

APPENDIX "A"

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 24-2013

United States of America

Plaintiff - Appellee

v.

John Charles Schnekenburger

Defendant - Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:17-cr-00082-SMR-1)

CORRECTED JUDGMENT

Before SMITH, KELLY, and STRAS, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered that the orders of the district court denying the motion to return property and the motion for reconsideration are summarily affirmed. See Eighth Circuit Rule 47A(a).

August 01, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik

APPENDIX "B"

Orders on Motions

3:17-cr-00082-SMR-SBJ USA v. Schnekenburger CASE CLOSED on 01/16/2019

Paper recipients: 1 Mailing Labels

U.S. District Court

Southern District of Iowa

Notice of Electronic Filing

The following transaction was entered on 4/9/2024 at 5:01 PM CDT and filed on 4/9/2024

Case Name: USA v. Schnekenburger

Case Number: 3:17-cr-00082-SMR-SBJ

Filer:

Document Number: 96 --

Docket Text:

TEXT ORDER: The Court previously denied defendant John Charles Schnekenburger's [80] Notice of Resistance to Forfeiture for the reasons stated in the government's [84] Response to defendant's Resistance of Final Order of Forfeiture. [See ECF No. 87]. In light of the Court's previous Order, Defendant Schnekenburger's [95] Pro Se Motion for Return of Property is DENIED. Signed by Chief Judge Stephanie M. Rose on 4/9/2024. Copy of this order mailed to Defendant Schnekenburger - DANBURY - FCI at the address provided on the docket. (mkh)

...3:17-cr-00082-SMR-SBJ-1 Notice has been delivered by other means to:

John Charles Schnekenburger #81008-408

DANBURY - FCI

Inmate Mail/Parcels

33 1/2 Pembroke Station

Route 37

Danbury CT 06811

Orders on Motions

3:17-cr-00082-SMR-SBJ USA v. Schnekenburger CASE CLOSED on 01/16/2019

Paper recipients: 1 Mailing Labels

U.S. District Court

Southern District of Iowa

Notice of Electronic Filing

The following transaction was entered on 5/1/2024 at 3:07 PM CDT and filed on 5/1/2024

Case Name: USA v. Schnekenburger

Case Number: 3:17-cr-00082-SMR-SBJ

Filer:

Document Number: 98

Docket Text:

TEXT ORDER denying [97] PRO SE MOTION for Reconsideration re the Court's [96] Order on Pro Se Motion for Return of Property [95] as to John Charles Schnekenburger. Signed by Chief Judge Stephanie M. Rose on 5/1/2024. Copy of this order mailed to Defendant Schnekenburger - DANBURY - FCI at the address provided on the docket. (mkh)

...3:17-cr-00082-SMR-SBJ-1 Notice has been delivered by other means to:

John Charles Schnekenburger #81008-408

DANBURY - FCI

Inmate Mail/Parcels

33 1/2 Pembroke Station

Route 37

Danbury CT 06811

APPENDIX "C"

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)
vs.) NO. 3:17-cr-00082-SMR-SBJ
Plaintiff,)
vs.) PRELIMINARY ORDER OF
JOHN CHARLES SCHNEKENBURGER,) FORFEITURE
Defendant.)

On review of the United States' Motion for Preliminary Order of Forfeiture, IT IS
HEREBY ORDERED THAT:

1. Based on the Affidavit of Special Agent James E. McMillan, the following property contained sexually explicit conduct involving children and/or was used in the commission of the offense to which the Defendant pled guilty and is subject to forfeiture:
 - a. Dell XPS computer, service tag D9LDK02;
 - b. Dell Dimension 8250 computer, service tag 4PZTQ21;
 - c. Black/white PNY flash drive;
 - d. Black PNY 8GB flash drive;
 - e. Black SanDisk Cruzer Glide 8GB flash drive with handwritten label "Windows 7";
 - f. Black PNY 16GB flash drive with handwritten label "new recover";
 - g. Black Transcend 1GB flash drive;
 - h. Seagate external hard drive, model SRD0NF2, S/N NA8EXEGV;
 - i. Samsung Galaxy Note II cell phone, gray in color with charger; and
 - j. Samsung Galaxy Note Edge cell phone with charger.
2. Upon the entry of this Order, the United States is authorized to seize the above-listed property and to conduct any discovery proper in identifying, locating or disposing of the property subject to forfeiture, in accordance with Federal Rule of Criminal Procedure 32.2(b)(3).
3. Upon entry of this Order, the United States is authorized to commence any applicable proceeding to comply with statutes governing third party rights, including giving notice of this Order.

4. The United States shall publish notice of the order and its intent to dispose of the property in such a manner as the United States may direct. The United States may also, to the extent practicable, provide written notice to any person known to have an alleged interest in the subject property.

5. Any person, other than the above-named Defendant, asserting a legal interest in the subject property may, within thirty days of the final publication of notice or receipt of notice, whichever is earlier, petition the court for a hearing without a jury to adjudicate the validity of his/her alleged interest in the subject property, and for an amendment of the order of forfeiture under 21 U.S.C. § 853(n)(2).

6. Pursuant to Federal Rule of Criminal Procedure 32.2(b)(4)(A), the Preliminary Order of Forfeiture shall become final as to the Defendant at the time of sentencing or at any time before sentencing if the Defendant consents and shall be made part of the sentence and included in the judgment. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Federal Rule of Criminal Procedure 32.2(c)(2).

7. Any petition filed by a third party asserting an interest in the subject property shall be signed by the petitioner under penalty of perjury and shall set forth:

- a. the nature and extent of the petitioner's right, title, or interest in the subject property;
- b. the time and circumstances of the petitioner's acquisition of the right, title or interest in the subject property;
- c. any additional facts supporting the petitioner's claim; and
- d. the relief sought.

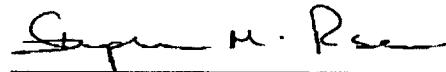
8. After the disposition of any motion filed under Federal Rule of Criminal Procedure 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

9. Pursuant to 21 U.S.C. § 853(n)(7), the United States shall have clear title to the subject property following the Court's disposition of all third-party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853(n)(2).

10. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

IT IS SO ORDERED.

Dated this 18th day of September, 2018.



STEPHANIE M. ROSE
UNITED STATES DISTRICT JUDGE

APPENDIX "D"

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT

UNITED STATES OF AMERICA, Plaintiff, Vs. JOHN CHARLES SCHNEKENBURGER., Defendant.	CASE NO. 3:17-CR-00082 RESISTANCE TO FINAL ORDER OF FORFEITURE
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COMES NOW, Timothy McCarthy, II attorney for Defendant John Schnekenburger., and hereby submits his resistance to the final order of forfeiture in this matter and in support thereof states the following:

1. That a final order of forfeiture was filed on February 12, 2019.
2. That the Defendant resists the forfeiture of the Dell XPS computer, service tag D9LDK02 as it contained no illegal material.

RESPECTFULLY SUBMITTED:

/s/ Timothy McCarthy, II
Aaron D. Hamrock (AT0005148)
McCARTHY & HAMROCK, P.C.
1200 Valley West Drive, Ste. 400
West Des Moines, IA 50266
PH: (515) 279-9700
FAX: (515) 279-8355
EMAIL: tim@mccarthyandhamrock.com
ATTORNEY FOR DEFENDANT.

APPENDIX "E"

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)
v.) Criminal No. 3:17-cr-00082
JOHN CHARLES SCHNEKENBURGER,)
Defendant.)

RESPONSE TO DEFENDANT'S RESISTANCE OF FINAL ORDER OF FORFEITURE

COMES NOW THE UNITED STATES OF AMERICA, and files its Response to Defendant's Resistance to Final Order of Forfeiture.

1. On September 18, 2018, this Court entered its Preliminary Order of Forfeiture, which included the computer whose forfeiture the Defendant now resists. The affidavit attached to the Motion of Preliminary Order of Forfeiture declares that the computer at issue was involved with the commission of the offense. The Defendant did not object.

2. On January 16, 2019, this Court entered its Judgment, which forfeited the Defendant's interest in the computer whose forfeiture he now contests.

3. Assuming, for the sake of argument, the Defendant has a legitimate basis to contest the forfeiture, his time to do so would have been prior to entry of the preliminary order of forfeiture.

4. Because Defendant's interest in the property was extinguished by the Judgment, he has no standing to object to the final order of forfeiture.

APPENDIX "F"

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MAILED 4-16-24

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,

v.

JOHN SCHNEKENBURGER,
Defendant

}
} Case No. 3:17-cr-00082-SMR-SBJ

MOTION FOR RECONSIDERATION

Now comes the Defendant, John Schnekenburger, pro se, and hereby respectfully moves this Honorable court for reconsideration of the Court's Text Order dated April 9, 2024.

The Court ~~denied~~ denied Defendant's Motion for Return of Property based on the Court's prior Order regarding forfeiture. However, Defendant had requested in his motion either the return of property or be provided with the data on those seized devices. The Defendant is seeking reconsideration of his motion to seek the return of only the non-contraband data from the seized devices. That data includes, but is not limited to, architectural project files, business files, music files, medical records, tax records, and family photos. The data contains ten (10) years or more worth of these files, which are Defendant's only copies. Some family photos are of deceased family members and therefore are irreplaceable. The Defendant can provide the Government with a newly purchased storage device to put the non-contraband files on. None of the files sought by Defendant were evidence in this matter and none of the files sought were contraband.

As such, the Defendant respectfully requests that the Court reconsider its Order denying the return of property and respectfully asks the Court to Order the Government to provide Defendant with the non-contraband files from those seized devices.