

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

REAL PROPERTY LOCATED AT
7199 GRANT ROAD, ARPIN, WOOD
COUNTY, WISCONSIN, WITH ALL
APPURTENANCES AND IMPROVEMENTS
THEREON,

Defendant.

ORDER

05-C-731-C

Plaintiff United States of America has filed an unopposed motion for summary judgment, contending that it is entitled to forfeiture of defendant Real Property located at 7199 Grant Road, Arpin, Wood County, Wisconsin. The motion will be granted.

I find from the facts proposed by the government and unopposed by defendant that the following facts are material and undisputed.

UNDISPUTED FACTS

On December 9,2005, law enforcement officers executed a search warrant at the

residence of Allen L. Oleson, located at 7199 Grant Road in Arpin, Wisconsin. Inside the house, the officers found a marijuana “grow room” with black tar paper over the windows. The room contained glass aquariums used for growing starter plants, a 24” portable grow light and a Pro Arc heavy duty grow light, 4” grow lights, a portable heat fan, (used for drying marijuana), a gallon jar containing fertilizer, a hotplate, a 600-count box of Petri dishes, two bags of Miracle Gro labeled “seed starting soil,” cardboard jiffy pots for starting plants, citric acid (used to aid in sprouting plants) and sixteen packages of surgical blades (used to cut marijuana plants in order to clone them).

Other items found throughout the residence and on the property included additional aquariums, a grow light, marijuana totaling 809.6 grams, seven stalks of psilocybin mushrooms, a triple beam scale, marijuana seeds, Root One (a product used for rooting and cutting plants), marijuana stalks and branches cleaned of their leaves, wire cages (used to keep animals away from small plants), a jar of burnt marijuana roaches, a yellow and white glass smoking pipe with burnt residue, six boxes of twenty-count gallon plastic bags, five boxes of pint size plastic bags, four smoking pipes with residue, a plastic container of 500mg of Inositol tablets, a bong and miscellaneous drug paraphernalia.

One of the officers who executed the search warrant was investigator Mark Neuman. Neuman conducted a field test on the marijuana seized from the property; the test confirmed the presence of THC. On the day the warrant was executed, Neuman spoke to Oleson, who

acknowledged that there was a large amount of marijuana in his residence and admitted that he grew the marijuana the officers found on his property. According to Oleson, during the twenty years he owned the property at 7199 Grant Road, he had grown five to seven plants of marijuana each year for approximately seventeen years. Oleson asserted that many people knew that he grew high quality marijuana and “everybody want[ed] it.” Oleson told Neuman that he placed oats, wheat, and spores of psilocybin in jars to ferment and grow into Psilocybin mushrooms.

On December 12, 2005, Oleson was charged in Wood County Case Number 2005-CF-506 with Manufacture/Delivery of THC (>1000-2500 grams), Possession with Intent to Deliver THC (>1000-2500 grams), Maintaining a Drug Trafficking Place, Possession of Drug Paraphernalia, and Possession of Amphetamine/LSD/Psilocin. The case remains pending.

OPINION

When a person uses his property “in any manner or part, to commit, or to facilitate the commission of” a federal felony drug offense, the property is subject to forfeiture under 21 U.S.C. § 881(a)(7). To prove that the property is subject to forfeiture, the government must prove by a preponderance of the evidence that “there was a substantial connection between the property and the offense.” 18 U.S.C. § 983(c)(3). The connection between the

property and the criminal activity must be more than “fortuitous,” United States v. One Parcel of Real Estate Commonly Known as 916 Douglas Avenue, 903 F.2d 490, 494 (7th Cir. 1990), but “the hurdle posed by the ‘substantial connection’ requirement is not . . . a particularly high one.” United States v. Borromeo, 995 F.2d 23 (4th Cir. 1993).

Here, it is undisputed that the owner of the defendant property, Allen Oleson, admitted to law enforcement officers that he had grown marijuana on his property for at least seventeen years. The property was littered with drugs, drug paraphernalia and the materials used to cultivate the growth of marijuana and psilocybin mushrooms. The inevitable conclusion to be drawn from these facts is that the defendant property was used to commit or facilitate the commission of a violation of 21 U.S.C. § 801 et seq. Plaintiff has met its burden of showing a substantial connection between the defendant property and violations of the United States drug laws. Consequently, the property is subject to civil forfeiture under 21 U.S.C. § 881(a)(7). Plaintiff’s motion will be granted.

ORDER

IT IS ORDERED that

1. Plaintiff’s motion for summary judgment is GRANTED.
2. The defendant real property located at 7199 Grant Road, Arpin, Wood County, Wisconsin, is FORFEITED to the United States of America to be deposited in accordance

with federal law.

Entered this 17th day of November, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge