

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 28 2011

UNITED STATES OF AMERICA,

Plaintiff - Appellant,

v.

ELENA WOODARD,

Defendant - Appellee.

No. 10-10395

D.C. No. 2:09-cr-00481-JCM-
PAL-1

MEMORANDUM*

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

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Argued and Submitted August 10, 2011
San Francisco, California

Before: KOZINSKI, Chief Judge, O'SCANNLAIN and GRABER, Circuit Judges.

The government timely appeals from the district court's entry of a criminal judgment against Defendant Elena Woodard. The government argues that the district court erred in ordering criminal forfeiture of only \$100 instead of the \$200,000 to which Woodard agreed. Reviewing de novo, United States v. Casey, 444 F.3d 1071, 1073 (9th Cir. 2006), we vacate and remand with instructions.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

The district court erred for the reasons explained in United States v. Newman, Nos. 10-10430+, 2011 WL _____ (9th Cir. _____, 2011) (decided this date). Because the amount of the total proceeds of Woodard's crime is unclear from the record, we remand so that the district court may follow the procedure outlined in Newman. If the district court has no reason to question the accuracy of the stipulated amount of \$200,000, it shall enter a criminal forfeiture money judgment in that amount. If the district court has cause to question the accuracy of that amount, it shall take evidence and enter a criminal forfeiture money judgment in the amount of the proceeds of Woodard's crime, not to exceed \$200,000.

VACATED and REMANDED with instructions.