

IN THE SUPREME COURT OF THE STATE OF NEVADA

RUDOLFO A. AGUAS A/K/A
RUDELPHO ANTONIO AGUAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54103

FILED

APR 07 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a petition for delivery of seized property.¹ Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Having reviewed the record on appeal, we conclude that substantial evidence supports the decision of the district court to deny relief and that the district court did not err as a matter of law. Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994). We therefore affirm the denial of the petition for the reasons stated in the attached district court order. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Connie J. Steinheimer, District Judge
Rudelfo Antonio Aguas
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

1 CODE 3370
2 Richard A. Gammick
3 #001510
4 P.O. Box 30083
5 Reno, NV 89520-3083
6 (775) 328-3200
7 Attorney for Plaintiff

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10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
11
12 IN AND FOR THE COUNTY OF WASHOE.

13 * * *

14 THE STATE OF NEVADA,

15 Plaintiff,

16 Case No. CR07-2095

17 v.

18 Dept. No. 4

19 RUDOLFO AGUAS,

20 Defendant.

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22 ORDER DENYING PETITION FOR DELIVERY OF SEIZED PROPERTY

23 On or about May 13, 2009, Rudolfo Aguas ("Aguas") filed a
24 Petition For Delivery Of Seized Property That Was Not Subject To
25 Forfeiture. On June 4, 2009, the State filed an opposition and Aguas
26 sought submission of his petition. The Court has reviewed the
filings of the parties and denies the petition on two grounds.
First, the Court lacks jurisdiction to entertain the motion. Aguas
filed his petition in a criminal case. Claims for delivery of
property must be filed as civil complaints. See NRS 179.1171(1) and
(2). This criminal case is not the proper venue for Aguas'

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1 complaint.¹ Second, Aguas is seeking redress from the wrong party.
2 In this case, the United States Attorney representing the Drug
3 Enforcement Agency forfeited the money, not Washoe County, the State
4 of Nevada or any other local Northern Nevada law enforcement agency.

5 Wherefore, Aguas' Petition For Delivery Of Seized Property That
6 Was Not Subject To Forfeiture is DENIED and the State's Motion to
7 Dismiss the Petition is GRANTED.

8 DATED this 12th day of June, 2009.

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10 Connie J. Strohman
11 DISTRICT JUDGE
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25 ¹ The Court would have jurisdiction under NRS 179.085 if the property was
26 illegally seized, and if the same party illegally seizing the property was the same
party forfeiting the party. In this case there is no evidence that Washoe County
or the State of Nevada illegally seized the money as evidence; and, even if there
was such a suggestion, the State of Nevada did not forfeit the money, the United
States government did.