

**OCT 02 2007**

**CATHY A. CATTERSON, 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**NOT FOR PUBLICATION**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 JAROCH,

Defendant - Appellant.

No. 05-10488

D.C. No. CR-00-40203-CW

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Claudia Wilken, District Judge, Presiding

Submitted September 24, 2007\*\*

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

John Jaroch appeals *pro se* from the district court's order denying his motion for return of property. We have jurisdiction under 28 U.S.C. § 1291. We

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

review *de novo*, *United States v. Ritchie*, 342 F.3d 903, 906 (9th Cir. 2003), and we reverse and remand.

On summary judgment, *see Ritchie*, 342 F.3d at 909, the district court ruled that Jaroch was not entitled to monetary damages because he did not come forward with reliable evidence of the value of his property. We disagree. In compliance with the district court's order, Jaroch submitted competent evidence of the value of the property. The Government never submitted any evidence to the district court about the value of the property. We therefore conclude that the district court erred when it failed to award Jaroch the \$2,500 he declared in a sworn statement that the property was worth. Accordingly, we reverse and remand for the district court to enter judgment in favor of Jaroch.

We lack jurisdiction to review the district court's orders denying Jaroch's motion to waive the fine and his request to participate in the Bureau of Prisons' Inmate Financial Responsibility Program because he has not filed a notice of appeal from either of these orders. *See* Fed. R. App. P. 3(c)(1)(B) (requiring that a notice of appeal "designate the judgment, order, or part thereof being appealed"); *Whitaker v. Garcetti*, 486 F.3d 572, 585 (9th Cir. 2007). We reject Jaroch's contention that the fact he is proceeding *pro se* exempts him from the requirement

that he timely file a notice of appeal from these orders. *See Malone v. Avenenti*, 850 F.2d 569, 573 (9th Cir. 1988).

**REVERSED and REMANDED for entry of judgment in favor of appellant.**

Judge Rawlinson would remand this case to the district court for submission of additional evidence.