

DEC 01 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>SHELLEY R. OSBORN,</p> <p>Defendant - Appellant.</p>
---

No. 06-30346

D.C. No. CR-05-00007-CCL

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Charles C. Lovell, District Judge, Presiding

Argued and Submitted November 3, 2009  
Portland, Oregon

Before: KOZINSKI, Chief Judge, FISHER and PAEZ, Circuit Judges.

Shelly Osborn appeals from the entry of a criminal forfeiture order seizing her home. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court correctly found that Osborn’s petition was time-barred because it was filed 71 days after receiving notice of the preliminary order of forfeiture. 21 U.S.C. § 853(n)(2); Fed. R. Crim. P. 32.2(c)(2). Even assuming the

---

\*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

district court could waive the time bar for excusable neglect under Federal Rule of Civil Procedure 60(b), the district court did not abuse its discretion in declining to do so.

**AFFIRMED.**