

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF
AMERICA,

Plaintiff,

v.

ALL RIGHT AND TITLE TO
THE YACHT M/Y
EQUANIMITY,
Defendant.

Case No.: CV 17-4441 DSF
(PLAx)

Order Denying Ex Parte
Application

Claimants have moved, ex parte, under 18 U.S.C. § 981(g)(6) for an order protecting the value of the *res* – the Yacht M/Y Equanimity – pending the stay in this case. There are two general issues. First, Claimants want an order requiring the United States to leave the Equanimity in Indonesia for at least 30 days while the parties attempt to work out a plan for an interlocutory sale. Second, Claimants want the Court to order the United States to keep the Equanimity's current and ordinary crew manning the vessel both at anchor and if the ship were to be moved to a different location.

The Court finds that Claimants have not established that any value that could be preserved by keeping the Equanimity in Indonesia outweighs the serious need for the ship to be moved to United States territory. Putting aside the government's claims about actual evasive tactics, it is apparent that an operable yacht

– even one as large as the *Equanimity* – provides complications for seizure. *Equanimity* has been located in Indonesia and at least part of the Indonesian government appears amenable to turning it over to the United States government.¹ The Court sees no reason to force the United States to keep the ship in Indonesia at the risk of some turn of events that undermines the asset seizure that was previously ordered by this Court.²

Nor have Claimants established that protection of the *Equanimity* requires her current crew to remain in control of the vessel. The United States obviously wants to be in actual control of the *Equanimity*, instead of Wilson Yacht Management Group

¹ Claimants' complaints about the government's purported failure to comply with Rule G(3) are both irrelevant and unpersuasive. Rule G(3)(c)(v) provides that the warrant *may* be transmitted to an appropriate foreign authority if the property is outside of the United States. In this case, it appears that the Indonesian authorities allowed the United States to execute the warrant directly. Whether those Indonesian authorities acted properly is a matter of Indonesian law, not United States forfeiture law.

Further, Claimants' focus on the government's citation of Rule E(4)(c) is misplaced. While Rule E(4)(c) governs execution on intangible property, the execution of process by posting the warrant on the bridge and providing a copy of the complaint to the Indonesian authorities that had seized the ship appears to have complied with Rule E(4)(b). See Rule E(4)(b) ("If the character or situation of the property is such that the taking of actual possession is impracticable, the marshal or other person executing the process shall affix a copy thereof to the property in a conspicuous place and leave a copy of the complaint and process with the person having possession or the person's agent.").

² The Court expresses no opinion on the issue of whether the value of the *Equanimity* would be better preserved if it were physically in the Mediterranean for the yacht sales season there. The Court does note, however, that Claimants' witness discusses the Mediterranean season as stretching from May to September and that the most important sales take place in late summer and early fall. Wilson Decl. ¶ 14. Therefore, resolution of this dispute does not appear to be overly time sensitive.

which has contracted with Claimants. And while the Court has no reason to doubt the integrity of the management of Wilson, the Court notes that the upper management of that firm is located in the United Kingdom and is not immediately subject to any contempt order that this Court might issue. The government's proposal for a blended crew under the ultimate command of someone controlled by the United States is reasonable, and Claimants have not shown any risk of harm beyond abstract concerns about the potential crew's inexperience with the particular ship. Maintaining some continuity of the crew should avoid most potential problems.

The Court does have some concern about the allegation that the United States plans to understaff the *Equanimity* on its trip to United States waters. While the Court doubts that the government has any interest in an undermanned vessel, the government is ordered to confer in good faith with the current captain (or senior officer present if the captain has been relieved) of the *Equanimity* to determine the necessary crew composition. Claimants are ordered not to attempt to influence the captain's (or senior officer's) professional opinion on this issue.

The ex parte application is DENIED.

IT IS SO ORDERED.

Date: 4/2/18



Dale S. Fischer
United States District Judge