

FILED

NOT FOR PUBLICATION

OCT 24 2016

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

No. 14-56742

Plaintiff-Appellee,

D.C. No.
5:14-cv-01240-VAP-SP

v.

STEPHEN DEAN,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, Chief Judge, Presiding

Argued and Submitted October 7, 2016
Pasadena, California

Before: PREGERSON, NOONAN, and PAEZ, Circuit Judges.

Stephen Dean appeals the district court's denial of his motion for return of property under Federal Rule of Criminal Procedure 41(g). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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

Under Rule 41(g), a district court may exercise its equitable jurisdiction to grant a motion for the return of property by a “person aggrieved by an unlawful search and seizure of property or by the deprivation of property.” Fed. R. Crim. P. 41(g). Where, as here, there are no criminal proceedings pending against the movant, “a district court must exercise caution and restraint before assuming jurisdiction.” *Ramsden v. United States*, 2 F.3d 322, 324 (9th Cir. 1993) (internal quotation marks and citation omitted). This court reviews a district court’s decision whether to exercise its equitable jurisdiction under Rule 41(g) for an abuse of discretion. *Id.*

We conclude that the district court did not abuse its discretion when it declined to exercise equitable jurisdiction over Dean’s motion. Dean did not establish that the four *Ramsden* factors weighed in his favor, as required for the district court to assume jurisdiction over a pre-indictment Rule 41(g) motion.

We **AFFIRM** the district court’s order without prejudice to Dean renewing his Rule 41(g) motion on the basis that nearly three years have passed since the government seized the property in question.¹

¹ Dean’s unopposed request for judicial notice is granted. See Fed. R. Evid. 201(b)(2).