

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

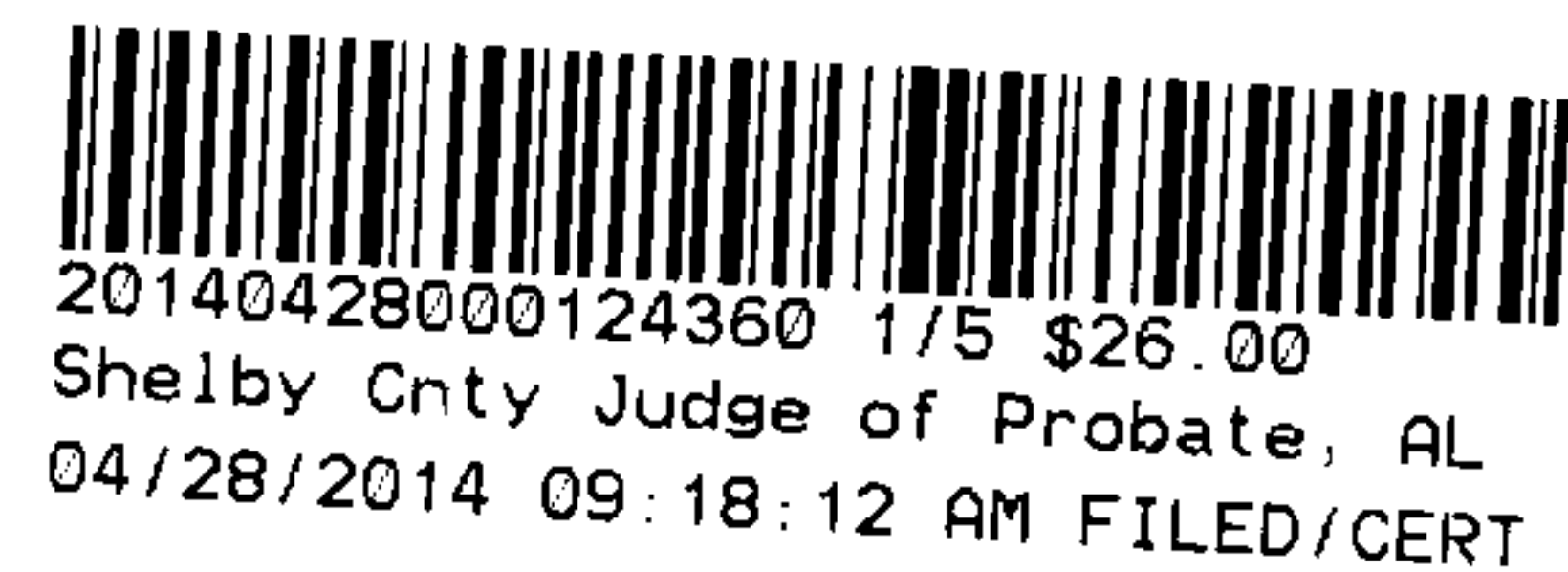
UNITED STATES OF AMERICA

v.

**REAL PROPERTY KNOWN AS
420 STERLING PARK CIRCLE,
ALABASTER, SHELBY COUNTY,
ALABAMA, AND ALL FIXTURES
AND APPURTENANCES THEREON,**

Defendant.

Case No. 2:12-CV-2961-WMA



**MOTION TO VACATE INTERLOCUTORY SALE ORDER AND
DISMISS CIVIL FORFEITURE ACTION**

Comes now the United States of America (United States), plaintiff in this action, by and through the United States Attorney for the Northern District of Alabama, and undersigned counsel, and moves this Court to vacate its Order for Interlocutory Sale of the above-listed Defendant Property, and to dismiss the civil forfeiture action without prejudice, pursuant to Rule 41(a)(2), Fed. R. Civ. P.

The United States filed its Complaint for Forfeiture against the above-styled Defendant Property on September 12, 2012. [Doc. 1]. Christopher and Carli Linton filed a Claim to the Defendant Property on October 29, 2012. [Doc. 4]. Fleming Brooks filed a Claim to the Defendant Property on December 18, 2012. [Doc. 11]. IberiaBank filed a Claim to the Defendant Property on January 18, 2013. [Doc. 19].


No other persons or entities filed a Claim to the Defendant Property and the time in which to do so has expired.

The parties agreed in March 2013 to an interlocutory sale of the Defendant Property, in order to preserve its value and enable the mortgage lienholder, Fleming Brooks, to satisfy his outstanding mortgage debt. [Doc. 25]. The court granted the parties' motion and issued an Order for Interlocutory Sale of the Defendant Property on May 1, 2013. [Doc. 34]. That Order stated that the Defendant Property would be initially put up for sale by the United States Marshals Service for six months; thereafter, another seller may be chosen upon mutual consent of the parties or by the Court. [Doc. 34]. In July 2013, Christopher and Carli Linton's counsel in the civil forfeiture action withdrew, leaving them unrepresented in this matter. [Doc. 42; Minute Entry 7/25/13].

Less than six months after the Interlocutory Sale Order was entered, on October 3, 2013, Christopher Linton was charged in this district in a twenty-one count Indictment that included allegations of mail fraud, wire fraud, money laundering, securities fraud, and bank fraud. [Criminal Case No. 2:13-CR-412-VEH-PWG, NDAL, Docket at 1]. Notably, the money laundering count (Count 16) is based upon the same conduct that forms the basis for the civil forfeiture at issue in this case, namely, the manner in which Christopher and Carli Linton acquired the Defendant Property. [Criminal Case No. 2:13-CR-412-VEH-PWG, NDAL, Docket at 1]. In addition, the conduct that forms the basis for IberiaBank's judgment lien and claim to the Defendant Property is also charged in the Indictment as bank fraud in Count 21.

[Id.] Christopher Linton is set for trial on March 10, 2014. [Criminal Case No. 2:13-CR-412-VEH-PWG, NDAL, Docket at 14].

The Defendant Property has not yet sold, and its value continues to diminish even as Fleming Brooks's financial interest in the property as lienholder increases with the passage of time. Furthermore, Christopher Linton is unrepresented in the forfeiture action, and is under federal indictment for conduct that forms the basis for the forfeiture suit, or that involves a claimant in the forfeiture suit. Consequently, the United States believes it is in the best interests of justice to terminate the forfeiture suit against the Defendant Property, in order to preserve its value and to conserve judicial and governmental resources, and is willing to dismiss the forfeiture action without prejudice¹ and turn the property over to the claimants to exercise whatever rights they may have under Alabama law.


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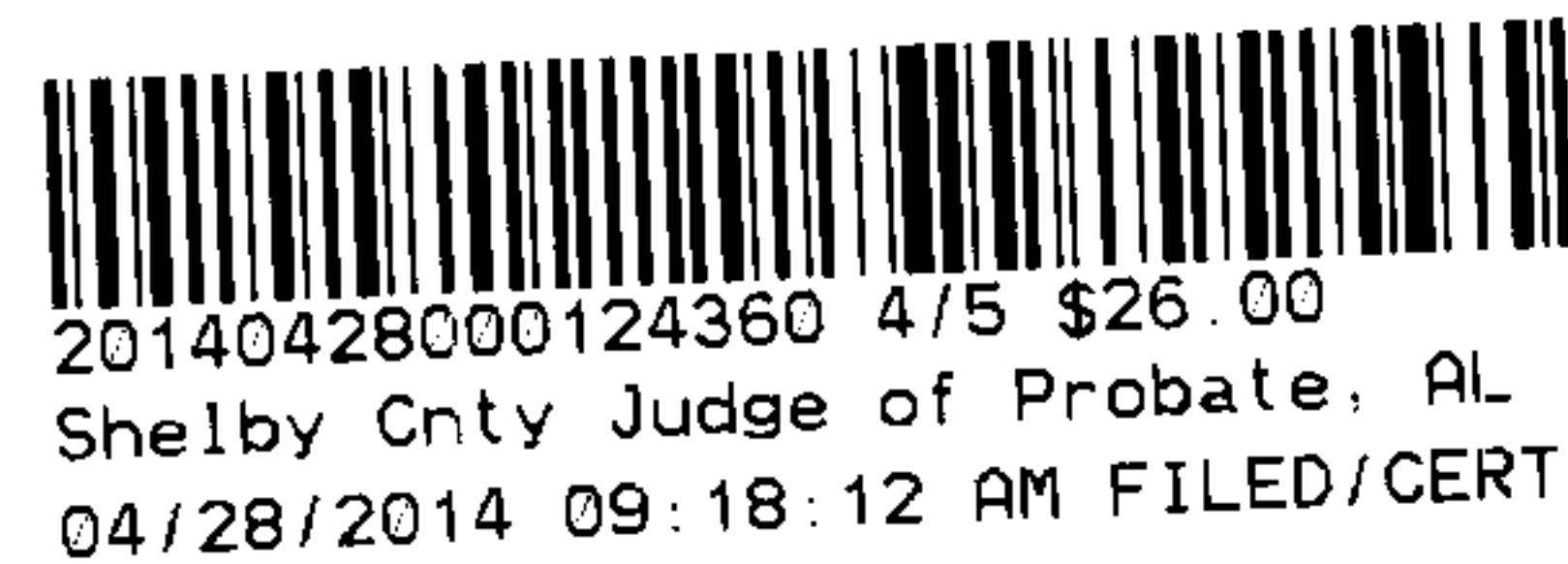
¹ The United States reserves its rights to re-file the forfeiture action after Christopher Linton's criminal case is concluded, in the event that Christopher Linton and/or Carli Linton re-obtain title to the Defendant Property.

WHEREFORE, the United States respectfully requests that this motion be granted, and that the interlocutory sale order be vacated and this civil action be dismissed without prejudice. A proposed order is submitted herewith for the Court's review.

Respectfully submitted,

JOYCE WHITE VANCE
United States Attorney

/s/ Jennifer S. Murnahan
JENNIFER S. MURNAHAN
Assistant United States Attorney
1801 Fourth Avenue, North
Birmingham, Alabama 35203
(205) 244-2001



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been electronically filed with the Clerk of Court, Northern District of Alabama, on this 5th day of February, 2014, using the CM/ECF filing system which will send notification of said filing to all counsel of record.

/s/ Jennifer S. Murnahan


JENNIFER S. MURNAHAN

Assistant United States Attorney

1801 Fourth Avenue North

Birmingham, Alabama 35203

(205) 244-2001


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