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Final Order of Forfeiture

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-60144-CR-HURLEY/HOPKINS

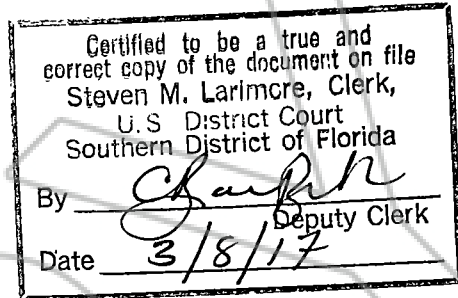
UNITED STATES OF AMERICA,

Plaintiff,

vs.

FERNAND MICHEL,

Defendant.



FINAL ORDER OF FORFEITURE

Upon motion of the United States for entry of a final order of forfeiture pursuant to Title 18, United States Code, Section 924, the procedures of Title 21, United States Code, Section 853, and Rule 32.2 of the Federal Rules of Criminal Procedure, upon a review of the record in this matter and for good cause shown thereby, the Court hereby finds that:

1. On May 24, 2016, a one count Information against defendant was filed alleging, that defendant FERNAND MICHEL conspired to: (A) knowingly and fraudulently exporting and sending from the United States to a place the United States, that is, Haiti, merchandise, articles, and objects, that is, firearms, contrary to the law and regulations of the United states, in violation of 18, United States Code, Section 554(a); (B) to knowingly concealing and facilitating the concealment and transportation of firearms, prior to exportation, knowing the same to be intended for exportation contrary to any law and regulation of the United States, in violation of Title 18, United States Code, Section 554(a); and (C) to knowingly deliver and cause to be delivered to a common carrier, for transportation and shipment in foreign commerce to a person,

other than a licensed importer, manufacturer, dealer, and collector, a package and container containing a firearm without written notice to the carrier that a firearm was being transported and shipped, in violation of Title 18, United States Code, Section 922(e) and 924(a)(1)(D).

2. The Information also included forfeiture allegations regarding certain firearms referenced below pursuant to Title 18, United States Code, Sections 924(d)(1) and Title 28, United States Code, Section 2461(c). The firearms listed were:

- a. Ruger SR9 9mm Luger Pistol, Serial number 335-16816
- b. Ruger SR9B 9mm Luger Pistol, Serial number 335-63156, and
- c. Ruger SR9B 9mm Luger Pistol, Serial number 335-74974.

3. On August 8, 2016, defendant plead guilty to Count 1 of the Information, and in his plea agreement (DE21) at page 6, paragraph 12, defendant agreed to the forfeiture of the above referenced firearms. Additionally, defendant's factual proffer (DE21) filed with the Court established the nexus required by Rule 32.2(b)(1)(A) between the firearms and Count 1, the offense of conviction. Defendant's conviction to Count 1 provides the legal basis necessary for the forfeiture of above firearms.

4. On October 20, 2016, this Court entered a preliminary order of forfeiture, (DE 33) against the property referenced in paragraph 2 above, in favor of the United States of America pursuant to Title 18, United States Code, Section 924(d)(1) and Rule 32.2(b)(2)(A).

5. On December 24, 2016, a Notice of Publication was published in the Notice of Criminal Forfeiture (entry of the preliminary order) and posted on the official government internet site (www.forfeiture.gov) for at least 30 consecutive days. The published notice stated the intent of the United States to forfeit all right title and interest in, and to dispose of, the property identified in said preliminary order of forfeiture; advised all third parties, if any, of their right to petition the court within thirty days for a hearing to adjudicate the validity of their

alleged legal interest in the property; and set forth the requirement that anyone seeking to claim an interest in the property to be forfeited must file a petition in conformance with Title 21, U.S.C. § 853(n)(3), within thirty days after the earlier of the final date of publication of the notice or the receipt of actual notice.

6. The Proof of Publication of Notice of Forfeiture was filed with the Clerk of this Court on February 21, 2017. (DE34).

7. Under the provisions of Title 21, United States Code, Section 853(n)(2), a person claiming an interest in the property at issue must file a petition with the Court within thirty days of the publication of notice, or his receipt of notice, whichever is earlier.

8. As of the date of this motion, no person or persons have filed a petition with the Court, pursuant to said Notice of Forfeiture and the time to so has expired.

9. Other than defendant, the United States is not aware of any third party who may have an interest in the firearms listed above.


Therefore, based upon the United States' motion, the publication of the preliminary order, the expiration of the petition filing period without any petitions filed, and the record in this matter, it is hereby

ORDERED, ADJUDGED and DECREED that the property identified in paragraph (2) above, is hereby transferred, forfeited to and vested in the United States of America, pursuant to 18, United States Code, Section 924(d)(1), and Title 21, United States Code, Section 853(n)(7). The United States shall have clear title to the above listed property.

IT IS FURTHER ORDERED that the Bureau of Alcohol, Tobacco & Firearm & Explosives, or any other duly authorized law enforcement agency, may dispose of the forfeited

property in accordance with the law.

DONE AND ORDERED in Chambers in West Palm Beach, Florida, on this 6th
March
day of ~~February~~, 2017.


DANIEL T.K. HURLEY
UNITED STATES DISTRICT JUDGE

C O R P