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Recommended Citation

Kristine Martens, *United States of America v. One Lucite Ball Containing Lunar Material (One Moon Rock) and One Ten Inch by Fourteen Inch Wooden Plaque 252 F.Supp. 2d 1367 (2003)*, 13 DePaul J. Art, Tech. & Intell. Prop. L. 465 (2003)

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**UNITED STATES OF AMERICA V. ONE LUCITE
BALL CONTAINING LUNAR MATERIAL (ONE
MOON ROCK) AND ONE TEN INCH BY
FOURTEEN INCH WOODEN PLAQUE**

252 F.Supp. 2d 1367 (2003)

I. INTRODUCTION

In *United States of America v. One Lucite Ball Containing Lunar Material (One Moon Rock) and One Ten Inch by Fourteen Inch Wooden Plaque*, the United States sought forfeiture of a moon rock and plaque that had been presented to the Republic of Honduras by President Nixon in 1973.¹ The United States asserted that the items were stolen from Honduras and smuggled into the United States in violation of 19 U.S.C. § 1595a(c)(1)(A).² Claimant, Alan Rosen, who purchased the items for \$50,000 from a retired Honduran colonel, argued that he was entitled to the items because the government did not have probable cause to seize them.³

Following a bench trial, the United States District Court for the Southern District of Florida found that the United States was entitled to forfeiture of the moon rock and plaque because the items were stolen property that had been introduced into the United States.⁴

II. BACKGROUND

In 1973, President Nixon presented a moon rock⁵ and an

1. U. S. v. One Lucite Ball Containing Lunar Material and One Ten Inch By Fourteen Inch Plaque, 252 F. Supp. 2d 1367 (S.D. Fla. March 24, 2003).

2. *Id.* at 1369.

3. *Id.*

4. *Id.*

5. The moon rock was known as the “Goodwill Rock.” Press Release, United States Department of State, Honduran Envoy Calls Rock a Symbol of U.S. – Honduran Solidarity (Sept. 24, 2003).

inscribed plaque⁶ to the people of the Republic of Honduras.⁷ American astronauts collected the moon rock during the Apollo 17 mission⁸ which weighed approximately 1.1 grams.⁹ The plaque measures 10 inches by 14 inches and bears the Honduran flag.¹⁰ On the plaque is inscribed: “This fragment is a portion from a rock from the Taurus Littrow Valley of the Moon. . . . Presented to the people of Honduras from the people of the United States of America. Richard Nixon 1973.”¹¹ The moon rock and plaque remained in the Presidential Palace in Honduras until their disappearance sometime between 1990 and 1994.¹²

In 1994, Mr. Alan Rosen went to Honduras for a business trip.¹³ A friend asked him if he would be interested in purchasing a moon rock from a retired Honduran colonel for \$1 million.¹⁴ Initially, Mr. Rosen declined. But, he quickly changed his mind when he learned that mere *specks* of lunar *dust* had sold at auction for \$500,000.¹⁵ Rosen met with retired Colonel Roberto Argurcia Ugarte in May 1995 to discuss a purchase agreement.¹⁶ Colonel Ugarte seemed “quite anxious to sell” according to Rosen, and lowered his asking price from \$1 million to \$50,000.¹⁷ Rosen agreed to buy the moon rock and plaque for \$50,000 even though the Colonel could not establish the items’ provenance.¹⁸ Rosen agreed to pay the Colonel \$25,000 up front, in the form of \$10,000

6. The moon rock was mounted in a clear sphere on a wooden plaque bearing the Honduran flag. The United States made similar gifts to many other countries. *U.S. Returns Moon Rock That Was Missing*, MIAMI HERALD, Sept. 24, 2003, at 14A.

7. *Id.*

8. Apollo 17 was the last Apollo moon-landing mission. *Id.*

9. *One Lucite Ball*, 252 F.Supp.2d at 1372.

10. *Id.* at 1371.

11. *Id.*

12. *Id.* at 1373.

13. *Id.* at 1369.

14. *Id.*

15. *One Lucite Ball*, 252 F.Supp. 2d at 1369.

16. *Id.*

17. *Id.*

18. *Id.*

cash and a refrigerated truck. The Colonel agreed to accept the remaining \$25,000 balance later.¹⁹

In the end, Rosen never paid the Colonel the balance of the purchase price.²⁰ He scraped together an additional \$5,000, but he was still \$20,000 short. Nevertheless, a middleman delivered the moon rock and plaque to Rosen in Miami in April 1996.²¹

Once the moon rock was in his possession, Rosen asked scientists at Harvard University and the Smithsonian Institution to conduct scientific microprobe tests to verify that the moon rock contained lunar material.²² He received written confirmation from both institutions that the moon rock was genuine.²³

Armed with scientific proof he possessed an authentic moon rock, he tried to sell it for profit. Despite his efforts, Rosen received only one serious offer to buy the moon rock from a Swiss man who wanted to use it to make Omega watches. He was willing to pay \$500,000 plus a percentage of the watch sales.²⁴ Rosen declined the offer because he thought it was much too low.²⁵ After all, lunar dust alone fetched \$500,000 at Sotheby's.²⁶

In 1998, the National Aeronautics and Space Administration (NASA) set up "Operation Lunar Eclipse,"²⁷ an aptly named sting operation to catch persons illegally possessing moon rocks.²⁸ Under the name of a fictitious company, NASA placed an ad in a national newspaper seeking to purchase moon rocks.²⁹ Rosen responded to the ad in September of 1998.³⁰ In his telephone conversation with the undercover NASA agent, Rosen expressed

19. *Id.*

20. *Id.* at 1370.

21. *One Lucite Ball*, 252 F.Supp. 2d at 1370.

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.* at 1369. *See supra* note 15.

27. Press Release, United States Department of State, Honduran Envoy Calls Rock a Symbol of U.S. – Honduran Solidarity (Sept. 24, 2003).

28. *One Lucite Ball*, 252 F.Supp. 2d at 1370.

29. *Id.*

30. *Id.*

(1) surprise to see a newspaper advertisement seeking moon rocks because he thought most dealings would be conducted in dark rooms or alleys, (2) an understanding that NASA considered it illegal for anyone to own, buy or possess lunar material obtained during the Apollo missions, (3) his desire to sell the rock for millions of dollars, (4) his intent to reproduce a fake plaque that he could return to the country of origin, and (5) that a scientist at Harvard University confirmed the moon rock's authenticity.³¹

On October 14, 1998, the undercover NASA agents met with Rosen to negotiate a purchase price for the moon rock and plaque.³² The agents questioned Rosen about where the items came from and how they got into the United States.³³ Rosen stated he purchased the moon rock and plaque from a retired military officer in a foreign country.³⁴ However, he never gave a direct answer as to how the materials found their way into the United States.³⁵

One week later on October 20, 1998, the agents and Rosen met again at a Miami restaurant.³⁶ Rosen showed the agents pictures of the moon rock and plaque printed from his website.³⁷ He obscured the flag and the name of the country, but it fit the style of the plaques presented to foreign countries by President Nixon after the Apollo 17 mission.³⁸ Rosen stated the moon rock weighed 1.1 grams and that the plaque measured 10 inches by 14 inches.³⁹ Later that day, an agent called Rosen at home and asked to see the plaque.⁴⁰ Rosen refused out of concern that the undercover agent worked for the federal government and intended to seize it.⁴¹

The agents met with Rosen one last time on November 16, 1998,

31. *Id.* at 1370-71.

32. *Id.* at 1371.

33. *Id.*

34. *One Lucite Ball*, 252 F.Supp. 2d at 1371.

35. *Id.*

36. *Id.*

37. *Id.* at 1371.

38. *Id.*; See *supra* text accompanying note 6.

39. *Id.*

40. *One Lucite Ball*, 252 F.Supp. 2d at 1371.

41. *Id.*

and recorded their conversation.⁴² This time, Rosen explicitly stated that the moon rock and plaque were presented to the Republic of Honduras.⁴³ Rosen said he kept the plaque in a safe deposit box in a Miami bank.⁴⁴ Subsequently, the moon rock and plaque were seized.⁴⁵

Several months after the agents recovered the items, the Republic of Honduras asked the United States to return the plaque, identify it as the cultural patrimony of the Honduran people, and confirm that the items were stolen from the people and the government of Honduras.⁴⁶

III. LEGAL ANALYSIS

The United States asserted it was entitled to civil forfeiture under 19 U.S.C. § 1595a(c)(1)(A).⁴⁷ This section provides that merchandise introduced into the country contrary to law shall be seized and forfeited if it is stolen or smuggled.⁴⁸ In forfeiture cases involving foreign law, federal law determines whether an item is stolen, but local law governs the question of title.⁴⁹ Therefore, courts in forfeiture cases involving foreign law must look to that country's law to determine (1) whether any person or entity has a property interest such that it can be stolen and (2) what ownership interest, if any, the receiver has in the property.⁵⁰

A. Honduran Law

Judge Adalberto Jordan appointed an expert in Honduran law⁵¹

42. *Id.* at 1372.

43. *Id.*

44. *Id.*

45. *Id.*

46. *One Lucite Ball*, 252 F.Supp. 2d. at 1372.

47. *Id.* at 1369.

48. 19 U.S.C. § 1595a(c)(1)(A) (1999).

49. *One Lucite Ball*, 252 F.Supp. 2d at 1372 (citing *United States v. Portrait of Wally*, 105 F.Supp. 2d 288, 292 (S.D.N.Y. 2000)).

50. *Id.*

51. Judge Jordan appointed Prof. Keith S. Rosenn of the University of Miami

to research and advise the district court on Honduran cultural patrimony laws as applied to the moon rock and plaque and any collateral matters the expert researched in preparing his report.⁵² Relying on the expert's report, Judge Jordan reached the following conclusions: 1) the moon rock and plaque became part of Honduran patrimony in 1973; 2) the moon rock and plaque disappeared from the Presidential Palace between 1990 and 1994; 3) Honduran cultural patrimony laws do not apply to the moon rock and plaque; 4) the moon rock and plaque constitute national property of public use under the Honduran Civil Code; 5) the act of taking the moon rock and plaque from the palace constitutes larceny; and 6) neither Rosen nor his associates acquired good title.⁵³

The district court quickly addressed how the moon rock became a part of Honduran patrimony.⁵⁴ In Honduras, patrimony may be acquired by gift.⁵⁵ President Nixon gave the moon rock and plaque to the Republic of Honduras in 1973.⁵⁶ President Lopez Arellano, who was not popularly elected, accepted the gift.⁵⁷ The district court found that Honduran law treats the acts of *de facto* leaders as having the same force and effect as those of *de jure* leaders.⁵⁸ Therefore, President Arellano had the capacity to accept gifts on behalf of the people and government of Honduras.⁵⁹ The moon rock and plaque thus became Honduran patrimony in 1973.⁶⁰

School of Law to research Honduran law.

52. *One Lucite Ball*, 252 F.Supp. 2d. at 1372. Federal Rule of Civil Procedure 44.1 provides that in cases involving foreign law, the court "may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the Federal Rules of Evidence." Rule 44.1 further provides that the court's determinations on issues of foreign law are treated as rulings on questions of law. FED. R. CIV. P. 44.1.

53. *One Lucite Ball*, 252 F.Supp. 2d. at 1372-77.

54. *Id.* at 1373.

55. *Id.*

56. *Id.* at 1369.

57. *Id.* at 1373.

58. *Id.*

59. *One Lucite Ball*, 252 F.Supp.2d at 1373.

60. *Id.*

B. Classification of the Moon Rock and Plaque Under Honduran Property Law

1. Cultural Patrimony Laws

Honduras enacted two laws to protect cultural patrimony, Decree No. 81-84 of May 30, 1984 and Decree No. 220-97 of December 29, 1997.⁶¹ The 1997 law replaces the 1984 law, and both prohibit exportation of any object of cultural patrimony.⁶² “Cultural patrimony” includes engravings, paintings, machinery, jewelry and other “*objects of anthropological and historic interest.*”⁶³ The district court found that the scope of the 1997 law clearly protects items such as the moon rock and plaque as objects of anthropological and historic interest.⁶⁴ However, the 1997 law did not take effect until February 1998, well over one year after the items were exported to Rosen in the United States.⁶⁵

The question became whether the 1997 cultural patrimony law could be applied retroactively to the moon rock and plaque.⁶⁶ The Honduran Constitution and the Civil Code prohibit retroactive application of any law, except when retroactive application of a new law favors the defendant.⁶⁷ Certainly, retroactive application of this law would not favor Rosen, therefore the district court found that the 1997 law could not be applied retroactively to him.⁶⁸

As a result, the district court examined the 1984 cultural patrimony law, which was in effect at the time the moon rock and plaque disappeared, and found that it did not apply either.⁶⁹ Unlike

61. *Id.* at 1374.

62. *Id.*

63. *Id.* (emphasis added).

64. *Id.*

65. *One Lucite Ball*, 252 F.Supp. 2d at 1374. In Honduras, a new law does not take effect until the date of its publication in the Official Gazette. *Id.*

66. *Id.*

67. *Id.* (citing HOND. CONST. art. 96; HOND. CRIMINAL CODE art. 7).

68. *Id.*

69. *Id.*

the 1997 law, the 1984 law prohibited not only exportation of cultural property, but also its donation or sale.⁷⁰ Like the 1997 law, the 1984 law included a definition of “movable property” which included objects of archaeological and historic interest.⁷¹ But, the 1984 law only protected archaeological objects that were *manufactured before 1900*.⁷² Applying this definition to the moon rock and plaque, the district court found that neither the moon rock nor the plaque were manufactured before 1900.⁷³ Therefore, neither of the Honduran cultural patrimony laws applied to Mr. Rosen’s purchase or attempted sale of the moon rock and plaque.⁷⁴

2. National Property of Public Use or State Property?

The Honduran Civil Code provides for two types of national property: 1) national property of public use and 2) state property.⁷⁵ National property of public use generally includes items of infrastructure such as streets, bridges and roads as well as the sea and beaches.⁷⁶ The Civil Code prohibits the purchase, sale or other devise of this type of property without special legislation passed by the Honduran legislature.⁷⁷ State property, on the other hand, includes all real and personal property belonging to the state such as office computers, desks or buildings.⁷⁸ State property is also inalienable without special legislation, but this restriction comes from the Honduran Constitution and not the Civil Code.⁷⁹

The district court found that national property of public use also includes property that is part of the country’s cultural heritage.⁸⁰ The Honduran law expert concluded that the moon rock and

70. *Id.*

71. *One Lucite Ball*, 252 F.Supp. 2d at 1374.

72. *Id.* (emphasis added).

73. *Id.* The plaque was certainly manufactured, but not before 1900. *Id.*

74. *Id.*

75. *Id.* at 1375.

76. *Id.*

77. *One Lucite Ball*, 252 F.Supp. 2d at 1375.

78. *Id.*

79. *Id.*

80. *Id.*

plaque are national property of public use because they were a gift from President Nixon to the people of Honduras.⁸¹ They were shared by everyone as part of the country's heritage and were publicly displayed in the Presidential Palace.⁸² The district court agreed with the expert's conclusion that the moon rock and plaque are national property for public use and therefore cannot be devised unless the Honduran Congress authorizes it.⁸³ In the alternative, even if the items constitute state property, the Honduran Constitution still requires special legislation.⁸⁴ The Honduran Congress never enacted any special legislation to permit Rosen or anyone else to sell the moon rock and plaque and export the items out of Honduras.⁸⁵

3. Rosen Could Not Have Acquired Good Title to the Moon Rock and Plaque

Rosen's strongest argument that he acquired good title to the moon rock and plaque was that he acquired ownership by prescription.⁸⁶ In Honduras, prescription only applies to "things which are in commerce."⁸⁷ The word "commerce" denotes the free exchange of goods in the market. Since national property for public use can never be bought or sold in the market absent special legislation, national property of public use such as the moon rock or plaque is never "in commerce."⁸⁸ Moreover, Honduran law does not impose a statute of limitations on that type of property – no matter how long someone possesses it, that person will never acquire good title. Consequently, the district court found that Rosen did not obtain title to the moon rock and plaque through

81. *Id.*

82. *Id.* at 1373.

83. *One Lucite Ball*, 252 F.Supp. 2d. at 1375.

84. *Id.*

85. *Id.*

86. *Id.* Acquiring title by prescription is similar to acquiring title by adverse possession, but does not require open and notorious possession. *Id.* at 1376.

87. *Id.*

88. *Id.*

prescription of the items as national property of public use.⁸⁹

Alternatively, the district court assumed *arguendo* that the moon rock and plaque were state property.⁹⁰ State property is subject to prescription despite the fact that special legislation is required in order for someone to lawfully devise it.⁹¹ The statute of limitations for prescription of state property depends upon how the initial possessor gained possession, as well as the current possessor's good faith.⁹² Here, the individual who removed the moon rock and plaque from the Presidential Palace committed criminal larceny under Honduran law.⁹³ The statute of limitations for larceny of property worth over \$500 is fourteen years from the date of the theft.⁹⁴ In addition, the Honduran Civil Code adds six years to the period of prescription for possession in bad faith.⁹⁵ Because the earliest possible date of the theft is sometime in 1990, and because the district court doubted that Rosen's possession was in good faith, he would have to possess the items for twenty years in order to acquire good title.⁹⁶ Since only twelve years (at most) had passed since the theft, Rosen did not acquire title by prescription, even without the additional six years for possession in bad faith.⁹⁷

C. Forfeiture

In all forfeiture actions involving property seized under customs or import laws, the government must first show that it has probable cause to seize the property.⁹⁸ After probable cause is established, the burden of proof shifts to the claimant to rebut probable cause

89. *One Lucite Ball*, 252 F.Supp. 2d at 1375.

90. *Id.* at 1376.

91. *Id.* (citing HOND. CIVIL CODE art. 2285).

92. *Id.*

93. *Id.* (citing HOND. PENAL CODE art. 223).

94. *Id.* (citing HOND. PENAL CODE arts. 97, 224-25; HOND. CIVIL CODE art. 2370(20)).

95. *One Lucite Ball*, F.Supp. 2d at 1376. (citing HOND. CIVIL CODE, Art. 2284).

96. *Id.*

97. *Id.*

98. *Id.* at 1377 (citing 19 U.S.C. § 1615 (1999)).

or assert any defenses.⁹⁹ Rosen presented evidence to rebut probable cause but did not assert any affirmative defenses.¹⁰⁰

1. *Standing*

The United States argued that Mr. Rosen did not have standing to challenge the forfeiture because he had no ownership or possessory interest in the moon rock and plaque.¹⁰¹ Specifically, the government argued that Rosen's agreement with Colonel Argurcia conferred only temporary possession of the items. The agreement states, "[I]n the event the relic is not sold to a third party within a period of ninety days, said relic shall be returned" to the Colonel.¹⁰² Mr. Rosen testified that despite this clause, he and the colonel intended a sale of the moon rock and plaque.¹⁰³ He claimed that he wanted to include this clause in the agreement in order to protect him in case the items were not authentic. To support his claim, he pointed to the fact that he had possession of the items for about a year and a half, much longer than the ninety-day consignment period.¹⁰⁴ The district court agreed with Rosen and found that he showed a sufficient possessory interest to have standing to be a claimant in the forfeiture proceeding.¹⁰⁵

2. *Probable Cause*

The district court found that the United States had probable cause to believe the moon rock and plaque were stolen and then brought into the United States.¹⁰⁶ In order for property to be considered "stolen," the property must rightfully belong to

99. *Id.*

100. *Id.* at 1379.

101. *One Lucite Ball*, 252 F.Supp. 2d at 1378.

102. *Id.*

103. *Id.*

104. *Id.* at 1378.

105. *Id.*

106. *Id.*

someone other than the person who has it.¹⁰⁷ The district court found that the moon rock and plaque belong to the Republic of Honduras and are inalienable.¹⁰⁸ Therefore, the items cannot be sold or disposed of without special legislation, and there is none here.¹⁰⁹ Also, Colonel Argurcia was “quite anxious” to sell the moon rock and plaque, and had no documentation of its provenance or authenticity.¹¹⁰ The district court also found it suspect that no one attempted to collect the remaining \$20,000 balance on the purchase from Rosen, which suggested to the district court that the purchase agreement was not a bona fide, arms length transaction.¹¹¹ Finally, Mr. Rosen’s own comments to the undercover agents, as well as his attempts to obscure the Honduran flag and the country name on the plaque, showed he suspected or knew his possession was unlawful.¹¹²

The district court also found that the United States had probable cause to believe that the moon rock and plaque had been introduced into the United States because it is uncontested that Mr. Rosen took and retained possession of the objects in Miami, Florida.¹¹³

i. Mr. Rosen’s Evidence and Arguments

Although Mr. Rosen did not assert any affirmative defenses, he presented evidence to attempt to rebut the showing of probable cause.¹¹⁴ He argued that 1) the expert incorrectly classified the moon rock and plaque as national property of public use under Honduran law, and 2) the district court should equitably divide the

107. *One Lucite Ball*, 252 F.Supp. 2d at 1378. (quoting *U.S. v. Portrait of Wally*, 2002 U.S. Dist. LEXIS 6445, 2002 WL 553532, *19 (S.D.N.Y. 2002)).

108. *Id.* at 1379.

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

113. *One Lucite Ball*, 252 F.Supp. 2d at 1379.

114. *Id.*

items.¹¹⁵

Rosen attacked the expert's classification of the moon rock and plaque as national property of public use.¹¹⁶ The crux of his argument was that the moon rock and plaque could not be characterized as national property of public use.¹¹⁷ He emphasized that under the Honduran Civil Code, national property of public use refers to streets, bridges, plazas, beaches and the adjacent sea. Because each of these examples constitutes real property used by the public in general, the moon rock and plaque should be excluded from this category because they do not share this characteristic.¹¹⁸ He argued that inclusion of the moon rock and plaque in this category violates an American statutory construction principle that when examples in a list share an essential characteristic, anything sought to be added to that list must also share that characteristic.¹¹⁹ Rosen urged the district court to apply this American principle to Honduran law and find that the moon rock and plaque should not be classified as national property of public use.¹²⁰

The district court rejected this argument for two reasons. First, the Civil Code defines national property of public use as property that "belongs to all inhabitants of the nation."¹²¹ The moon rock and plaque were gifts presented to "the people" of Honduras, so

115. *Id.* at 1381. Rosen also presented other arguments that the district court summarily rejected. He argued that the expert's report was flawed because it was based on the incorrect assumption that Rosen did not have a bill of sale. The district court quickly disposed of this argument because it is irrelevant whether Rosen had a bill of sale because the moon rock and plaque are inalienable under Honduran law. Also, he argued that the application of Honduran law was prejudicial to him. In support of his argument, he cited *United States v. McClain*, 593 F.2d 658 (5th Cir. 1979). The district court found that as a criminal case which dealt with whether a jury should interpret issues of foreign law, *McClain* was inapplicable to a civil in rem proceeding.

116. *Id.* at 1380.

117. *Id.*

118. *Id.*

119. *One Lucite Ball*, 252 F.Supp. 2d at 1380.

120. *Id.*

121. *Id.* (citing HOND. CIVIL CODE art. 617).

they fit the definition.¹²² Second, the district court also noted that the list is interpreted to be merely descriptive, not exhaustive.¹²³ Moreover, even if the moon rock and plaque were state property, Rosen could not sufficiently rebut the government's showing of probable cause.¹²⁴ The district court found that if the items were state property, Rosen's possession would still be unlawful because he had not held them long enough to gain good title by prescription.¹²⁵ As state property, the items would be subject to a statute of limitations of at least fourteen years, and only twelve years (at most) have passed since they disappeared from the Presidential Palace.¹²⁶

Finally, Mr. Rosen asked the district court to equitably divide the moon rock and plaque between him and the United States.¹²⁷ Equitable division of forfeited property between the United States and a claimant is appropriate when the parties jointly request it.¹²⁸ Although there is precedent for equitable division of property, the district court found that those cases did not apply to this situation.¹²⁹ In those cases, the parties *stipulated* to an equitable division; the court did not order it.¹³⁰ For example, in *United States v. One Single Family Residence*,¹³¹ a forfeited house was sold pursuant to a stipulation between the parties.¹³² In *United States v. One Dollar 1933 Double Eagle*,¹³³ the claimant and the government agreed to divide the proceeds of forfeited antique

122. *Id.*

123. *Id.* (citing REINALDO CRUZ LOPEZ, *LOS BIENES: APUNTES DE DERECHO CIVIL* 27 (3d. ed. 1989)).

124. *Id.*

125. *One Lucite Ball*, 252 F.Supp. 2d at 1380.

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.* at 1381. (citing *U.S. v. One Single Family Residence Located at 6960 Miraflores Ave.*, 932 F.2d 1433 (11th Cir. 1991)).

130. *Id.* (emphasis added).

131. 932 F.2d 1433 (11th Cir. 1991).

132. *One Lucite Ball*, 252 F.Supp.2d at 1381.

133. *U.S. v. One Dollar 1933 Double Eagle*, Case No. 96-2527-AKH (S.D.N.Y.) (unpublished opinion).

coins sold at auction.¹³⁴ Here, the government strongly opposed any equitable division of the moon rock and plaque, and therefore the district court denied Rosen's request for equitable relief.¹³⁵

IV. CONCLUSION

The District Court for the Southern District of Florida held that the moon rock and plaque were forfeited to the United States pursuant to 19 U.S.C. §§ 1595a and 1615.¹³⁶ Applying Honduran law, the district court found that the moon rock and plaque became Honduran patrimony when President Nixon presented them as a gift to the people of Honduras in 1973.¹³⁷ Although cultural patrimony laws did not protect the moon rock and plaque, their status as national property of public use rendered them inalienable.¹³⁸ Consequently, there was no way Rosen could have gained good title to these items.¹³⁹ The district court found that United States established probable cause to seize the items, and Rosen's rebuttal arguments were insufficient to overcome that finding.¹⁴⁰

On September 22, 2003, NASA administrator Sean O'Keefe presented the moon rock and plaque to Honduran ambassador Mario Canahuati in a ceremony in Washington, D.C.¹⁴¹ Mr. Canahuati said the Honduran government plans to exhibit the items in a "very safe place."¹⁴²

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134. *One Lucite Ball*, 252 F.Supp.2d at 1381.

135. *Id.*

136. *Id.*

137. *Id.* at 1373.

138. *Id.* at 1375.

139. *Id.* at 1376.

140. *One Lucite Ball*, 252 F.Supp. 2d. at 1381.

141. Press Release, United States Department of State, Honduran Envoy Calls Rock a Symbol of U.S. – Honduran Solidarity (Sept. 24, 2003).

142. *Id.*

