

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

CURTIS FAUSTICH,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER

11-cv-348-bbc

Originally, Curtis Faustich filed a motion under Fed. R. Crim. P. 41(g), seeking the return of property seized from him in connection with his criminal prosecution. Because the government alleged that it had seized only \$5000 in cash and not any of the other property that plaintiff wanted returned and the administrative proceeding concerning the seized \$5000 had been closed, Faustich could not use Rule 41(g) as a means of getting his property back. Instead, he had to proceed in a civil equitable proceeding. He has now filed the \$350 fee for the filing of such a proceeding, but he has not filed a complaint setting forth the basis for his claim against the government.

I will give now-plaintiff Faustich until July 8, 2011, in which to file a complaint against the government for the return of his property. In his complaint, he should explain

what happened and when and why he believes he is entitled to the return of the \$5000 that was administratively forfeited to the government in July 2010. He should also explain why he thinks the federal government took his computers, flat screen television, iPod and \$2000 in currency and why it is required to return these items to him.

Plaintiff does not have to set forth in his complaint the evidence he has to support his claim that the government seized property other than the \$5000 in currency, but he should keep in mind that he cannot prevail in this suit unless he can prove, either at summary judgment or at trial, that the items were taken by the government and that he had no chance to contest the government's right to take the \$5000 during the administrative proceedings.

ORDER

IT IS ORDERED that plaintiff Curtis Faustich may have until July 8, 2011 in which to file a complaint in this matter. If he fails to do so, the case will be closed for his failure to prosecute it.

Entered this 21st day of June, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge