

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

No. 2:16-CR-6

v.

Hon. Paul L. Maloney  
United States District Judge

SPENCER TROY WARD,

Defendant.

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**PRELIMINARY ORDER OF FORFEITURE**

On April 14, 2017, Defendant Spencer Troy Ward pled guilty to Count 4 of the Third Superseding Indictment, which charged him with conspiracy to manufacture, distribute, and possess with intent to distribute marijuana plants and marijuana, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(B)(vii). Defendant Ward pled guilty to this charge without a plea agreement. The Third Superseding Indictment contained a Forfeiture Allegation applicable to Count 4, whereby the government placed Defendant Ward on notice that upon conviction of Count 4, the government would seek to forfeit, *inter alia*, the real property commonly known as 14747 N. Paynesville Road, Bruce Crossing, Ontonagon County, Michigan, which is fully described as:

Parcel 1: The North half of the South East quarter of the North East quarter of Section 24, Township 48 North, Range 39 West, in Stannard Township, Ontonagon County, Michigan.

Parcel 3: The South West quarter of the North East quarter of Section 24, Township 48 North, Range 39 West, in Stannard Township, Ontonagon County, Michigan.

Parcel 1 & 3: Further described as:  
SECTION 24 T48N R39W THE SW 1/4 OF NE 1/4; THE N 1/2  
OF SE 1/4 OF NE 1/4.  
Parcel No. 11-224-004-00;  
Titled in the name of Spencer T. Ward.

Parcel 2: The South half of the North half of the North half of the South West quarter of Section 19, Township 48 North, Range 38 West, in Stannard Township, Ontonagon County, Michigan.

Parcel No. 66-11-019-014-00,  
Titled in the name of Spencer T. Ward

(hereinafter, the “Subject Property”).

On July 24, 2017, the Court held Defendant Ward’s forfeiture phase of trial. In advance of the forfeiture phase of trial the government submitted a motion for a preliminary order of forfeiture for the Subject Property and supporting memorandum of law. Defendant Ward filed an opposition brief and the government filed a reply brief.

Federal Rule of Criminal Procedure 32.2(b)(1)(A) provides that “[i]f the government seeks forfeiture of specific property, the court must determine whether the government has established the requisite nexus between the property and the offense.” The applicable criminal forfeiture statute is 21 U.S.C. § 853(a)(2), which establishes that the punishment for controlled substance offenses includes forfeiture of “any of the person’s property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of [the offense].” Federal Rule of Criminal

Procedure 32.2(b)(1)(B) provides that a court's determination regarding forfeiture may be based on "evidence already in the record...and on any additional evidence or information submitted by the parties and accepted by the court as relevant and reliable." Because forfeiture concerns punishment and is not a separate offense, the government has the burden to prove forfeiture by a preponderance of the evidence. *United States v. Hall*, 411 F.3d 651, 654 (6th Cir. 2005).

Upon consideration of the parties' briefs and the evidence and argument received by the Court at the forfeiture phase of trial held on July 24, 2017, Magistrate Judge Timothy P. Greeley issued a Report and Recommendation (R.306; PageID.1249-1259). Magistrate Judge Greeley determined that Parcels I and III facilitated Ward's offense. (*Id.*, PageID.1256.) Magistrate Judge Greeley also determined that, under the Sixth Circuit's decision in *United States v. Smith*, 966 F.2d 1045 (6th Cir. 1992), the three parcels that comprise 14747 N. Paynesville Road constitute one property for purposes of forfeiture under 21 U.S.C. § 853(a). Accordingly, Magistrate Judge Greeley opined that the entirety of the Subject Property is subject to forfeiture under 21 U.S.C. § 853.

Neither party objected to Magistrate Judge Greeley's Report and Recommendation and the Court adopted it on September 11, 2017. (R.311, PageID.1315.) This Court finds that Defendant Ward used part of the Subject Property to facilitate the commission of the conspiracy to which he has pled guilty. The government has established the requisite nexus between Defendant Ward's count of conviction and the Subject Property.

Therefore, **IT IS HEREBY ORDERED** that the Subject Property is forfeited to the United States of America pursuant to 21 U.S.C. § 853(a)(2).

**IT IS FURTHER ORDERED** that the United States Marshals Service and/or the Federal Bureau of Investigation seize the Subject Property and dispose of the same in accordance with applicable law and regulations.

**IT IS FURTHER ORDERED** that notice of this forfeiture shall be published in accordance with 21 U.S.C. § 853(n)(1).

**IT IS FURTHER ORDERED** that any third party wishing to assert an interest in the Subject Property must petition the Court in accordance with 21 U.S.C. § 853(n)(2) and (3).

**IT IS FURTHER ORDERED** that pursuant to Fed. R. Crim. P. 32.2(b)(4)(B), this Order of Forfeiture shall become final as to Defendant at the time of sentencing, and shall be made part of the sentence and included in the judgment.

**IT IS FURTHER ORDERED** that the United States District Court shall retain jurisdiction in this case for the purpose of enforcing this Order.

**SO ORDERED.**

Dated: \_\_\_\_\_

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PAUL L. MALONEY  
United States District Judge