

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

United States of America v. \$1,150,049.51316 TetherUS, et al.

United States v. \$1,150,049.51316 TetherUS · No. CV-23-00147-TUC-RM (MSA) · Decided March 2, 2026

SUMMARY

The District of Arizona overruled Claimant Haiqiang Lu’s objection and adopted a magistrate judge’s Report and Recommendation denying his motion to dismiss a civil forfeiture action involving TetherUS and Ethereum Classic. The court held that the notice requirements of 18 U.S.C. § 983 did not apply to this judicial forfeiture proceeding, that the Government’s delayed publication of notice was reasonable under the circumstances, and that Lu had not shown a due process violation. The court also held that the sufficiency of the allegations concerning the Ethereum Classic should be resolved at trial rather than at the pleading stage.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	U.S. District Court for the District of Arizona
DECIDED	March 2, 2026
DOCKET	CV-23-00147-TUC-RM (MSA)
DISPOSITION	other
PROCEDURAL POSTURE	Claimant Haiqiang Lu objected to a magistrate judge's Report and Recommendation recommending denial of his motion to dismiss a civil forfeiture action in rem. The district court reviewed the objected-to portions de novo, overruled the objection, adopted the Report and Recommendation, and denied the motion to dismiss.
STANDARD OF REVIEW	Under 28 U.S.C. § 636(b)(1), the district court reviews de novo those portions of a magistrate judge's report and recommendation to which a specific objection is made. Unobjected-to portions are reviewed for clear error.
PRECEDENTIAL VALUE	Unknown
PARTIES	United States of America

TOPICS

- motions to dismiss
- civil procedure
- due process
- remedies
- commercial litigation

PRACTICE AREAS

civil procedure

constitutional law

civil forfeiture

remedies

commercial litigation

QUESTIONS PRESENTED

1. Whether the Government violated 18 U.S.C. § 983 by failing to provide notice of the seizure within 60 days.
2. Whether the Government violated Federal Rule of Civil Procedure 4(n), Rule 4(m), or Supplemental Rule G(4)(a)(i) by delaying service or publication of notice.
3. Whether the delay between seizure, initiation of the forfeiture action, and notice violated Lu's due process rights under the *Barker v. Wingo* factors.
4. Whether the complaint sufficiently alleged that the seized Ethereum Classic was subject to forfeiture at the pleading stage.

HOLDINGS

1. Section 983(a)(1)(A)(i)'s 60-day notice requirement applies to nonjudicial civil forfeiture proceedings, not this judicial forfeiture action. Because the property was worth approximately \$2.3 million, it was generally ineligible for nonjudicial forfeiture.
2. Lu did not establish a basis for dismissal under Rule 4(n), Rule 4(m), or Supplemental Rule G(4)(a)(i). Lu was not a defendant subject to Rule 4(m)'s 90-day service requirement, and the Government's delayed publication of notice was reasonable under the circumstances because the action was sealed during an ongoing criminal investigation.
3. At this stage, the delay did not establish a due process violation. Applying the four *Barker* factors, the Government offered a sufficient justification based on its ongoing criminal investigation, Lu asserted his rights, and Lu failed to show actual prejudice resulting from the delay.
4. The complaint sufficiently remained in the action at the pleading stage because the forfeitability of a portion of the property should be adjudicated at trial, not on a motion to dismiss, and the Government need not show at the pleading stage that every item of claimed property is tainted.

KEY QUOTATIONS

“This case involves judicial forfeiture proceedings, so the notice provision at issue does not apply.” (at 3)

“Application of the Barker factors is a case-specific inquiry; “none of [them] [are] a necessary or sufficient condition for finding unreasonable delay.”” (at 6)

“the forfeitability of the Ethereum Classic “should not be determined at the pleading stage, but at trial”” (at 10)

FACTUAL BACKGROUND

A federal magistrate judge issued a warrant authorizing seizure of cryptocurrency from Haiqiang Lu's Binance account based on an FBI affidavit stating that the account contained proceeds of a broad fraud and money-

laundering conspiracy. Approximately \$2.3 million in cryptocurrency was seized, including Tether and Ethereum Classic. The Government filed a civil forfeiture action under seal while an ongoing criminal investigation proceeded, later publishing notice after the case was unsealed. Lu challenged the timing and adequacy of notice, asserted due process violations based on the delay, and argued that the complaint did not sufficiently allege that the Ethereum Classic was forfeitable.

PROCEDURAL HISTORY

The Government filed a sealed civil forfeiture complaint on March 27, 2023, concerning cryptocurrency seized from Lu's Binance account. After the case was unsealed, the Government published and mailed notice, and Lu filed a claim and motion to dismiss. Magistrate Judge Maria S. Aguilera recommended denying the motion. The district court adopted the recommendation after considering Lu's objections.

DISPOSITION

other

CASES CITED

- *Omidi v. United States*, 851 F.3d 859, 861-62 (9th Cir. 2017)
- *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999)
- *Prior v. Ryan*, CV 10-225-TUC-RCC, 2012 WL 1344286, at *1 (D. Ariz. Apr. 18, 2012)
- *United States v. Eight Thousand Eight Hundred & Fifty Dollars (\$8,850) in U.S. Currency*, 461 U.S. 555, 560-61, 564-65, 569 (1983)
- *United States v. \$12,248 U.S. Currency*, 957 F.2d 1513 (9th Cir. 1992)
- *Barker v. Wingo*, 407 U.S. 514, 530 (1972)
- *Doggett v. United States*, 505 U.S. 647, 651-57 (1992)
- *United States v. Reynolds*, 231 F. App'x 629, 631 (9th Cir. 2007)
- *United States v. Approximately \$1.67 Million (US) in Cash, Stock & Other Valuable Assets Held by or at 1) Total Aviation Ltd.*, 513 F.3d 991, 995, 1001 (9th Cir. 2008)
- *United States v. Shell*, 974 F.2d 1035 (9th Cir. 1992)
- *United States v. Myers*, 930 F.3d 1113, 1123 (9th Cir. 2019)
- *United States v. Gregory*, 322 F.3d 1157, 1162-63 (9th Cir. 2003)
- *United States v. Lazarenko*, 564 F.3d 1026, 1035 (9th Cir. 2009)
- *U.S.A. v. Omidi*, No. CR 17-661(A)-DMG, 2021 WL 7629897 (C.D. Cal. June 15, 2021)
- *United States v. Aguilar*, 782 F.3d 1101, 1109 (9th Cir. 2015)
- *United States v. One Parcel of Real Prop.*, 921 F.2d 370, 375 (1st Cir. 1990)
- *Lusnak v. Bank of Am., N.A.*, 883 F.3d 1185, 1194 n.6 (9th Cir. 2018)

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