

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED

2007 JUN 25 PM 4: 27

CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY _____

DEPUTY

CIVIL ACTION NO. EP-07-CA-0181 FM
CRIMINAL NO. EP-05-CR-182 FM

GECU,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA and)
FRANK B. APODACA,)

DEFENDANT FRANK B. APODACA'S ANSWER TO PLAINTIFF'S ORIGINAL COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF

TO THE HONORABLE U.S. DISTRICT JUDGE FRANK MONTALVO:

COMES NOW, the Defendant, FRANK B. APODACA (hereinafter referred to as "APODACA") by and through his Attorney Ray Velarde and files this his answer to Plaintiff's Complaint as follows:

- 1) Defendant admits the allegations contained in paragraph 1 of Plaintiff's Original Complaint.
- 2) APODACA admits the allegations contained in paragraph 2 of Plaintiff's Original Complaint.
- 3) Defendant, APODACA admits that he was the named account holder of the GECU Certificate of Deposit number 03500181 at the time the Seizure Warrant was served upon Plaintiff, and is the lawful owner of the proceeds derived therefrom. Defendant, APODACA specifically denies that the United States of America has any lawful claim of entitlement to the funds reflected by such certificate of deposit.

AFFIRMATIVE DEFENSES AND CROSS CLAIM

- 4) Defendant, United States of America, hereinafter referred to as the government, has no lawful claim to APODACA's funds because that GECU account number was not specifically listed in the seizure warrant.
- 5) APODACA's funds have been unlawfully restrained by the government in violation of the 4th Amendment of the Constitution of the United States, and, pursuant to Fed. R. Crim. P. 41(g), APODACA moves the Court for an Order that the government immediately release those funds to APODACA.

6) APODACA's funds were legitimately obtained and do not represent the proceeds of an illegal transaction.

7) Petitioner's funds are not forfeitable under the laws of the United States.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant APODACA hereby prays that this Honorable Court order that he is the lawful owner of the account in question and for any and all relief to which he is justly entitled to in equity or law.

Respectfully submitted this 25th day of June 2007.



RAY VELARDE

State Bar No. 20539950

1216 Montana Avenue

El Paso, Texas 79902

(915) 532-6003/542-2341

Attorney for Defendant Frank B. Apodaca

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been hand-delivered/mailed to the following parties or counsel on this the 25th day of June 2007.

Mr. Fred J. Morton, 1101 Montana Avenue, El Paso, Texas 79902, Attorney for GECU.

Mr. David Rosado, Assistant United States Attorney, Richard C. White Federal Bldg., 700 E. San Antonio, Ste. 200, El Paso, Texas 79901.



RAY VELARDE