

Judge Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

SCHUYLER PYATTE BARBEAU,

Defendant.

CASE NO. CR15-391-RAJ

[Proposed]

**PRELIMINARY ORDER
OF FORFEITURE**

THIS MATTER comes before the Court on the United States’ Motion for Preliminary Order of Forfeiture (“Motion”) seeking to forfeit, to the United States, the interest of Defendant Schuyler Pyatte Barbeau (“the Defendant”) in the following property:

- One (1) black AR-15, fully automatic, 5.56mm caliber assault rifle/machine gun with a short 10.5-inch barrel, holographic sight, and drop-in auto sear.

The Court, being aware of the record in this case and any filed pleadings, including the United States’ Motion, FINDS:

The above-listed firearm is forfeitable pursuant to 26 U.S.C. § 5872(b) and 18 U.S.C. § 924(d)(1) by 28 U.S.C. § 2461(c), as it was involved in the commission of the crime of *Possession of an Unregistered Firearm*, in violation of 26 U.S.C. §§ 5861(d), 5845(a)(3) and

1 (6), as charged in Count 1 of the Superseding Indictment, and *Possession of a Machinegun*,
2 in violation of 18 U.S.C. §§ 922(o) and 924(a)(2), as charged in Count 2.

3 THE COURT ORDERS:

4 1. Based on the Defendant's guilty plea to Counts 1 and 2 and pursuant to
5 26 U.S.C. § 5872(b) and 18 U.S.C. § 924(d)(1) by 28 U.S.C. § 2461(c), the Defendant's
6 interest in the above-listed firearm is fully and finally forfeited, in its entirety, to the United
7 States;

8 2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will be
9 final as to the Defendant at the time he is sentenced; it will be made part of the sentence; and,
10 it will be included in the judgment;

11 3. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
12 United States shall publish notice of this Preliminary Order and its intent to dispose of the
13 property as permitted by governing law. The notice shall be posted on an official government
14 website – currently www.forfeiture.gov – for at least thirty (30) days. For any person known
15 to have alleged an interest in this property, the United States shall, to the extent possible, also
16 provide direct written notice to that person. The notice shall state that any person, other than
17 the Defendant, who has or claims a legal interest in this property must file a petition with the
18 Court within 60 days of the first day of publication of the notice (which is 30 days from the
19 last day of publication), or within 30 days of receipt of direct written notice, whichever is
20 earlier. The notice shall advise all interested persons that the petition:

- 21 a. shall be for a hearing to adjudicate the validity of the petitioner's alleged
22 interest in this property;
- 23 b. shall be signed by the petitioner under penalty of perjury; and,
- 24 c. shall set forth the nature and extent of the petitioner's right, title or interest in
25 this property, as well as any facts supporting the petitioner's claim and the
26 specific relief sought.

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1 4. If no third-party petition is filed within the allowable time period, the
2 United States shall have clear title to this property, and this Preliminary Order shall become
3 the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

4 5. If a third-party petition is filed, upon a showing that discovery is necessary to
5 resolve factual issues it presents, discovery may be conducted in accordance with the Federal
6 Rules of Civil Procedure before any hearing on the petition is held. Following adjudication
7 of any third-party petitions, the Court will enter a Final Order of Forfeiture, pursuant to Fed.
8 R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that adjudication; and,

9 6. The Court retains jurisdiction to enforce this Preliminary Order, adjudicate any
10 third-party petitions, enter a Final Order of Forfeiture, and to amend the Preliminary or Final
11 Order as necessary pursuant to Fed. R. Crim. P. 32.2(e).

12 IT IS SO ORDERED.

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14 DATED this _____ day of _____, 2017.

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17 _____
18 THE HON. RICHARD A. JONES
19 UNITED STATES DISTRICT JUDGE

20 Presented by:

21
22 /s/ Matthew H. Thomas
23 MATTHEW H. THOMAS
24 Assistant United States Attorney
25 United States Attorney's Office
26 1201 Pacific Avenue, Suite 700
27 Tacoma, WA 98402-4383
28 Telephone: (253) 428-3800
Fax: (253) 428-3826
E-mail: Matthew.H.Thomas@usdoj.gov