

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 15-CV-324-GKF-TLW
REAL PROPERTY COMMONLY)	
KNOWN AS 7208 EAST 65TH)	
PLACE, TULSA, OKLAHOMA; et al.,)	
)	
Defendants.)	

**GOVERNMENT’S OPPOSITION TO CLAIMANTS’ MOTION FOR THE
APPOINTMENT OF COUNSEL PURSUANT TO 18 U.S.C. § 983(b)(2)**

The United States of America, by undersigned counsel, opposes the motion filed by Brenda Grantland, attorney for claimants Maureen Long, John and Heather Lyons, Camelot Cancer Care, Inc., and The Camelot Trust, for the appointment of counsel pursuant to 18 U.S.C. § 983(b)(2). In support of its opposition, the United States says the following.

THE BASIS FOR CLAIMANTS’ MOTION

Claimants’ motion is filed pursuant to 18 U.S.C. § 983(b)(2) which provides as follows:

(A) If a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, *and the property subject to forfeiture is real property that is being used by the person as a primary residence*, the court, at the request of the person, shall insure that the person is represented by an attorney for the Legal Services Corporation with respect to the claim.

18 U.S.C. § 983(b)(2)(A) (emphasis added).

Congress enacted Section 983(b) to fill the gap created by decisions holding that the Sixth Amendment right to counsel does not apply in civil forfeiture cases. *United States v. 777 Greene St.*, 609 F.3d 94, 97-98 (2d Cir. 2010). The statute does not, however, authorize the appointment of counsel in *all* civil forfeiture cases. To the contrary, Section 983(b)(2) provides that the court must appoint counsel only if the claimant establishes both that she is financially unable to obtain representation by counsel *and* that the property subject to forfeiture is real property that is being used by the claimant as a primary residence. *United States v. Real Property Located at 6425 N. Harrison Ave.*, 2011 WL 4433157, *2 (E.D. Cal. Sept. 21, 2011).

Accordingly, if the claimant cannot establish that the property subject to forfeiture is currently being used as her primary residence, the motion for appointment of counsel must be denied. *6425 N. Harrison Ave.*, 2011 WL 4433157, *5 (denying § 983(b)(2) motion because property was not claimant's primary residence); *United States v. Real Property ... 90-23 201st Street*, 2009 WL 1362827, *1 (E.D.N.Y. May 14, 2009) (same); *United States v. Real Property Located at 700 N. 14th Street*, 2013 WL 5595952, *3 (C.D. Ill. Oct. 11, 2013) (same).

For the reasons set forth below, Maureen Long cannot establish that any of the defendant parcels of real property is being used as her primary residence. Thus, her motion should be denied.

FACTS

The criminal case

On December 17, 2014, a Grand Jury in the District of Kansas returned an indictment charging Maureen Long, d/b/a Camelot Cancer Care, Inc., with 13 counts of wire fraud. *United States v. Maureen Long*, No. 14-40151-01-DDC (D. Kan.). (Exhibit A). Among other things, the indictment alleged that the Defendant perpetrated a scheme to defraud persons seeking a cure for cancer by falsely representing that she would provide certain treatments and medications that were approved by the FDA and were effective for the stated purpose when in fact the treatments and medications were neither FDA-approved nor effective.

Based on the indictment, the District Court for the District of Kansas issued a warrant for Long's arrest (Exhibit B), and scheduled her initial appearance and arraignment for December 30, 2014, but Long did not appear. *See United States v. Maureen Long*, No. 14-40151-01-DDC (D. Kan. Jan. 22, 2016) (Dkt. # 14) (Order Denying Motion for Change of Venue), (Exhibit C, at 2). As described in detail below, she remains a fugitive from justice residing in Mexico where she continues to operate her cancer-care clinics.

On January 22, 2016, Hon. Daniel Crabtree, Judge of the District Court of the District of Kansas, denied Defendant's motion for a change of venue in her criminal case on the ground that as a fugitive from justice, Defendant was barred by the fugitive disentitlement doctrine from filing such a motion until she surrenders to face the criminal charges. (Exhibit C).

Finally, on February 19, 2016, the Defendant filed a Motion for the Return of Illegally Seized and Detained Property in the Kansas case. *United States v. Maureen Long*, No. 14-40151-DDC (D. Kan.) (Doc 15). In response, the United States Attorney for the District of Kansas filed an Opposition that included a number of exhibits bearing on Defendant's fugitive status. *Id.* (Dkt. # 19). The most relevant exhibits are reproduced here as Exhibit D to this pleading.

The civil case

On June 8, 2015, the United States filed the instant civil forfeiture action against three parcels of real property and various personal assets. In each case, the complaint alleges that the property is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) as the proceeds of the wire fraud offense alleged in the Kansas indictment, and pursuant to 18 U.S.C. § 981(a)(1)(A) as property involved in money laundering.

The three parcels are commonly known as 10711 S. Sheridan Road, Tulsa, OK ("Sheridan Road"), 10716 S. 66th E. Ave., Tulsa, OK ("South 66th"), and 7608 East 65th Place, Tulsa, OK ("East 65th"). East 65th is the personal residence of Heather and John Lyons, Defendant's daughter and son-in-law. Sheridan Road is a vacant tract of land adjacent to South 66th, which is Maureen Long's former residence. Long, however, has not occupied the property since she became a fugitive in December 2014. The property is currently occupied by four unrelated persons who are personal associates of the Defendant. Dkt. 41-3, Holden Declaration.

Between August 28 and September 1, 2015, four claims were filed to the property subject to forfeiture: Heather and John Lyons filed a claim to East 65th; Maureen Long

and an entity known as the Camelot Trust filed claims to all of the real and personal property *other than* 65th Place; and Camelot Cancer Care, Inc. filed a claim to the bank account held in its name. (Docs. 20, 18, 19 and 21, respectively).

Defendant is the party liable on the mortgage on all three parcels. When Defendant ceased to make her mortgage payments, the First National Bank and Trust Company of Broken Arrow (“First National”) commenced foreclosure actions against all three parcels in the District Court of Tulsa County. On June 11, 2015, the state court issued a Judgment in favor of First National with respect to Sheridan Road and South 66th (Exhibit E), and on October 14, 2015, it issued a Judgment in favor of First National with respect to East 65th (Exhibit F). The judgments authorized First National to sell the mortgaged property to satisfy all outstanding debts including the unpaid principal on the mortgage notes, the taxes that First National paid to Treasurer of Tulsa County on Defendant’s behalf, and certain costs and attorney’s fees. *Id.*

On March 11, 2016, the United States filed a Motion for the Interlocutory Sale of all three parcels. (Dkt. # 41). In its motion, the United States represented to the Court that it had entered into an agreement with First National whereby it would pay off the mortgage and accrued interest on the three parcels with the proceeds of the interlocutory sale, if the sale were approved by the Court. Otherwise, First National would remain free to foreclose on the property.

Finally, on March 17, 2016, the United States filed a Motion To Dismiss Claims and Answers Filed By Maureen Long and Camelot Cancer Care, Inc., on the ground that

the claims were barred by the fugitive disentitlement doctrine, as codified at 28 U.S.C. § 2466. (Dkt. # 44).

DISCUSSION

The Scope of the Pending Motion

In her instant Motion, Brenda Grantland, moves to withdraw as counsel for all four claimants, and moves for the appointment of counsel to represent Maureen Long and Heather and John Lyons pursuant to 18 U.S.C. § 983(b)(2) on the ground that the United States is seeking the forfeiture of the claimants' primary residences.¹ The motion does not seek the appointment of counsel for either Camelot Cancer Care, Inc., or the Camelot Trust.

Limiting the scope of the motion to the claims filed by the natural persons was appropriate. Insofar as the right to the appointment of counsel under Section 983(b)(2) applies only to property being used as the claimant's primary residence, it does not apply to claims filed by corporations or trusts which can have no "primary residence" within the meaning of the statute.

Moreover, the motion seeks the appointment of counsel only with respect to forfeiture actions directed against East 65th (the Lyons property) and South 66th (the Long property). Again, this was appropriate: there is no authority under Section 983(b)(2)(A)

¹ In her Declaration in support of her motion, Ms. Grantland asserts that Long and Mr. and Mrs. Lyons qualify for appointed counsel under Section 983(b)(2)(A) because "their primary residences were seized." Declaration of Brenda Grantland at 3. The United States presumes that counsel is aware that neither property has been seized, and that she meant to say that claimants qualify for the appointment of counsel because the properties have been named as defendants in a pending civil forfeiture action.

to appoint counsel to represent a person contesting the forfeiture of unimproved land (e.g., Sheridan Road) or personal property.

Accordingly, in this Opposition, the United States focuses only on the motion for the appointment of counsel as it applies to the Lyons property and the Long property.

The Lyons Property

Maureen Long purchased this property in February 2009 and transferred it to her son-in-law on April 25, 2013, by quit claim deed – two days after the search warrant was executed at Camelot Cancer Care, Inc. 13-MJ-119-TLW. Heather and John Lyons were both employees of Camelot Cancer Care, Inc.

As far as the United States is aware, Heather and John Lyons are in possession of East 65th and use it as their primary residence. Thus, at first glance, it would appear that if Mr. and Mrs. Lyons can satisfy the court that they are “financially unable to obtain representation by counsel,” they would qualify for the appointment of counsel under Section 983(b)(2).

We note, however, that First National has foreclosed on the Lyons property and that the United States has moved for its interlocutory sale. If the court approves the pending interlocutory sale motion, Mr. and Mrs. Lyons will have to vacate the property and the *res* subject to forfeiture will no longer be the property itself, but will be the net of the proceeds of the sale that remain after the debts owed to First National are satisfied.

Alternatively, if the court does not approve the interlocutory sale, First National will have the right to evict Mr. and Mrs. Lyons and proceed with the sale of the property

at a foreclosure sale. Either way, Mr. and Mrs. Lyons have no legal right to continue to occupy the property as their primary residence.

It is not clear whether Congress intended Section 983(b)(2) to authorize the appointment of counsel at the taxpayer's expense in a case such as this one where the claimant to the real property has no legal right to its continued possession, and whose claim is therefore only to the net proceeds of the sale of the property, not to the residence itself. Nor it is clear what would happen if the court were to grant the motion and appoint counsel, and the property were then sold.

Given the uncertainty attending the law on this issue, the United States respectfully suggests that the court either deny the motion for the appointment of counsel to represent Heather and John Lyons on the ground that they have no present right to the continued use of the property as their primary residence, or at most, that it appoint counsel for the limited purpose of responding to the motion for the interlocutory sale. In all events, the United States believes that any appointment of counsel pursuant to Section 983(a)(2)(A) must terminate at such time as the claimants vacate the property and the *res* subject to forfeiture is reduced to the residual remaining from the proceeds of the sale.

The Long Property

Maureen Long is a fugitive from justice who fled to Mexico when her indictment was returned in December 2014. She has not resided at the residence at 10716 S. 66th E. Ave., Tulsa, OK ("South 66th") since that time. Accordingly, because this case does not involve "real property that is being used by the [claimant] as a primary residence," Long

does not qualify for the appointment of counsel at the government's expense under Section 983(b)(2).

The evidence that Long is not using South 66th as her primary residence is overwhelming.

First, as recited in the United States' Motion for Interlocutory Sale (Dkt. # 41), at the time of her indictment, Long owed a total of more than \$926,774 to First National that was secured by liens on 66th South and the adjacent vacant parcel. She has made no payments on the mortgage notes since October 28, 2014, and she did not make any payment on the property taxes when they came due. Accordingly, First National has foreclosed on the property. Motion for Interlocutory Sale, Dkt. # 41 at 3.

Attached to the motion for interlocutory sale was the declaration of Deputy U.S. Marshal Richard Holden. Among other things, Mr. Holden stated that he visited South 66th in June 2015 and observed that it was occupied by four individuals. Deputy Holden further observed that although a large amount of personal property belonging to Long was present in the residence, the property was "in a state of disarray" and all four occupants denied having seen Long "since she left" and claimed to have no way to contact her. Dkt. 41-3, Holden Declaration at 1.

Furthermore, in its motion to dismiss claims and answers filed by Maureen Long pursuant to the fugitive disentitlement doctrine, 28 U.S.C. § 2466, (Dkt. # 44), the United States recited the following facts establishing Long's status as a fugitive from justice who has been residing outside of the United States since at least December 2014:

1. Immediately after her indictment in December 2014, the Defendant moved her business from the United States to Mexico;
2. Her business website states that “Camelot Cancer Care, Inc. is “currently battling FDA persecution” from “selected Mexican clinics;”
3. After becoming a fugitive, the Defendant transferred the registration of her website from the United States to Iceland; and
4. Long has expressed her intention not to return to the United States to answer the criminal charges except on her own terms.

Dkt #44, Motion to Dismiss Claims and Answers at 12-13.

Finally, on March 14, 2016, the United States Attorney for the District of Kansas filed a response in opposition to Defendant’s motion for the return of illegally seized and detained property that included a number of exhibits bearing on Defendant’s fugitive status that are reproduced here as Exhibit D. These exhibits, which include correspondence from the Defendant to her attorney Edward Lindsay and emails from the Defendant to her associates, were all turned over voluntarily by Mr. Lindsay to the United States Attorney, and establish without question that the Defendant is residing outside of the United States with no intention of returning any time soon. The following are some of the most salient points.

In her letter to Mr. Lindsay, the Defendant said that she was “out of the country at the time [the] indictment was unsealed” and that by the time she “was able to earn enough for passage home,” her passport was revoked, leaving her “trapped.” “That,” she added, “[is] my official position.” Exh. D at 1.

Elsewhere in her letter, however, Long makes it clear that she has no intention of returning to the United States in any event, unless she can dictate the terms.

To return, she complains, would mean going “into custody” and being placed “at the mercy of an overworked public defender” with the result that she would likely “suffer death” or be “broken” while awaiting trial. *Id.* To avoid this result, she proposes that she will return to the United States and close her cancer care business “if the Justice Department will dismiss the indictment” and agree to release her assets. *Id.* “If the FDA wants me to retire and remain out of business in the US,” she says, “then release and return of my property is how that happens.” *Id.* at 1-2.

In the meantime, Long says, she is determined to remain beyond the reach of U.S. authorities. “The Camelot website is already migrated beyond US jurisdiction,” she says, apparently in reference to the change in the website’s registration from the United States to Iceland, “and can longer be taken down by court order.” *Id.* She then adds, “I can be reached by email on unseen.is, by other users who also have an unseen.is address, making it encrypted at both ends. I also use a VPN tunnel, so ip is not detectable. No cell phone or any means by which my location could be detected. *I am off the grid as its possible to be.*” *Id.* (emphasis added.).

Long’s email correspondence with her associates further belies her “official position” regarding her absence from the United States at the time of her indictment. The pertinent parts of her missive, apparently sent in February 2015, merit quoting at length:

To my closest and most trusted colleagues in alternative oncology:

A select few of you got an SOS from me a few weeks ago, during the holidays, around mid-December. I literally had to flee for my life, under the protection of a good Samaritan who *spirited me out of the country*, ‘under the radar.’ The only way to successfully disappear is to avoid using any credit cards (paper trail) or showing a passport The truth as to

how my benefactor managed to move me to safety, on the alternative medicine underground railroad . . . is mind-boggling. . . .

I am in hiding. The FDA is reportedly actively searching for me and will of course capture/kidnap me if they can locate me, which is not likely. *I am in safe seclusion, off the grid,* nothing which can be found in any electronic database to pinpoint my location, which is well over a thousand miles south of the US border. . . .

Exhibit D at 4 (emphasis added).

Long was equally graphic in describing the reasons why she changed her email address and the website registration of business. In the same email to her “trusted colleagues,” the Defendant wrote, “The Camelot website is now being transferred to offshore hosting in Iceland, which has strict cyber security laws and refuses to honor warrants from the US Department of ‘Just Us’.” *Id.* at 4-5. Also, in an email to “Nomad Operations” titled “I made it to safety,” she writes, “Please encourage Andrew to sign up for an email account on unseen.is so he can have secure confidential communications with clients, free from snooping by No Such Agency,” apparently a reference to the NSA. Exhibit D at 3.

Finally, in her email to her associates, Long makes it clear that she intends to oppose extradition to the United States. “What can you do to help me survive in exile?” she asks. First, refer patients to Camelot so that they can be served at Mexican clinics, and second, “draft a letter on official letterhead . . . stating that my life could be in danger if I am extradited back to the US” She adds, “Print those letters out, scan and email them to me, so my local legal counsel has ammunition he can use *to block my extradition.*” *Id.* at 6-7 (emphasis added).

A person who does not occupy the property subject to forfeiture – for whatever reason – cannot claim that she is using the property as her primary residence, and thus cannot qualify for the appointment of counsel under Section 983(b)(2).

In *700 N. 14th Street*, the court allowed the claimant’s counsel to withdraw from the civil forfeiture case but then denied her motion to have counsel appointed under Section 983(b)(2). The claimant lived in Mobile, Alabama, the court said, so the defendant real property in Springfield, Illinois could not be her primary residence. 2013 WL 5595952, *3.

In *90-23 201st Street*, the court denied the Section 983(b)(2) motion of a claimant who was incarcerated. If a person is incarcerated, the court held, his property “is not being used as his primary residence.” 2009 WL 1362827, *1.

Finally, in a case with facts extraordinarily similar to those in the instant case, the court denied the Section 983(b)(2) motion of a woman who vacated the defendant real property to live abroad but claimed that she intended to reclaim the property as her primary residence at some time in the future.

In *6415 N. Harrison Ave.*, the claimant’s attorney, Brenda Grantland, moved to withdraw as counsel for both the claimant and her daughter, and moved for counsel to be appointed under Section 983(b)(2) on the ground that the property subject to forfeiture was the claimant’s primary residence. The United States opposed the motion on the ground that the claimant had not lived at the property for over three years. 2011 WL 4433157, *2.

The claimant acknowledged that she had vacated the property and moved to Korea three years earlier, but claimed that she “left her belongings in the house . . . , allowed a friend to stay there in her absence,” and intended to return to the residence “when she is financially able to do so.” *Id.* at *3. In the meantime, the claimant said, she was living with her daughter.

The issue, the court said, “is whether the subject property can be considered [Claimant’s] primary residence in light of her extended absence from the residence.” *Id.* It held that it could not.

“Congress clearly intended,” the court said, “that appointment of counsel is to be granted only in cases where the subject property is the primary residence.” *Id.* at 5. “Here, Claimant has not resided at the property or even in the United States for over three years.” *Id.* In those circumstances, the court concluded, her intent to return to the property and her storage of her belongings there while it is occupied by other persons, do not establish her right to have counsel appointed under Section 983(b)(2). *Id.*

In the instant case, Maureen Long has been absent from the defendant property since December 2014 – a period of 15 months. She has not paid the taxes or mortgage and allowed the bank to foreclose. She is living as a fugitive from justice “well over a thousand miles south of the US border,” determined to fight extradition to the United States, and boasting of her ability to live “in safe seclusion, off the grid” beyond the ability of the United States to determine her location. She has declined to set any date for her return unless the Department of Justice dismisses the pending indictment and agrees to the release of all of her property.

If a person who is incarcerated cannot qualify for the appointment of counsel under Section 983(b)(2) because he is not presently residing in the defendant residence, *see 90-23 201st Street*; if a person who leaves the United States to live in Korea for three years cannot qualify, even though she has stored her belongings in the residence and intends to return to it when she is able, *see 6415 N. Harrison Street*; then surely a fugitive from justice, who flees to Mexico when indicted, abandoning her real property while seeking refuge “in exile,” and determined to oppose extradition to the United States, cannot qualify for the appointment of counsel to defend her property rights at the taxpayers’ expense. Indeed, the appointment of counsel in these circumstances would be unseemly at best, and at worst would condone, aid and abet, and ratify the actions of a fugitive who seeks the court’s assistance on one hand while flouting its jurisdiction to bring her to justice with the other.

CONCLUSION

For all of these reasons, the motion for the appointment of counsel should be denied.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2016, the foregoing document was electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to counsel of record.

I hereby certify that on March 18, 2016, the foregoing document was served by United States Mail, proper postage prepaid, on the following, who are not registered participants of the ECF System:

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