified Claim be, and it hereby is, denied.

Respecting the interested parties' motion to continue deadlines, it is stated, inter alia, as follows:

3. As the Court is aware, Interested Party Kevin Britton is currently named in a seven-count indictment . . . The Court has now continued the trial in this matter three weeks, with trial to commence on November 13, 2012.

. . . .

5. [A]nswering the Second Amended Verified Complaint for Forfeiture, or otherwise filing motions in this matter, prior to the conclusion of the criminal trial. . . will implicate the Interested Part[y] Kevin Britton's rights against self-incrimination, as protected under the Fifth Amendment to the U.S. Constitution.

6. Mr. Britton is only seeking a very short continuance of 30 days to permit the completion of the criminal trial in case number 2:12-cr-00101-1.

(Mot. at 2). On November 13, 2012, Mr. Britton pled guilty to Count Four. The better course, however, is to hold this civil matter in abeyance pending the entry of Judgment in the related criminal action.


Based upon the foregoing discussion, it is, accordingly, ORDERED as follows:

1. That the interested parties' motion to continue deadlines be, and it hereby is, granted;

2. That the interested parties be, and they hereby are, directed to file their answers on or before the 15th day following entry of the Judgment; and
3. That this action be, and it hereby is, stayed pending the further order of the court.

The Clerk is requested to transmit this written opinion and order to all counsel of record and to any unrepresented parties.

DATED: November 16, 2012



John T. Copenhaver, Jr.
United States District Judge