

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-20091
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALEJANDRO HERNAN CEVALLOS,
also known as Alex,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR H-92-194-2
- - - - -

September 23, 1996

Before SMITH, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:¹

Alejandro Hernan Cevallos (#60100-079) appeals from the district court's dismissal of his motion for return of forfeited property and his motion for "default judgment." The district court did not abuse its discretion in denying the motion for default judgment because the Government timely responded to Cevallos' motion by filing a motion to dismiss. Cf. Mason v. Lister, 562

¹ Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

F.2d 343, 345 (5th Cir. 1977). Independently reviewing the district court's order of dismissal, United States v. Schinnell, 80 F.3d 1064, 1069 (5th Cir. 1996), Cevallos abandons on appeal his claim that he did not receive proper notice. Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). His substantive claim that the multiple administrative forfeitures violate the Double Jeopardy Clause is without merit. United States v. Ursery, 116 S. Ct. 2135, 2147-49 (1996) (a forfeiture under 21 U.S.C. § 881 is civil in nature and is an in rem proceeding; thus, "in rem civil forfeitures are neither 'punishment' nor criminal for purposes of the Double Jeopardy Clause."); United States v. Arreola-Ramos, 60 F.3d 188, 192 (5th Cir. 1995) (because defendant did not timely contest administrative forfeiture, he was never a party to the civil forfeiture proceeding or put in jeopardy).

AFFIRMED.