

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 10-00320-01/03-05/08-11-15/16-DGK
	)	
Juan Marron, David Hernandez-Montoya,	)	
Mario Marron, Robert Olvera, Anthony Alvarez,	)	
Benito Gutierrez, John Gasca, Jr.,	)	
Armando Mendez, Joseph Lopez,	)	
Frank Alvarez,	)	
	)	
Defendants.	)	

**ORDER REQUESTING ADDITIONAL INFORMATION REGARDING PLAINTIFF'S  
MOTION FOR PRELIMINARY ORDER OF FORFEITURE  
AGAINST TEN DEFENDANTS**

Now before the Court is the United States' motion for a preliminary order of forfeiture against Defendants Juan Marron, Daniel Hernandez-Montoya, Mario Marron, Robert Olvera, Anthony Alvarez, Benito Gutierrez, John Gasca, Jr., Armando Mendez, Joseph Lopez, and Frank Alvarez. (Doc. 562). Among other things, the motion seeks the entry of a personal money judgment against the Defendants ordering them to pay \$950,000 to the United States. The Court has some concerns about this portion of the motion.

The relevant procedural history is as follows. On November 18, 2010, the Grand Jury returned an indictment against Defendants and nine others. The Indictment (Doc. 1) charged two counts of conspiracy and a criminal forfeiture allegation. The forfeiture allegation claimed that certain property and currency were used in, or derived from, the conspiracy charged in Count One and thus should be forfeited to the United States. The forfeiture allegation also sought "[a] sum of money equal to \$950,000 in United States Currency, representing the amount of proceeds obtained as a result of the offenses alleged in Count One."

Each of these Defendants subsequently pled guilty pursuant to written plea agreements to Count Two and to a lesser included charge on Count One. Each Defendant's plea agreement states that the Defendant "agrees that the United States may institute civil, judicial or administrative forfeiture proceedings against all forfeitable assets in which the defendant has *an interest*, and that the defendant will not contest any such forfeiture proceedings" (emphasis added). However, the factual basis for each Defendants' guilty plea does not allege that the Defendants or the conspiracy derived \$950,000 from the conspiracy.

On October 25, 2012, the United States filed the pending motion for a preliminary order of forfeiture. In it, the United States notes that the Indictment's forfeiture allegation sought a personal money judgment for \$950,000 as proceeds traceable to offenses alleged in Count One of the Indictment. It also asserts that each Defendant agreed "to forfeit to the United States the above-described property and consented to the entry of a money judgment in the amount of \$950,000.00." Mot. (Doc. 562) at ¶¶ 4-13.

The Court has two concerns with respect to the request for the entry of a personal money judgment. First, while the plea agreement provides that the defendant agrees the United States may institute forfeiture proceedings against "forfeitable assets" belonging to him, the plea agreement is silent as to the entry of a personal money judgment. Consequently, the Court has concerns whether it can or should enter a personal money judgment against these Defendants.

Second, although the Government alleges in the motion for a preliminary order of forfeiture that the Defendant agreed to the entry of \$950,000 money judgment, the Court has carefully reviewed the plea agreement and cannot find any statement that the Defendants received \$950,000 as a result of drug trafficking. Consequently, the Court is concerned that the requisite factual nexus has not been established between the Indictment's forfeiture allegation and the conduct to which the Defendant has pled guilty.

Accordingly, the Court orders the Government to submit an additional brief addressing these concerns. This brief shall be submitted on or before January 7, 2013, and shall not exceed ten pages. Alternately, the Government may simply dismiss that portion of its motion seeking entry of a personal money judgment against these Defendants.

If the Government submits a brief, each Defendant shall have 14 days to submit a brief in response that does not exceed ten pages. If any Defendant submits a response, the Government shall have seven days to submit a reply to that Defendant's brief that does not exceed five pages.

**IT IS SO ORDERED.**

Date: December 4, 2012

/s/ Greg Kays  
GREG KAYS, JUDGE  
UNITED STATES DISTRICT COURT