APPENDIX

APPENDIX A United States District Judge Aleta A. Trauger's July 09, 2015 Order

APPENDIX B Sixth Circuit Court Of Appeals Opinion(s).

APPENDIX A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA **Plaintiff,**	]	
v.	]	**No. 3:06-1156** **Judge Trauger**
REAL PROPERTIES and PREMISES KNOWN AS 323 FORREST PARK DRIVE, UNIT 2-4, MADISON, DAVIDSON COUNTY, TENNESSEE, and 808 NORTH FIFTH STREET, NASHVILLE, DAVIDSON COUNTY, TENNESSEE, WITH ALL APPURTENANCES and IMPROVEMENTS THEREON **Defendant.**	]	
AMILCAR C. BUTLER **Claimant.**	]	

ORDER

This was a civil forfeiture action filed by the United States against two properties. In a Memorandum (Docket Entry No. 44) entered March 28, 2008, the Court determined that the claimant, Amilcar Butler, lacked "statutory standing to pursue claims in relation to the Defendant Properties". *Id.* at pg. 10. Thus, his claims challenging the forfeiture were dismissed. Docket Entry No. 45.

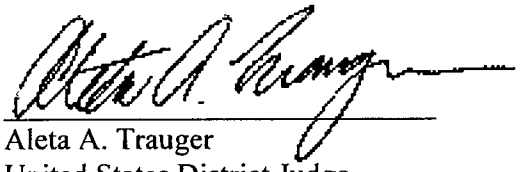
On appeal, the Sixth Circuit Court of Appeals affirmed the dismissal of Butler's claims. Docket Entry No. 143. The United States Supreme Court later denied claimant's petition for a writ of certiorari. Docket Entry No. 146.

Presently before the Court is claimant's *pro se* Rule 60(b)(4) Petition for Relief From Void

Judgment (Docket Entry No. 147).

Having already found that the claimant lacked statutory standing to challenge the forfeiture of the Defendant Properties, the claimant also lacks standing to challenge what he perceives to be a void judgment authorizing the forfeiture. Accordingly, the claimant's Rule 60(b)(4) Petition is hereby DENIED for that reason.

It is so ORDERED.



Aleta A. Trauger
United States District Judge

APPENDIX B

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 15-6126

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

REAL PROPERTIES AND PREMISES KNOWN AS 323 FORREST PARK DRIVE, UNIT 2-4, MADISON, DAVIDSON COUNTY, TENNESSEE, et al.,

Defendants,

and

AMILCAR C. BUTLER,

Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

ORDER

Before: CLAY, McKEAGUE, and DONALD, Circuit Judges.

Amilcar C. Butler, a federal prisoner proceeding pro se, appeals the district court's order denying his Federal Rule of Civil Procedure 60(b)(4) motion seeking relief from the district court's civil forfeiture judgment. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

In 2002, a jury found Butler guilty of conspiracy to possess with intent to distribute five kilograms or more of cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846, and attempted possession of five kilograms or more of cocaine in violation of 21 U.S.C. § 841. The district

court sentenced Butler to a term of life imprisonment. We affirmed Butler's conviction and sentence on direct appeal. *United States v. Butler*, 137 F. App'x 813 (6th Cir. 2005).

In 2006, the government brought a civil forfeiture action against two real properties—323 Forrest Park Drive, Unit 2-4, Madison, Davidson County, Tennessee; and 808 North Fifth Street, Nashville, Davidson County, Tennessee—alleging that Butler used these properties in connection with his drug-trafficking activities. The district court issued a notice requiring any person claiming an interest in the properties to file a claim within thirty days of receiving the notice, and to file an answer to the forfeiture complaint within twenty days of filing a claim. The government sent Butler notice of the complaint, and Butler subsequently filed several documents in the district court addressing the forfeiture action. The government moved for summary judgment, alleging that Butler lacked statutory standing to contest the forfeiture action because, although he had filed various documents in the district court, he had not filed a claim or an answer as required by the district court's notice. The district court granted the motion, and we affirmed. *United States v. 323 Forest Park Drive*, 521 F. App'x 379, 385 (6th Cir. 2013).

In May 2015, Butler filed a Federal Rule of Civil Procedure 60(b)(4) motion seeking relief from the civil forfeiture judgment. In his motion, Butler alleged that the judgment was void because the government did not file its forfeiture action within the relevant limitations period and because the government did not establish a nexus between his drug-trafficking activities and the properties. The district court denied the motion, holding that, because Butler lacked standing to challenge the forfeiture action, he also lacked standing to challenge what he perceived to be a void judgment. The district court denied Butler leave to proceed in forma pauperis ("IFP") on appeal. We subsequently denied Butler IFP status. *United States v. 323 Forrest Park Drive*, No. 15-6126 (6th Cir. Feb. 22, 2017) (order).

Having paid the filing fee, Butler argues again that the civil forfeiture judgment is void because the government did not commence the forfeiture action within the relevant limitations period and because the government did not establish a nexus between the properties and his drug-trafficking activities. He maintains that discovery will enable him to support his timeliness

claim. He further contends that the government should be barred from filing a response because the government's counsel filed a late notice of appearance.

Federal Rule of Civil Procedure 60(b)(4) permits a court to relieve a party from a final judgment, order, or proceeding where "the judgment is void." We review de novo a district court's denial of a Rule 60(b)(4) motion. *Northridge Church v. Charter Twp. of Plymouth*, 647 F.3d 606, 611 (6th Cir. 2011).

The district court properly found that Butler lacked standing to challenge what he perceived to be a void judgment. Our determination that Butler lacked standing to challenge the government's forfeiture action is law of the case and forecloses Butler's current attempt to challenge the validity of the forfeiture judgment. *See Scott v. Churchill*, 377 F.3d 565, 569 (6th Cir. 2004).

Accordingly, we **AFFIRM** the district court's order.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

No. 15-6126

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Feb 15, 2018
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

REAL PROPERTIES AND PREMISES KNOWN AS 323 FORREST PARK DRIVE, UNIT 2-4, MADISON, DAVIDSON COUNTY, TENNESSEE, ET AL.,

Defendants,

AMILCAR C. BUTLER,

Appellant.

ORDER

BEFORE: CLAY, McKEAGUE, and DONALD, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk