

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 99-3144**

**September Term, 1999**

**98cr00172-01**

**Filed On: June 6, 2000** [521493]

United States of America,  
Appellee

v.

Anthony L. Hunter,  
Appellant

## **APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**

**BEFORE:** Williams, Randolph, and Rogers, Circuit Judges

### **J U D G M E N T**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. The court has determined that the issues presented occasion no need for a published opinion. See Fed. R. App. P. 36; D.C. Cir. Rule 36(b). It is

**ORDERED AND ADJUDGED**, for the reasons stated in the accompanying memorandum, that the district court's order, filed October 4, 1999, be affirmed as to appellant's claim for the return of the \$6,631 in United States currency and, in view of the government's confession of error, vacated and remanded for further proceedings as to appellant's claim for the return of the 1989 Saab 900 and 1988 Ford Crown Victoria.

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

**No. 99-3144, United States v. Anthony L. Hunter**

**BEFORE:** Williams, Randolph, and Rogers, Circuit Judges

**MEMORANDUM**

The Due Process Clause does not require actual, successful notice; it demands only “a reasonable effort to give notice.” Small v. United States, 136 F.3d 1334, 1336 (D.C. Cir. 1998). On August 19, 1998, the government sent to appellant — by certified mail, return receipt requested — notice that it had seized for administrative forfeiture the disputed \$6,631 in United States currency. The government mailed the notice to appellant at the Virginia jail where he was incarcerated pending trial. Upon receiving the signed, certified mail receipt, the government confirmed that the jail employee who signed the receipt personally handed the notice to appellant on August 27, 1998, and that the jail’s mail log indeed reflected that the notice had been received at the jail on August 21, 1998.

These efforts to give notice were “reasonably calculated” under the circumstances to apprise appellant of the pending, administrative forfeiture proceedings and the statutory requirement that he file a claim of ownership and post a bond (or file an *in forma pauperis* application) by the stated deadline, see 19 U.S.C. §§ 1607-1609. Lopez v. United States, 201 F.3d 478, 480 (D.C. Cir. 2000) (quoting Mullane v. Central Hanover Trust Co., 339 U.S. 306, 314 (1950)). The government’s efforts were also successful, as evidenced by the September 15, 1998 request by appellant’s criminal attorney for an extension of the deadline stated in the August 1998 notice. Because the government provided appellant adequate notice, and appellant did not file a claim or post a bond, the district court correctly held it lacked jurisdiction over appellant’s claim to the \$6,631 in currency. See United States v. McGlory, 202 F.3d 664, 670 (3d Cir. 2000); United States v. Price, 914 F.2d 1507, 1511 (D.C. Cir. 1990) (per curiam).

The district court, however, based its holding as to the 1989 Saab 900 and 1988 Ford Crown Victoria on the government’s admittedly erroneous representation that it had never seized or forfeited the two automobiles. Remand is therefore warranted for further proceedings on the automobile claim.