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-171-MLB-RDC

Response in Opposition to Defendant's Motion for to Stay Forfeiture [281]

The United States of America, by Theodore S. Hertzberg, United States Attorney, and Kelly K. Connors and Nicholas L. Evert, Assistant United States Attorneys for the Northern District of Georgia, files this Response in Opposition to Defendant's Motion to Stay Forfeiture (Doc. 281). Defendant's Motion should be denied because he fails to meet his burden to show that a stay is warranted.

1. Background

On July 1, 2025, a Grand Jury, sitting in the Northern District of Georgia, returned a ten-count Third Superseding Indictment against Carl Torjagbo, charging him with bank fraud, wire fraud, concealment money laundering, and transactional money laundering. (Doc. 198). These charges stemmed from two schemes that resulted in Torjagbo receiving over $12 million in fraud proceeds. Specifically, he obtained over $9.5 million from a fraudulent Paycheck Protection Program (PPP) loan and over $3 million by filing fraudulent IRS tax returns. The Third Superseding Indictment included a forfeiture provision, notifying Torjagbo that, upon conviction, the United States would seek to forfeit the following property from him:

PERSONAL PROPERTY:

a. Approximately $1,141.89 in funds seized from PNC Bank account ending in 9499, held in the name of Kremkov Industries.

b. Approximately $1,750,018.12 in funds seized from PNC Bank account ending in 9849, held in the name of Carl Torjagbo.

c. 2022 BMW M850xi bearing VIN: WBAGV8C06NCH96608.

d. 2021 Land Rover Range Rover Velar Sports Utility Vehicle bearing VIN: SALYM2FU7MA302651.

e. 2014 Lamborghini Aventador bearing VIN: ZHWUC1ZD3ELA02216.

REAL PROPERTY:

f. 5114 Greythorne Lane, Marietta, Cobb County, Georgia 30068, and all buildings and appurtenances thereto.

g. 101 Holt Drive, Acworth, Cherokee County, Georgia 30101, and all buildings and appurtenances thereto.

h. Tract 4 Fiber Drive, Cartersville, Bartow County, Georgia 30120, and all buildings and appurtenances thereto.

(Collectively, the "Subject Property"). The forfeiture provision of the Third Superseding Indictment also sought a personal money judgment against Torjagbo.

Prior to trial, the United States filed a Motion for Interlocutory Sale with respect to the real properties located at 5114 Greythorne Lane, 101 Holt Drive, and Tracy 4 Fiber Drive (collectively the "Subject Real Properties"). (Docs. 61, 95). The Court held an evidentiary hearing on the Motion for Interlocutory Sale on December 9, 2024. Three witnesses testified: the treasurer of the Brookshyre Manor Homeowner's Association ("HOA"), Janet Franchi; Cobb County Police Department Detective Adriano Ghisi; and Federal Bureau of Investigation Special Agent Scott Caruana.

Franchi, who lived next door to Torjagbo's home at 5114 Greythorne Lane, testified that after Torjagbo's arrest, his cousin was initially looking after the property, but that the cousin stopped looking after the property in early 2023, and nobody had been looking after the property since then. (Hearing Transcript, Doc. 167, ("Hrg. Tr.") at 10, 13). In the months that followed, the home started to fall into disrepair. (Hrg. Tr. at 13–16). The HOA undertook the maintenance of the front of the property. (Hrg. Tr. at 22). As of the hearing, the HOA had spent $3,400 maintaining Torjagbo's home on his behalf, all while he had failed to pay his dues to the HOA. (Hrg. Tr. at 11–12, 24). While the HOA had been able to prevent the front of the house from falling into decay, it was unable to do so with respect to the back of the house. (Hrg. Tr. at 16, 36–37). Photographic evidence showed that the pool behind the house was full of murky standing water and debris, and the HOA was concerned about what type of safety hazards this might present. (Hrg. Tr. at 14–16). In total, as of December 2024, the HOA had lost $10,719.93 as a result of Torjagbo's failure to pay his dues and maintain his property. (Hrg. Tr. at 27).

Detective Ghisi testified that the house at 5114 Greythorne Lane had been targeted for adverse possession by squatters. (Hrg. Tr. at 47–52). Specifically, an individual entered the house and (falsely) asserted that he had a claim to the house by virtue of having paid taxes on the property. (Hrg. Tr. at 47–50). Even after this individual left, at least one other potential squatter was found at the house. (Hrg. Tr. at 51).

Special Agent Caruana testified that, as of early December 2024, there were $66,441.28 in unpaid taxes for 5114 Greythorne Lane, $7,937.09 in unpaid taxes for 101 Holt Drive, and $3,614.09 in unpaid taxes for Tract 4 Fiber Drive. (Hrg. Tr. at 60–66). He also explained that the 101 Holt Drive and Tract 4 Fiber Drive properties are parcels of undeveloped land. (Hrg. Tr. at 62, 64). On June 10, 2025, the Court denied the Motion for Interlocutory Sale. (Doc. 190).

A week-long jury trial began on July 21, 2025. (Doc. 218). On July 25, 2025, after approximately an hour and fifteen minutes of deliberation, the jury returned a verdict finding Torjagbo guilty on all counts.[1] (Doc. 228). At the conclusion of the trial, Torjagbo waived a jury determination of forfeiture as to the Subject Property, consenting to the Court making such determination.

On January 15, 2026, the United States filed a Motion for Preliminary Order of Forfeiture, which described the nexus between the offenses of conviction and the Subject Property and sought a forfeiture money judgment. (Doc. 253 at 9–12). On

[1] Many for the counts Torjagbo was convicted of specifically related to the purchases of the Subject Property. Counts 5 through 10 charged defendant with money laundering in connection with his purchases of Tract 4 Fiber Drive, 101 Holt Drive, 5114 Greythorne Lane, the Land Rover, the BMW, and the Lamborghini, respectively.

January 30, 2026, the Court granted the Motion for Preliminary Order of Forfeiture, finding that "[t]he United States ha[d] established the requisite nexus between the Subject Property and Counts One through Ten" of the Third Superseding Indictment. (Doc. 260 at 4). The Court also imposed a personal money judgment against Torjagbo in the amount of $4,615,080.75. (*Id.* at 5).

On February 10, 2026, Torjagbo was sentenced to a total of 175 months in custody followed by 5 years of supervised release. (Doc. 270). Torjagbo filed his Notice of Appeal on February 23, 2026. (Doc. 273). He then filed a motion for a stay of forfeiture with the Court of Appeals on March 3, 2026. Because the motion should have been filed in the District Court, *see* Fed. R. App. P. 8(a)(1), he withdrew his motion before the Court of Appeals and filed the instant motion on April 2, 2026. (Doc. 281).

2. Torjagbo has failed to meet his burden to show that a stay is warranted.

The instant motion should be denied because Torjagbo has failed to show that a stay is warranted. The filing of an appeal does not automatically stay a forfeiture order. *See United States v. Houghton*, 132 Fed. App'x 130, 132 (9th Cir. 2005). Instead, a defendant who appeals his conviction and order of forfeiture may seek a stay of the forfeiture pending his appeal. Fed. R. Crim. P. 32.2(d). "[T]he court *may* stay the order of forfeiture on terms appropriate to ensure that the property remains available pending appellate review." *Id.* (emphasis added). Thus, a stay is not mandatory but is instead left to the sound discretion of the court. *See id.*; *United States v. Grote*, 961 F.3d 105, 123 (2d Cir. 2020).

Courts have generally looked at four factors to determine whether a stay of forfeiture should be granted pending appeal: (1) the likelihood of success on appeal; (2) whether the asset(s) will depreciate; (3) the intrinsic value of the asset(s) to the defendant; and (4) the expense of maintaining the asset(s). *United States v. Ngari*, 559 F. App'x 259, 272 (5th Cir. 2014); *United States v. Fisher*, No. 1:21-CR-231-02-TCB-CMS, 2024 WL 2001596, at *2 (N.D. Ga. Apr. 1, 2024), *report & rec. adopted by* 2024 WL 2000633 (N.D. Ga. May 6, 2024); *United States v. Dong,* 252 F. Supp. 3d 447, 460 (D.S.C. 2017); *see also Grote*, 961 F.3d at 123 (noting that district court applied these factors, but that there are slightly different factors courts generally consider for stays outside of the forfeiture context, and finding that "[u]nder any such test, … the district court did not abuse its discretion in denying … a stay of the forfeiture order"). The party moving to stay forfeiture bears the burden of showing that such a stay is warranted. *See Fisher*, 2024 WL 2001596, at *2 ("Rule 32.2(d) is silent about which party bears the burden of showing that a stay is warranted. It stands to reason, however, that the party seeking a stay … has the burden to show that a stay is warranted."). Here, in light of the factors above, Torjagbo has failed to meet his burden to show that a stay is warranted.

A. Torjagbo fails to show a likelihood of success on appeal.

Torjagbo vaguely asserts that "there is a likelihood he will prevail on the merits of the appeal" because "he had no fraudulent intent to defraud the United States Government or Chase Bank" and because "there is no proper nexus between the criminal acts alleged and the forfeited property and the property is not properly subject to forfeiture." (Doc. 281 at 2). Of course, the jury and the

Court respectively found otherwise, and Torjagbo offers no explanation as to why those findings were erroneous. In *Fisher*, the defendant contended that he was likely to succeed on appeal, but "provide[d] no details to support this claim[.]" 2024 WL 2001596, at *2. Because of this lack of detail, the *Fisher* court found that this factor did not support granting a stay. Here too, because Torjagbo's motion is entirely devoid of detail as to why he is likely to succeed on appeal, this factor weighs against granting a stay.

B. Many of the assets are depreciating in value and/or expensive to maintain.

Torjagbo makes no showing whatsoever that the Subject Property will not depreciate in value over time or be costly to maintain. Nor could he. The Subject Real Properties and the three luxury vehicles (the "Subject Vehicles") are all depreciating in value and/or costly to maintain.

First, with respect to the Subject Real Properties, there are already thousands of dollars of taxes overdue on each of the properties. When the United States ultimately sells these properties, it will have to pay these taxes, which will diminish the equity in the property available to the United States—and ultimately the victims. The available equity will only decrease further as additional taxes and penalties accrue on the properties. Additionally, Franchi testified that the 5114 Greythorne Lane property has already started to fall into disrepair—nobody has been looking after the property on Torjagbo's behalf since early 2023, there is murky standing water and debris in the pool, and the house has been targeted for adverse possession by squatters. The house would likely be in an even worse state, were it not for the efforts of the HOA, which has spent thousands of dollars (and counting) to prevent the front of the house from deteriorating. Torjagbo has offered no evidence that the state of 5114 Greythorne Lane has improved since the hearing. If the house continues to decay, the amount that the United States will be able to sell it for will decrease even further, and the United States will likely have to reimburse the HOA for more and more of the expenses it has incurred, which will further diminish the value that can be recovered from the house and ultimately be returned to victims. Additionally, before the house can be sold, it will likely be necessary to make costly repairs, and the price of these repairs will only increase as the condition of the house continues to deteriorate.

As for the Subject Vehicles, which are model years 2014, 2021, and 2022, their values are also depreciating as they age. *See In re Bishop*, 420 B.R. 841, 854 (Bankr. N.D. Ala. 2009) (recognizing that "cars depreciate very quickly, losing most of their value in the first few years after purchase"). Additionally, the United States must bear the costs of storing and maintaining the Subject Vehicles. All of this means that as more time passes before the Subject Vehicles are sold, there will be less and less money available for forfeiture, and ultimately less money available to victims.

C. Torjagbo fails to show that the assets have intrinsic value.

As to the final factor, Torjagbo conclusively asserts that, if the United States sells the Subject Property, he will suffer "irreparable harm … in that not only will he lose substantial financial equity in the property, but it will be difficult if not impossible to regain the property after the conclusion of this appeal if the matter is not stayed."(Doc. 281 at 2). This is not enough to meet his burden.

First, as a factual matter, Torjagbo would not be "losing" the financial equity in the Subject Property if forfeiture is not stayed. Rather, he would be "entitled to the proceeds from the sales of [the Subject P]roperty if the Eleventh Circuit reverses his conviction on appeal[.]" *See Fisher*, 2024 WL 2001596, at *4.

Moreover, Torjagbo's conclusory assertion that he will suffer "irreparable harm" is simply not enough to show that the Subject Property has intrinsic value. As the *Fisher* court explained:

> Courts have been reluctant to find that property has intrinsic value simply because it is a home or a parcel of real property. Instead, courts have required defendants seeking to stay forfeiture to allege *facts* showing that the property is unique, such as allegations showing that the real property had been in the defendant's family for a long time or had nostalgic value.

Fisher, 2024 WL 2001596, at *3 (emphasis in original).

Here, Torjagbo fails to allege any facts that show that any of the Subject Property is unique or otherwise of intrinsic value. He purchased all of the Subject Real Properties and Subject Vehicles with the proceeds of his frauds between April 2021 and April 2022. He was arrested in May 2022, and has been in custody ever since. These were not heirlooms that had been in his family for generations—they were the fruits of his crimes, which he enjoyed for no more than approximately thirteen months. Under these circumstances, the intrinsic value factor weighs against a stay.

3. Conclusion

Because Torjagbo has failed to meet his burden to show that a stay is warranted, the United States respectfully requests that the Motion (Doc. 281) be denied.

Respectfully submitted,

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