

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 03-3678

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|--|---|--------------------------------|
| United States of America, | * | |
| | * | |
| Plaintiff - Appellee, | * | |
| | * | Appeal from the United States |
| v. | * | District Court for the Eastern |
| | * | District of Missouri. |
| 24.30 Acres of Land, More or Less, | * | |
| Situated in the County of Pemiscot, | * | [UNPUBLISHED] |
| State of Missouri; | * | |
| | * | |
| Defendant, | * | |
| | * | |
| Alvena P. Long, also known as Alvena | * | |
| Long; Joseph D. Long, also known | * | |
| as Joe D. Long, also known as Joe | * | |
| Long, also known as Joseph Dale | * | |
| Long; | * | |
| | * | |
| Defendants - Appellants, | * | |
| | * | |
| Bank of the Bootheel; Keith Jean, | * | |
| Pemiscot County Collector of | * | |
| Revenue; Drainage District, No. 6 of | * | |
| Pemiscot County, Missouri; St. Francis | * | |
| Levee District; State of Missouri; | * | |
| | * | |
| Defendants, | * | |
| | * | |
| Laura Wagster; Linda J. Davis, | * | |
| | * | |
| Intervenors - Appellants, | * | |

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 *
 Alvena P. Long, also known as *
 Alvena Long; Joseph D. Long, also *
 known as Joe D. Long, also known *
 as Joe Long, also known as Joseph *
 Dale Long; *
 *
 Counter Claimants - Appellants, *
 *
 Laura Wagster; Linda J. Davis, *
 *
 Intervenor - Appellants, *
 *
 v. *
 *
 United States of America, *
 *
 Counter Defendant - Appellee, *

Submitted: July 27, 2004
 Filed: August 2, 2004

Before WOLLMAN, McMILLIAN, and RILEY, Circuit Judges.

PER CURIAM.

Alvena and Joseph Long, and intervenors Laura Wagster and Linda Davis (the Longs), appeal following the district court's¹ final judgment in a condemnation action

¹The Honorable Charles A. Shaw, United States District Judge for the Eastern District of Missouri.

brought by the United States, in which the Longs counterclaimed for interest, costs, and fees. The district court concluded it lacked subject matter jurisdiction over the counterclaim, and alternatively held that the government was entitled to summary judgment on the merits of the counterclaim. The district court later entered a final order of condemnation. The Longs now appeal the court's ruling on their counterclaim.

The Longs raise no argument, in either their opening or reply briefs, concerning the district court's ruling that it lacked jurisdiction over their counterclaim. Rather, they have limited their briefing to the merits of their claim. The district court also noted that the Longs did not respond to the government when it raised the issue below. In these circumstances, we conclude the Longs waived any challenge to the district court's finding of no jurisdiction. See XO Mo., Inc. v. City of Maryland Heights, 362 F.3d 1023, 1025 (8th Cir. 2004) (by failing to raise issue on appeal, party waived challenge to court's determination on issue); cf. United States v. Century Healthcare Corp., 90 F.3d 1514, 1518 n.2 (10th Cir. 1996) (appellate court's duty to consider obstacles to subject matter jurisdiction does not affect court's discretion to decline to consider waived arguments that could have supported jurisdiction).

Because the Longs have conceded a lack of subject matter jurisdiction over their counterclaim, we do not reach the merits, and we affirm. See 8th Cir. R. 47B.
