

FEB 21 2017

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NOT FOR PUBLICATION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.

JOHN KANE,

Defendant-Appellant.

No. 16-10181

D.C. No. 2:11-cr-00022-MMD

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, District Judge, Presiding

Submitted February 14, 2017**

Before: GOODWIN, FARRIS, and FERNANDEZ, Circuit Judges.

John Kane appeals the district court's order declining to exercise equitable jurisdiction over his motion for return of property under Federal Rule of Criminal Procedure 41(g). We have jurisdiction under 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.

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

Kane contends that the district court erred in declining to exercise equitable jurisdiction over his motion for the return of \$27,000 seized by the Nevada Gaming Control Board. We review a district court's decision whether to exercise its equitable jurisdiction under Rule 41(g) for abuse of discretion. *See Ramsden v. United States*, 2 F.3d 322, 324 (9th Cir. 1993). After observing that the property was not seized by an agency of the federal government and that Kane would not suffer irreparable injury from the denial of the motion because he has an adequate remedy under state law, the court held that the equities did not tilt in favor of reaching the merits of Kane's motion. *See id.* at 325. The district court did not abuse its discretion in declining to exercise equitable jurisdiction.

AFFIRMED.