

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

CARL DELANO TORJAGBO A/K/A
KARL LUCIUS DELANO

Criminal Action No.
1:22-cr-00171-MLB-RDC

**Motion for Order Allowing the Government to Maintain Custody of Seized
Property Pursuant to 18 U.S.C. § 983(a)(3)(B)(ii)(II)**

The United States of America, by Ryan K. Buchanan, United States Attorney, and Radka T. Nations, Assistant United States Attorney for the Northern District of Georgia, hereby moves this Court for an order permitting the United States to maintain custody of property, which is already in the government's lawful custody, pending the resolution of this criminal case. In support of its motion, the United States submits as follows:

1. On or about May 11, 2022, the Federal Bureau of Investigation ("FBI") seized the following vehicles from Carl Delano Torjagbo a/k/a Karl Lucius Delano ("Defendant") pursuant to federal seizure warrants:

a. 2021 Land Rover Velar Sport Utility Vehicle with VIN

SALYM2FU7MA302651; and

b. 2022 BMW M850XI Sedan with VIN WBAGV8C06NCH96608.

2. Furthermore, on or about June 8, 2022, the FBI seized the following vehicle from the Defendant pursuant to a federal seizure warrant:

a. 2014 Lamborghini Aventador with VIN ZHWUC1ZD3ELA02216.

3. On or about July 8, 2022, in accordance with Title 18, United States Code, Section 983(a)(1), the FBI sent written notice of the seizures to all interested parties, thereby commencing administrative forfeiture proceedings.

4. On August 10, 2022, the FBI received claims from the Defendant, via his attorney Jay L. Strongwater, contesting the administrative forfeiture of the vehicles described in paragraphs One and Two above (hereinafter, "Seized Vehicles").

5. Pursuant to Title 18, United States Code, Section 983(a)(3), upon the receipt of a claim contesting administrative forfeiture, the United States has 90 days to: (1) return the seized property, (2) commence a civil judicial forfeiture action against the seized property, (3) obtain a criminal indictment that contains a forfeiture allegation, or (4) obtain an extension of time from the court to file a civil complaint for forfeiture.

6. Here, the Government obtained a Criminal Indictment that contained a forfeiture allegation. Specifically, on May 10, 2020, a Grand Jury sitting in the Northern District of Georgia indicted the Defendant, for bank fraud in violation of Title 18, United States Code, Section 1344 and money laundering in violation of Title 18, United States Code, Sections 1956 and 1957.

7. The forfeiture provision of this Criminal Indictment provided that upon conviction of Count One of the Indictment (bank fraud), the Defendant shall forfeit to the United States pursuant to Title 18, United States Code, Section 982(a)(2), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of said violation. The forfeiture allegation of the Criminal Indictment

also provided that upon conviction of one or more of the offenses alleged in Counts Two through Seven of the Criminal Indictment (money laundering), the Defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), all property used, real or personal, involved in said offenses, and all property traceable to such property.

8. On July 7, 2022, the United States filed its Bill of Particulars, in which it added assets to the forfeiture allegation of the Indictment. (Doc. 25). Among the assets listed in the Bill of Particulars were the Seized Vehicles.

9. Because the United States chose to commence a criminal action containing a forfeiture allegation related to property that is already in Government custody, the United States must now “take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute.” 18 U.S.C. § 983(a)(3)(B)(ii)(II).

10. The applicable criminal forfeiture statutes here are Title 18, United States Code, Section 982, which incorporates the forfeiture procedures set forth in Title 21, United States Code, Section 853, as incorporated by Title 28, United States Code, Section 2461(c). Title 21, United States Code, Section 853 outlines several methods that a court may employ to preserve property for the purpose of criminal forfeiture, including, the issuance of a seizure warrant, restraining order or injunction, or “any other action to preserve the availability of the property . . . for forfeiture” 21 U.S.C. § 853(e)(1) & (f).

11. A seizure warrant, restraining order or injunction is not required for the Government to maintain custody of property already in its custody. *See United*

States v. Abrahams, Criminal No. 12-cr-0639-JFM, 2013 WL 285719 at *2 (D. Md. Jan. 24, 2013) (finding that the Government only needs to obtain a criminal indictment containing a forfeiture allegation and represent that it will preserve the property already in custody in order to obtain a 21 U.S.C. § 853(e) court order for the maintenance of property already in Government custody); *In re: 2000 White Mercedes ML320*, 220 F. Supp. 2d 1325-1326 (M.D. Fla. 2001) (finding that if property is already in Government custody, a Section 853(f) seizure warrant is not necessary or appropriate).

12. Instead, a court may appropriately issue an order that permits the United States to maintain the seized property in Government custody until the resolution of the criminal case:

Where the Government [represents that it has taken seized property into custody for purpose of forfeiture and that it will preserve that property until resolution of criminal case and related criminal forfeiture proceedings], the only court order needed to preserve the Government's right to maintain custody of the property for the purposes of Section 983(a)(3)(B)(ii)(II) is a 'housekeeping' order providing that the Government may continue to maintain custody of the seized asset until the criminal case is concluded.

United States v. Abrahams, Criminal No. 12-cr-0639-JFM, 2013 WL 285719 at *4 (D. Md. Jan. 24, 2013) (quotations omitted). *See also United States v. Scarmazzo*, 2007 WL 587183, at *3 (E.D. Cal. Feb. 22, 2007) (finding that the 21 U.S.C. § 853(e)(1) provision that authorizes a court to "take any other action to preserve the availability of property" subject to forfeiture "applies in circumstances where, as here, the Government has already obtained lawful custody of the seized assets pursuant to Federal search and seizure warrants, and State search warrants, and

the Government seeks to comply with Section 983(a)(3)(B)(ii)(II)"); *United States v. Standridge*, 2007 WL 2572207, at *2 (M.D. Fla. Sept. 5, 2007) (entering order preserving of seized funds for forfeiture where the Government had obtained a criminal indictment containing an allegation that the property was subject to forfeiture and took steps necessary to preserve the Government's right to maintain custody of the seized property under 21 U.S.C. § 853(e) by filing a motion for an order to continue to maintain custody of property); *In re One 2000 White Mercedes ML320*, 220 F. Supp. 2d at 1325 (finding that, if property is already in Government custody, a court cannot issue a seizure warrant and is not required to issue an injunction or restraining order, but only an order that will "assure the availability of the property").

13. Because the Government previously took the Seized Vehicles into custody for forfeiture and hereby represents that it will preserve the Seized Vehicles for forfeiture, until the criminal case, including any criminal ancillary forfeiture proceedings, is resolved, this Court is authorized to issue an order allowing the Government to continue to maintain custody of such property until the criminal case is concluded. *See Scarmazzo*, 2007 WL 587183 at *3.

WHEREFORE, the United States respectfully requests that this Court issue an order under Title 21, United States code, Section 853(e)(1) that (1) directs the United States maintain custody of the Seized Vehicles through the conclusion of the pending criminal case, including any ancillary forfeiture proceedings, and (2)

finds that the United States has satisfied the custody-preservation requirement of Title 18, United States Code, Section 983(a)(3)(B)(ii)(II).

Respectfully submitted,

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Certificate of Service

The United States Attorney's Office served this document today by filing it using the Court's CM/ECF system, which automatically notifies the parties and counsel of record.

November 22, 2022

/s/ RADKA T. NATIONS

RADKA T. NATIONS

Assistant United States Attorney