

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CIVIL ACTION
 :
 v. :
 :
 THIRTY-TWO THOUSAND SEVEN HUNDRED :
 FIFTY-FOUR DOLLARS (\$32,754) UNITED :
 STATES CURRENCY : No. 98-CV-634

O R D E R - M E M O R A N D U M

AND NOW, this 9th day of December, 1998, Sefik Cinar's motion to reconsider the October 27, 1998 order-memorandum denying his motion to vacate the consent judgment is denied.

On November 29, 1993 Cinar pleaded guilty to one count of failure to report transportation of monetary instruments, 31 U.S.C. §§ 5316(a)(1)(A), 5322. United States v. Cinar, No. 93-CR-453-1 (E.D. Pa. 1993). On February 9, 1998 the government filed the present civil forfeiture action against \$32,754 in currency, which had been in Cinar's possession at the time of his arrest. On March 16, 1998, the government and Cinar entered into a stipulation of settlement, in which Cinar agreed to forfeit the currency less \$5,000. On May 27, 1998 a consent judgment and order of forfeiture were entered.

In his previous motion, Cinar claimed that (1) he was prejudiced by his previous attorney's failure to answer the forfeiture action; (2) the government may not seize property from a bailee, such as Cinar; and (3) Cinar should have been given credit for his criminal fine of \$2,500. All of these grounds were rejected, as there was no showing of extraordinary circumstances

under Rule 60(b). See Order-Memorandum of October 27, 1998.

Cinar's only new argument is that the civil forfeiture violates the excessive fines clause. While Cinar is correct that an unreasonable civil fine may violate the Eighth Amendment, Austin v. United States, 509 U.S. 602, 610-11, 113 S. Ct. 2801, 2805-06, 125 L. Ed. 2d 488 (1993), he waived any constitutional claims in paragraph six of the stipulation of settlement.

Edmund V. Ludwig, J.