

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2020-28

IN RE MATTER OF
CERTAIN PENDING ADMINISTRATIVE-
FORFEITURE PROCEEDINGS

FILED BY CW D.C.

May 5, 2020

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIA

**ORDER EXTENDING CAFRA DEADLINES FOR
CERTAIN ADMINISTRATIVE-FORFEITURE SEIZURES**

This Order is issued pursuant to 18 U.S.C. § 983, and extends, by 60 days, the deadlines established by the Civil Asset Forfeiture Reform Act of 2002 (“CAFRA”) under which the Government is required to (1) commence administrative-forfeiture proceedings against seized property, and to (2) commence judicial-forfeiture actions following submission of timely administrative claims in such proceedings.

The Bureau of Alcohol, Tobacco, Firearms & Explosives (“ATF”), Drug Enforcement Administration (“DEA”), Federal Bureau of Investigation (“FBI”), the Internal Revenue Service (“IRS”), the United States Secret Service (“USSS”), the United States Customs and Border Protection (“CBP”), Homeland Security Investigations (“HSI”),¹ and the United States Border Patrol (“USBP”) (collectively, the “Agencies”) are authorized to seize property subject to forfeiture under federal law, and commence administrative-forfeiture proceedings, subject to certain statutory limitations. *See* 19 U.S.C. §§ 1602-1621; 18 U.S.C. § 3061; 28 C.F.R., Parts 8 and 9.

On March 13, 2020, President Trump declared a national emergency, effective as of March

¹ CBP processes administrative forfeiture proceedings for HSI.

1, 2020, due to the Novel Coronavirus Disease (“COVID-19”) pandemic.² As noted in the Court’s Administrative Order No. 2020-20 (filed March 18, 2020), “[t]he Centers for Disease Control and Prevention (“CDC”) and other health authorities have advised that precautions be taken to reduce the possibility of exposure to the COVID-19 virus and to slow the spread of the disease.”

To allow federal employees to engage in social distancing to slow the spread of the virus, on March 15, 2020, the Attorney General implemented a “maximum telework” policy, which includes all Department of Justice law-enforcement components. Other seizing agencies implemented similar telework measures. As a result, virtually all asset-forfeiture personnel working in the Agencies’ headquarters and field offices are teleworking, as are the attorneys and staff at the U.S. Attorney’s Office for the Southern District of Florida.

In accordance with 18 U.S.C. § 983(a)(1)(C), supervisory officials at the headquarters office of the Agencies have issued certifications indicating that as COVID-19 has continued to spread, it is becoming increasingly difficult for the Agencies to carry out their responsibilities to process administrative-forfeiture seizures by sending timely notice to potential claimants and making the necessary referrals to the U.S. Attorney’s Offices across the country.

On an annual basis, the Agencies initiate and process tens of thousands of administrative forfeitures. Those efforts generate massive amounts of paperwork, and often require regular, close physical interaction among office personnel in each of the Agencies to prepare notice letters, correction letters, denial letters; to mail envelopes for all of those letters; and to publish notice of the forfeiture on the Government’s dedicated forfeiture website (www.forfeiture.gov).

In addition, personnel of the Agencies physically handle large volumes of mail from the

² On March 29, 2020, the President extended the period of recommended social distancing and non-essential activity through the end of April.

public, including handwritten letters, claims, petitions for remission or mitigation, and requests for reconsideration. Although the Agencies are capable of processing claims and petitions submitted electronically, the overwhelming majority of all submissions (approximately 85%) still arrives by mail. Submissions of timely administrative claims require the Agencies to refer those matters to the appropriate U.S. Attorney's Office, and trigger separate deadlines relating to the filing of judicial forfeiture actions in the district courts.

The Agencies have certified to the Court that in light of the COVID-19 pandemic, their compliance with the statutory notice deadlines under 18 U.S.C. § 983(a)(1) for commencing administrative forfeiture is likely to endanger the life or physical safety of the personnel responsible for carrying out their respective administrative-forfeiture programs, justifying the extension of those deadlines pursuant to 18 U.S.C. § 983(a)(1)(C), (D).

In light of the ongoing national emergency triggered by the pandemic, and the resulting need for social distancing and heightened controls on physical contact with objects that may risk the spread of COVID-19, there is also constitute good cause to find that sending notices of administrative seizures and the referral of administrative claims for judicial action may endanger the life or physical safety of attorneys and staff (at both the Agencies and the U.S. Attorney's Offices), who are responsible for reviewing administrative seizures, issuing notices, and processing submitted claims and petitions, as well as the safety of potential claimants and the general public. All of these factors support an Order pursuant to 18 U.S.C. § 983(a)(1)(C) and § 983(a)(3)(A) granting the 60-day extensions described herein.

THEREFORE, IT IS ORDERED that:

1. For all property seized in the Southern District of Florida by the Agencies on or between February 3, 2020, and July 6, 2020, the deadline established by 18 U.S.C.

§ 983(a)(1)(A)(i) to send notice and commence administrative-forfeiture proceedings against such property is extended for a period of 60 days;

2. For all property seized in the Southern District of Florida by state or local law enforcement agencies on or between January 3, 2020, and July 6, 2020, which seizures were thereafter federally adopted by the Agencies, the deadline established by 18 U.S.C. § 983(a)(1)(A)(iv) to send notice and commence administrative-forfeiture proceedings against such property is extended for a period of 60 days;

3. For all administrative claims to property seized in the Southern District of Florida received by the Agencies on or between February 3, 2020, and July 6, 2020, the deadline established by 18 U.S.C. § 983(a)(3)(A) for filing of a civil forfeiture complaint or inclusion of the property in a criminal indictment is extended for a period of 60 days, providing a total of 150 days to initiate judicial forfeiture proceedings from receipt of such claim; and

4. For all property seized in the Southern District of Florida for which the Agencies or the Court previously extended, pursuant to 18 U.S.C. § 983(a)(1)(B) or § 983(a)(1)(C), the deadline to send notice to on or between March 1, 2020, and July 6, 2020, the deadline to send notice and commence administrative-forfeiture proceedings against such property is extended for a period of 60 days from the current deadline.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 4th day of May, 2020.



K. MICHAEL MOORE
UNITED STATES CHIEF DISTRICT JUDGE

c: All Southern District Judges and Magistrate Judges
United States Attorney
Federal Public Defender
Court Administrator * Clerk of Court
Chief Probation Officer
Library