

DEC 27 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EDMUND PAUL VAISVILAS,

Defendant - Appellant.

No. 09-30423

D.C. No. 6:07-cr-00029-DWM-3

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted December 14, 2010 **

Before: GOODWIN, WALLACE, and THOMAS, Circuit Judges

Edmund P. Vaisvilas, a federal prisoner serving a 168-month sentence imposed following his 2008 guilty plea to conspiracy to distribute methamphetamine in violation of 21 U.S.C. § 846, appeals pro se the district

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

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

court's denial of his motion pursuant to Fed. R. Crim. P. 41(g) for return of property, \$3,130 in currency. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the denial of a Rule 41(g) motion. *United States v. Comprehensive Drug Testing, Inc.*, 513 F.3d 1085, 1128 (9th Cir. 2008). We affirm.

The district court found, based on the declaration of forfeiture that was attached to the United States' answer to Vaisvilas' motion, that Vaisvilas was given notice of the forfeiture proceeding. Vaisvilas does not challenge that finding on appeal. Therefore, Vaisvilas' appeal fails. *See* 18 U.S.C. § 983(e)(1) ("Any person entitled to written notice in any nonjudicial civil forfeiture proceeding . . . *who does not receive such notice* may file a motion to set aside a declaration of forfeiture") (emphasis added).

AFFIRMED.