

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**UNITED STATES OF AMERICA** :  
 : **CASE NO. 21-cr-78 (RCL)**  
**v.** :  
 :  
**JOHN EARLE SULLIVAN,** :  
 :  
**Defendant.** :

**UNITED STATES’ RESPONSE TO  
DEFENDANT’S MOTION TO RETURN ASSETS SEIZED**

The United States files this response to notify the Court that it does not oppose defendant’s motion and intends to return the funds seized from defendant in this case.

By way of background, United States seized, pursuant to a court-ordered warrant, \$62,813.76 in funds defendant had made selling footage he had taken at the Capitol on January 6, 2021. *See* ECF No. 29 at 10 (explaining background of seizure). The supporting affidavit alleged probable cause to believe those funds were subject to both civil and criminal forfeiture as property “traceable to” the defendant’s violation of 18 U.S.C. § 1512(c)(2), pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461. *Id.*<sup>1</sup> In the Second Superseding Indictment (“SSI”), the United States alleged both a substantive violation of 18 U.S.C. § 1512(c)(2) and sought criminal forfeiture of proceeds traceable to that count, specifying \$89,875 in the defendant’s bank account ending in 7715 and \$1,000 in the Venmo account linked to the defendant’s bank account. ECF No. 56 at 2, 5–6. Defendant was convicted at trial on all operative counts of the SSI,<sup>2</sup> and the resulting judgment included a final order of criminal forfeiture. ECF No. 153 at 8. Defendant appealed to

---

<sup>1</sup> Judge Sullivan rejected defendant’s pre-trial motions to release seized funds and for a deprivation hearing. *United States v. Sullivan*, 575 F. Supp. 3d 1 (D.D.C. 2021); *United States v. Sullivan*, No. CR 21-78 (EGS), 2022 WL 3027007 (D.D.C. Aug. 1, 2022).

<sup>2</sup> Except a charge of violating 18 U.S.C. § 1001, which was dismissed leading up to trial.

the Circuit; during the pendency of that appeal, the United States moved to vacate the convictions and remand the case for dismissal, citing the President's Executive Order dated January 20, 2025. *See generally* 24-3051 (D.C. Cir.). After the Circuit vacated the judgment and remanded the case to this Court with instructions to dismiss, this Court dismissed the case as moot. ECF Nos. 163, 164. Defendant's instant motion to return the funds seized from him followed. ECF No. 165.

Because the conviction that was the basis of the criminal forfeiture has been vacated, the criminal forfeiture has been vacated as well. *See United States v. DeFries*, 129 F.3d 1293, 1312 (D.C. Cir. 1997) (per curiam) ("Because we reverse appellants' RICO convictions, the accompanying forfeitures must also be reversed."); *United States v. Cherry*, 330 F.3d 658, 670 (4th Cir. 2003) (vacating forfeiture judgment because it was premised on vacated bank embezzlement conviction). The seizure warrant contemplates holding funds pending disposition of the predicate criminal offense, which has now been vacated. *Sullivan*, 575 F. Supp. 1, 4 ("Once the government has obtained a seizure warrant pursuant to 21 U.S.C. § 853(f), the Federal Rules of Criminal Procedure provide for no further inquiry into the property's forfeitability until disposition of the criminal charges on which the forfeiture is predicated." (quoting *United States v. Bikundi*, 125 F. Supp. 3d 178, 184 (D.D.C. 2015))). Accordingly, the United States will seek to return the seized funds. *See also United States v. Ajrawat*, 738 F. App'x 136, 139 (4th Cir. 2018) (per curiam) ("Because Ajrawat's conviction has been extinguished, the order of forfeiture and the special assessment must be abated.").

The United States will commence steps to return any funds seized from defendant that is the subject of this motion. The United States further proposes that the parties file a joint status report in 30 days to inform the Court of its progress.

Respectfully submitted,

Edward Robert Martin, Jr.  
United States Attorney  
D.C. Bar No. 481866

/s/ Michael L. Barclay  
MICHAEL L. BARCLAY  
Assistant United States Attorney  
N.Y. Bar Reg. No. 5441423  
U.S. Attorney's Office for the District of  
Columbia  
601 D Street, NW Washington, D.C. 20001  
(202) 252-7669  
Michael.Barclay@usdoj.gov