

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1463
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

\$7,000.00 IN UNITED STATES
CURRENCY, ET AL.,

Defendants,

DWIGHT LYNN HARRILL,

Claimant-Appellant.

Appeal from the United States District Court for the
Northern District of Texas
(3:92-CV-0137-G)

(May 13, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

This appeal is Dwight Lynn Harrill's second appeal arising out of a civil forfeiture action brought by the government against certain properties alleged to have been used by Harrill in

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

connection with a controlled substance offense. We previously affirmed the district court's grant of summary judgment for the government ordering the forfeiture of all properties except \$7,000 cash. U.S. v. \$7,000.00 in U.S. Currency, No. 92-1876 (5th Cir. Nov. 30, 1993) (unpublished).

In this appeal, Harrill challenges the district court's authority to amend the previously appealed final judgment of forfeiture to include assets ruled forfeitable in the district court's memorandum order but not included in that final judgment, which forfeited assets.

Harrill argues that the district court abused its discretion under Fed. R. Civ. P. 60(b) by amending the judgment of forfeiture because Rule 60(b) does not allow for correction of attorney negligence. He asks this court to reverse the district court's judgment.

Although not listed in the original complaint, the government sought the forfeiture of certain chemicals and equipment seized on February 12, 1991, from Harrill's place of business, and additional chemicals and equipment seized on May 8, 1991, from storage leased by Harrill. These assets were listed in the affidavit accompanying the complaint. The district court's memorandum order refers to "various laboratory chemicals and apparatus," which evidently refers to these assets. The final judgment tracks the list of properties contained in the complaint and does not list the chemicals and equipment. On April 7, 1993, the government filed a

motion to amend the final judgment to correct the judgment to include the laboratory equipment and chemicals that were contained in the order but omitted from the judgment. The district court granted the motion and issued an amended judgment. It is this judgment of which Harrill now complains.

Although we did not specifically address the propriety of the district court's amended judgment in our prior opinion, we affirmed the district court's holding that the chemicals and equipment seized from Harrill's office and storage facility were forfeitable. U.S. v. \$7,000.00, No. 92-1876, p. 7-9. We have already reviewed and affirmed the judgment of forfeiture as amended to include these assets, and have already implicitly concluded that the amendment to the judgment was proper.

As a general rule if the issues were decided, either expressly or by necessary implication, those determinations of law will be binding on remand and on a subsequent appeal. . . . Even if the prior appellate decision did not explicitly discuss the issues, nevertheless the law of the case operates to preclude their reconsideration . . . if the appellate decree necessarily or implicitly resolved them adversely to the party now seeking to reurge them.

Conway v. Chemical Leaman Tank Lines, Inc., 644 F.2d 1059, 1062 (5th Cir. 1981). "Law of the case" doctrine precludes us from reexamining this issue in this subsequent appeal. The judgment of the district court is therefore

A F F I R M E D.