

**NONPRECEDENTIAL DISPOSITION**

To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals**

**For the Seventh Circuit  
Chicago, Illinois 60604**

Submitted May 4, 2023\*

Decided May 15, 2023

**Before**

ILANA DIAMOND ROVNER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-2662

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

DANIEL E. SALLEY,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Northern District of Illinois,  
• Eastern Division.

No. 1:01-cr-00750

Sharon Johnson Coleman,  
*Judge.*

**ORDER**

Daniel Salley, a federal prisoner, appeals the denial of his motion to recover property that was allegedly seized during the government's investigation and prosecution of his criminal offenses. The district court denied this motion on the ground that Salley's sizable restitution balance precluded him from recouping anything from

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\* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

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the government. We affirm, but on a separate ground. Because Salley filed his motion nine years after the statute of limitations expired, it is time-barred, and we therefore affirm.

The sentence for Salley's 2006 conviction for attempted murder and bank robbery, 18 U.S.C. §§ 1113, 2113(d), required him to pay approximately \$3.5 million in restitution. In May 2021, fifteen years into his prison term of life plus 132 years, Salley filed a "motion for the return of all properties." In it, he demanded the return of certain personal property and assets, such as bank accounts, that the government allegedly had seized around the time of his arrest in 2001 but had never acquired through forfeiture. He estimated "the equivalent of all property seized, interfered with, denied access to" to be \$555 quintillion and requested that sum as damages. Before receiving a ruling, on February 8, 2022, Salley filed another motion, this time asking for the return of funds allegedly seized under the Treasury Offset Program (TOP) on the grounds that the amount exceeded his debts to federal agencies. The government did not respond to either motion.<sup>1</sup>

The district court denied the motion for return of TOP funds on February 17, 2022. The court noted that Salley had failed to show that he had paid \$3.5 million in restitution, which had grown to more than \$5 million. The court held that Salley had to repay that debt before he could seek to recoup any funds from the government. More than six months later, on September 2, 2022, the district court ruled on Salley's May 2021 motion for return of property, denying the motion "for the same reasons" that it had stated in the February 2022 order. Salley filed a notice of appeal on September 19, 2022.

On appeal, Salley primarily discusses issues related to his TOP motion, but the 60-day window to appeal the order of February 17, 2022, closed in April 2022. *See* FED. R. APP. P. 4(a)(1)(B); 28 U.S.C. § 2107(b)(1). Thus, we have no jurisdiction to review that ruling. *Bowles v. Russell*, 551 U.S. 205, 209–13 (2007). As to the district court's September 2, 2022, order, Salley's notice of appeal is timely.

Turning to that September 2, 2022, order, Salley's motion for the return of his property was properly denied. The government points out on appeal that Salley had six years from the conclusion of his criminal proceedings to seek the return of any seized

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<sup>1</sup> Unlike with Salley's motion for compassionate release, which was pending at the same time, the district court did not set a briefing schedule.

property. See FED. R. CRIM. P. 41(g); *United States v. Sims*, 376 F.3d 705, 708–09 (7th Cir. 2004). His motion, filed 15 years after sentencing, was too late, and its denial was proper.

Finally, Salley appended a motion for sanctions to his reply brief, asserting that government counsel deliberately lied about the mailing date on a certificate of service. We do not consider purported motions made in briefs. See FED. R. APP. P. 38; *Kennedy v. Schneider Elec.*, 893 F.3d 414, 421–22 (7th Cir. 2018). We note, however, that Salley’s assertions appear unwarranted by the record.

AFFIRMED

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



Office of the Clerk  
Phone: (312) 435-5850  
[www.ca7.uscourts.gov](http://www.ca7.uscourts.gov)

## FINAL JUDGMENT

May 15, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*  
JOHN Z. LEE, *Circuit Judge*  
DORIS L. PRYOR, *Circuit Judge*

No. 22-2662	UNITED STATES OF AMERICA, Plaintiff - Appellee  v.  DANIEL E. SALLEY, Defendant - Appellant
<b>Originating Case Information:</b>	
District Court No: 1:01-cr-00750-1 Northern District of Illinois, Eastern Division District Judge Sharon Johnson Coleman	

The judgment of the District Court is **AFFIRMED** in accordance with the decision of this court entered on this date.

A handwritten signature in cursive script, appearing to read "Christopher Conway".

Clerk of Court

form name: c7\_FinalJudgment (form ID: 132)

Appendix A

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**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.3.3  
Eastern Division**

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No.: 1:01-cr-00750

Honorable Sharon Johnson Coleman

Daniel E Salley

Defendant.

**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Thursday, February 17, 2022:

MINUTE entry before the Honorable Sharon Johnson Coleman as to Daniel E Salley: The Court denies defendant's motion for the government to return all seized funds that are over the debts he owes [224]. Defendant's balance due on his U.S. Department of Justice Administrative Offset Notice as of February 13, 2019, was \$5,318,416.64, which includes \$3,493,283.30 of restitution he owes from his February 9, 2006 criminal judgment in this court. Defendant has not provided any evidence that he has paid this amount or that he no longer owes this amount since the February 2019 notice, and thus defendant's motion is not ripe for this Court's review. Mailed notice. (ym, )

**ATTENTION:** This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF NextGen 1.6.3  
Eastern Division**

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No.: 1:01-cr-00750

Honorable Sharon Johnson Coleman

Defendant.

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**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Friday, September 2, 2022:

MINUTE entry before the Honorable Sharon Johnson Coleman as to Daniel E Salley: The Court denies defendant's motion for the return of property [208] for the same reasons the Court denied defendant's motion for a return of funds on February 8, 2022 [225]. Mailed notice. (ym, )

**ATTENTION:** This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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# United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

July 17, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-2662

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

DANIEL E. SALLEY,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Northern District of Illinois,  
Eastern Division.

No. 1:01-cr-750

Sharon Johnson Coleman,  
*Judge.*

## ORDER

Defendant-appellant filed a petition for rehearing and rehearing *en banc* on June 30, 2023. No judge in regular active service has requested a vote on the petition for rehearing *en banc*, and all members of the original panel have voted to deny panel rehearing. The petition for rehearing and rehearing *en banc* is therefore DENIED.

Appendix C

**Additional material  
from this filing is  
available in the  
Clerk's Office.**