

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

Case No. 2:22-cr-39-SPC-NPM

DANIEL JOSEPH TISONE

UNITED STATES' MOTION FOR FINAL ORDER OF FORFEITURE

Pursuant to 21 U.S.C. § 853(n)(7) and Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure, the United States of America moves for a Final Order of Forfeiture for assorted ammunition, seized from the defendant on or about March 31, 2022. In support thereof, the United States submits the following memorandum of law.

MEMORANDUM OF LAW

I. Statement of Facts

1. On December 30, 2022, the Court entered a Preliminary Order of Forfeiture for Direct Assets forfeiting to the United States all right, title, and interest of the defendant in, among other things, the asset identified above, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c). Doc. 69. In accordance with the provisions of 21 U.S.C. § 853(n), the United States published notice of the forfeiture, and of its intent to dispose of the asset on the official government website, www.forfeiture.gov, beginning on December 31, 2022, and ending on January 29, 2023. Doc. 78. The publication gave notice to all third parties with a legal interest in the asset to file with the Office of the Clerk, United States District Court, 2110

First Street, Suite 2-194, Ft. Myers, Florida 33901, a petition to adjudicate their interest within 60 days of the first date of publication.

2. To date, no third parties have filed a Petition to Adjudicate Interest in the asset, and the time for filing such Petitions has expired.

3. Consequently, the United States now seeks a final order of forfeiture for the asset.

II. Applicable Law

When all third-party petitions have been adjudicated, or if no petitions are filed, it is appropriate for the Court to enter a final order of forfeiture in accordance with Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure. In addition, 21 U.S.C. § 853(n)(7) provides that following the disposition of all petitions, or if no petitions are timely filed in accordance with 21 U.S.C. § 853(n)(2), “the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.” 21 U.S.C. § 853(n)(7).

As required by section 853(n), the United States published notice of the forfeiture, and of its intent to dispose of the asset on the official government website, www.forfeiture.gov, beginning on December 31, 2022, and ending on January 29, 2023. Doc. 78. Publication by internet is permitted in civil cases pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Assets Forfeiture Actions, of the Federal Rules of Civil Procedure. Federal Rule of

Criminal Procedure 32.2(b)(6)(C) provides that publication of notice of criminal forfeiture may be made by any means described in Supplemental Rule G(4)(a)(iv).

The internet publication notified all who might have an interest in the asset of the United States' intent to dispose of such property and provided instructions on filing a petition to adjudicate an interest in the property. In accordance with the above-referenced provisions, a person or entity had 60 days from the first date of publication to file a petition with the District Court. Here, the first date of internet publication on www.forfeiture.gov was December 31, 2022. Thus, the final date for filing a petition to adjudicate interest in the asset was on March 1, 2023, and the time for filing such petitions has expired.

No person, other than the defendant, whose interest was forfeited to the United States in the Preliminary Order of Forfeiture, is known to have any potential interest in the asset. No additional party has filed a petition or claimed an interest in the asset. The time for filing a petition has expired.

Publication having been effected, and no claim or petition to adjudicate an interest having been filed, it is now appropriate for the Court to enter a Final Order of Forfeiture for the asset identified on page one, above.

III. Conclusion

WHEREFORE, the United States respectfully requests that, pursuant to 21 U.S.C. § 853(n)(7) and Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure, this Court enter a final order, forfeiting to the United States all right, title and interest

in the asset, for disposition according to law, and vesting clear title to said property
in the United States of America.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2023, I electronically filed the foregoing with
the Clerk of the Court by using the CM/ECF system which will send a notice of
electronic filing to counsel of record.

s/Suzanne C. Nebesky
SUZANNE C. NEBESKY
Assistant United States Attorney