

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-8743  
Conference Calendar

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UNITED STATES OF AMERICA,

Petitioner-Appellee,

versus

\$92,760.00,

Respondent,

WILLIAM DENNIS ALONSO,

Claimant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. P-83-CV-38  
- - - - -  
(July 21, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:\*

William Alonso argues, without pertinent citation, that the default judgment should be set aside because the Government failed to give adequate notice of the forfeiture action and to advise him respecting the mechanics of filing a claim. Fed. R. Civ. P 55(c) provides that for good cause shown a judgment of default may be set aside in accordance with Rule 60(b). This

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Court reviews a district court's decision denying such relief for abuse of discretion. Matter of Dierschke, 975 F.2d 181, 183 (5th Cir. 1992).

Although the district court dismissed the action because it concluded that it lost jurisdiction over the funds when the United States Marshal surrendered custody thereof\*\*, the motion should have been dismissed because Alonso lacked standing to challenge the forfeiture. See United States v. One 18th Century Colombian Monstrance, 797 F.2d 1370, 1373-74 (5th Cir. 1986), cert. denied, 481 U.S. 1014 (1987); see also United States v. Tello, 9 F.3d 1119, 1128 (5th Cir. 1993) ("We may always affirm a district court's ruling, made for an invalid reason, if we are shown or can find a valid reason to support that ruling.") "[A] party seeking to challenge the government's forfeiture of money or property used in violation of federal law must first demonstrate an interest sufficient to satisfy the court of its standing to contest the forfeiture." United States v. \$ 364,960 in United States Currency, 661 F.2d 319, 326 (5th Cir. Unit B 1981) (emphasis added) (footnote omitted). In United States v. \$321,470 United States Currency, 874 F.2d 298, 303 (5th Cir. 1989), this Court held that "property may be forfeited without any showing by the government that it is subject to forfeiture if

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\*\*Alonso correctly cites Republic Nat'l Bank of Miami v. U.S., \_\_\_ U.S. \_\_\_, 113 S.Ct. 554, 562, 121 L.Ed.2d 474 (1992) (appellate jurisdiction does not require continuous control of the res in an in rem forfeiture proceeding, with the effect that jurisdiction was not lost when funds were transferred from the Southern District of Florida to the Assets Forfeiture Fund of the United States Treasury) to refute the district court's stated basis for dismissal.

the only claimant is unable or unwilling to provide evidence supporting his assertion of an interest in the property."

(internal quotation and citation omitted). Like the claimant in \$321,470 United States Currency, Alonso denied ownership of the cash at the time it was seized and has not adduced any evidence other than his naked possession (in circumstances pointing to the likelihood that he was a courier of drug money) to demonstrate a lawful possessory interest in the money. The district court did not abuse its discretion in denying the motion to set aside the default judgment.

AFFIRMED.