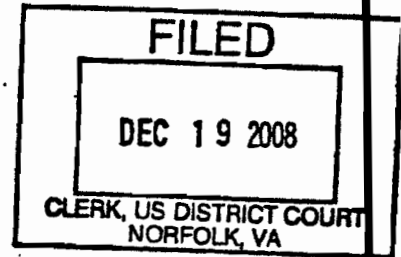


THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA

Norfolk Division



UNITED STATES OF AMERICA, )  
 )  
 v. ) CRIMINAL NO. 2:07CR14  
 )  
 DAVID KELLY, JR., )  
 )  
 Defendant. )

**ORDER**

WHEREAS, on May 16, 2008, Defendant David Kelly, Jr. was convicted following a jury trial of counts 1, 2, 7 and 8 of the Indictment charging drug trafficking, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 18 U.S.C. § 2.,

AND WHEREAS, on September 22, 2008 the Court entered a Preliminary Order of Forfeiture forfeiting a monetary judgment and real property located at 3016 East Princess Anne Road, Norfolk, Virginia and property known as Parcel ID# 832-688-5683, Book #001767, page # 001493, Circuit Court of Henrico County, Virginia, located south of Darbytown Road, Richmond, Virginia ("forfeited properties") to the United States of America,

AND WHEREAS, the United States sent notice to all interested parties of the preliminary order of forfeiture and published notice of the forfeiture on [www.forfeiture.gov](http://www.forfeiture.gov) for 30 consecutive days,

AND WHEREAS, Bayview Loan Services has filed a claim asserting a security interest in the Princess Anne Road property and the government and Bayview have reached agreement as to Bayview's interest in said property as evidenced by the endorsement of the parties hereto,

AND WHEREAS, on November 10, 2008, Barbara Hughes ("Claimant") filed an answer

and claim with the Court asserting an interest in the forfeited real properties,

AND WHEREAS, no other claims have been filed as to any property listed in the September 22, 2008, Preliminary Order of Forfeiture.

AND WHEREAS, on November 25, 2008, the government filed a Motion To Dismiss Answer and Claim of Barbara Hughes or In The Alternative For Summary Judgment with the Court,

AND WHEREAS, on November 25, 2008, a copy of the government's Motion To Dismiss Answer and Claim of Barbara Hughes, or In The Alternative For Summary Judgment was mailed to the Claimant, to counsel for Defendant David Kelly, Jr. and to counsel for Bayview Loan Servicing,

AND WHEREAS, the government asserts in its Motion To Dismiss Answer and Claim of Barbara Hughes, or In The Alternative For Summary Judgment that the Claimant's Answer and Claim failed to meet the requirements of 21 U.S.C. § 853(n)(A) and (B) because Ms Hughes does not have a legal interest in either of the real properties which she claims,

AND WHEREAS, Mrs. Hughes did not respond to the government's motion to dismiss her claim, but having reviewed the submissions by Ms. Hughes and the exhibits attached to the government's motion, the Court concludes that Ms. Hughes has no legal interest in either real property as required by 21 U.S.C. §853(n)(6),

**IT IS HEREBY ORDERED:**

The government's Motion To Dismiss Answer and Claim of Barbara Hughes, or In The Alternative For Summary Judgment is GRANTED.

The Answer and Claim of Barbara Hughes is hereby DISMISSED WITH

**PREJUDICE.**

As no other claim has been filed to the real property known as:

Parcel ID# 832-688-5683, Book #001767, page # 001493, Circuit Court of Henrico County, Virginia, [CATS No. 06-DEA-473537] located south of Darbytown Road, Richmond, Virginia, including all appurtenances and attachments thereto, and more particularly described as:

*✍* **ALL THAT** certain tract or parcel of land, together with the right-of-way for ingress and egress, lying and being in the Varina District, Henrico County, Virginia, all as shown on a certain plat by Harvey L. Parks, C.L.S., dated October 25, 1978 and entitled "Plat of 2.00 Acres situated on the southern line of Darbytown Road and being a portion of the Sarah E. Brown property (Parcel B) lying in Varina District, Henrico County, Virginia", to which plat, a copy of which is attached hereto and made a part hereof, reference being made for a more particular description of the property hereby conveyed. *J*

and as to the property known as:

3016 Princess Anne Road, Norfolk, VA 23504, [CATS No. 06-DEA-473539] including all appurtenances and attachments thereto, and more particularly described as:

**ALL THOSE** certain lots, pieces or parcels of land, with the buildings and improvements thereon, lying, situate and being in the City of Norfolk, Virginia, and being known, numbered and designated as Lots forty (40) through Forty-seven (47) inclusive, Block 55, as shown on that certain plat entitled, "Subdivision No. 3, Ballentine Place", which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake (formerly Norfolk County), Virginia, in Map Book 10, at page 23; reference to which plat 23; reference to which plat is hereby made for a more particular description of the location and dimensions of said property.

Tax Id # 8231-9505 and 8231-9500

the United States shall have clear title to both parcels, and this order shall constitute a **FINAL ORDER OF FORFEITURE** as to both parcels.

The Court **GRANTS** the petition of Bayview Loan Services in the amount of

..... of December 1, 2008 with interest accruing at the rate of ..... paid.

Payment shall be made from the net proceeds of sale to: Bayview Loan Services, c/o M. Richard Epps, PC, 605 Lynnhaven Parkway, Virginia Beach, VA 23452.

This order shall be recorded among the land records of the jurisdiction in which the above real properties are located, and shall operate to release, relinquish and extinguish any and all interests in the real property not otherwise protected by this order.

The United States Marshals Service and/or its duly appointed agent are directed to seize the forfeited properties and take full and exclusive custody and control of same. The United States Marshals Service and/or its duly authorized agent are authorized to make immediate entry into the forfeited real properties for the purposes of inspection, preservation, security, and safety, and for any other purpose related to the forfeiture of the property.

All right, title and interest in the foregoing forfeited properties vests in the United States as of the date of this Order.

The United States shall dispose of the forfeited properties according to law.

The Clerk is directed to send a certified copy of this order to the United States Attorney's office, Barbara Hughes, Jon M. Babineau, Esquire and M. Richard Epps, Esquire.

  
UNITED STATES DISTRICT JUDGE

At Norfolk, Virginia.

This 18<sup>th</sup> day of December 2008.

WE ASK FOR THIS:

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A TRUE COPY, TESTE:  
CLERK, U.S. DISTRICT COURT  
BY Mauani Lewton  
DEPUTY CLERK