

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)	
)	
Plaintiff,)	Civil No. 6121
)	
vs.)	Tracts Nos. 4249, 4249E-1,
)	and 4249E-2
251.93 Acres of Land, More or Less,)	
Situate in Pawnee and Creek Counties,)	FILED
Oklahoma, and Clarice Wynn, et al,)	
and Unknown Owners,)	
)	
Defendants.)	NOV - 1 1965

J U D G M E N T

NOBLE C. HOOD
Clerk, U. S. District Court

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of the above tracts, based on the Report of Commissioners filed herein on the 26th day of October, 1965.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tracts; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Report of Commissioners filed herein on the 26th day of October, 1965, is hereby accepted and adopted as a finding of fact as to all tracts covered by such report. The amount of just compensation as to the subject tracts as fixed by the Commission is set out in paragraph 6 below.

4. Certain deficiencies exist between the amounts deposited as estimated just compensation for subject tracts and the amounts fixed by the Commission and the Court as just compensation and a sum of money sufficient to cover such deficiencies should be deposited by the Government. These deficiencies are set out in paragraph 6 below.

5. The Court finds upon the evidence presented that the defendants listed below in paragraph 6 were the sole owners of the above captioned tracts on the date of taking and are entitled to receive the award thereof.

6. IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tracts are described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above tracts is the sum of \$3,946.00 as determined by the Report of Commissioners of October 26, 1965, which report is hereby confirmed and the sums therein fixed and adopted as just compensation for subject tracts, as shown by the following schedule:

TRACTS NOS. 4249, 4249E-1 and 4249E-2

Owners: Taylor Low Fife, James Fife, Leola Fife Griffin, Ellen King Willis, John David King, Evelyn King Brogdon, Nona King Bessette, J. D. King, and Milford King

Award of Just Compensation	<u>\$3,946.00</u>
Deposited as estimated compensation	<u>3,871.00</u>
Disbursed to Owners	<u>3,871.00</u>
Balance due to Owners	<u>75.00</u>
Deposit Deficiency	<u>75.00</u>

7. The plaintiff shall forthwith deposit into the Registry of this Court the deficiency in the amount of \$75.00, with interest at 6% per annum from January 19, 1965, until the date of deposit of such deficiency. Upon receipt of the last-mentioned deficiency, the Clerk of this Court is hereby authorized and directed to draw checks on the funds in the Registry of this Court in the amounts hereinafter set forth, payable to the order of the following-named payees.

Nona King Bessette \$ 1.88 plus all accrued interest
J. D. King \$ 1.87 plus all accrued interest

Bureau of Indian Affairs, Muskogee, Okla., for deposit to the accounts of:
Taylor Low Fife \$18.75 plus all accrued interest
James Fife 18.75 plus all accrued interest
Leola Fife Griffin 18.75 plus all accrued interest
Ellen King Willis 3.75 plus all accrued interest
John David King 3.75 plus all accrued interest
Evelyn King Brogdon 3.75 plus all accrued interest
Milford King \$ 3.75 plus all accrued interest

Entered this 1 day of February, 1965.

/s/ Allen E. Barrow

APPROVED:

UNITED STATES DISTRICT JUDGE

/s/ Robert P. Santee

Robert P. Santee
ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
Plaintiff,)
vs.)
619.30 Acres of Land, More or Less,)
Situat in Pawnee and Creek Counties,)
Oklahoma, and James T. Hoke, et al.,)
and Unknown Owners,)
Defendants.)

Civil No. 6131
Tract No. 8720-2M

FILED

OCT 27 1965

NOBLE C. HOOD
Clerk, U. S. District Court

PARTIAL JUDGMENT (LESSOR INTEREST ONLY)

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a Final Judgment determining the ownership and the just compensation to be awarded the former owners of the lessor interest, based on the Report of Commissioners filed herein on the 26th day of October, 1965.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Report of Commissioners filed herein on the 26th day of October, 1965, is hereby accepted and adopted as a finding of fact as to all tracts covered by such report. The amount of just compensation as to the lessor interest, as fixed by the Commission, is set out in paragraph 5 below.

4. The Court finds upon the evidence presented that the defendants listed below in paragraph 5 were the sole owners of the above captioned tract on the date of taking and are entitled to receive the award thereof.

5. IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the lessor interest is the sum of \$1,500.00, as determined by the Report of Commissioners of October 26, 1965, which report is hereby confirmed and the sums therein fixed and adopted as just compensation for the lessor interest, as shown by the following schedule:

TRACT NO. 8720-2M (LESSOR INTEREST ONLY)

Owners: Simon Lebow Corporation, Josephine Kinney, Luvon Smith, Cheney Haynie Holladay, Mary E. Haynie Geren, Rulison Haynie and Rulison Haynie, Jr.

Award of Just Compensation	\$ 1,500.00	
(lessor interest only)		
Deposited as Estimated Compensation	1,500.00	
(lessor interest only)		
Disbursed to Owner	375.00	- to Luvon Smith
Balance Due to Owner	1,125.00	
Deposit Deficiency	0	

6. The Clerk of this Court is hereby authorized and directed to draw checks on the funds in the Registry of this Court in the amounts hereinafter set forth, payable to the order of the following-named payees:

Simon Lebow Corporation	\$ 187.50
Josephine Kinney	187.50
Bureau of Indian Affairs, Muskogee, Oklahoma, for deposit to the Accounts of:	
Cheneya Haynie Holladay	125.00
Mary E. Haynie Geren	125.00
Rulison Haynie	375.00
Rulison Haynie, Jr.	125.00

Entered

/s/ Allen E. Barrow

APPROVED:

UNITED STATES DISTRICT JUDGE

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,
Plaintiff,
vs.
619.30 Acres of Land, More or Less,
Situate in Pawnee and Creek Counties,
Oklahoma, and James T. Hoke, et al.,
and Unknown Owners,
Defendants.

Civil No. 6131 ✓

Tract No. 8720-2 **FILED**

NOV - 1 1961 OS

NOBLE C. HOOD
Clerk, U. S. District Court

PARTIAL JUDGMENT (LESSEE INTEREST ONLY)

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a Partial Judgment determining the ownership and the just compensation to be awarded the owners of the lessee interest in the above case.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the lessee interest; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Court finds upon the evidence presented that the below-listed defendants were the sole owners of the lessee interest on the date of taking, and are entitled to receive the award therefor.

4. The Court finds that plaintiff and M. L. Marrs, A. Leo Davis, W. A. Perrine, H. A. Wright, Clifford M. & Phyllis E. Bassett, May E. and Doyce A. Griffin, defendants herein, have by the stipulation agreed that the just compensation to be paid by the plaintiff for the taking of the estate taken in the above tract is the sum of \$4,000.00, inclusive of interest.

5. The Court finds the amount of \$4,000.00, inclusive of interest, is just compensation for the taking of the lessee estate by the plaintiff in the above tract, as such estate and said tract are described and set forth in the Complaint and Declaration of Taking heretofore filed in this cause. The sum of \$4,000.00 was deposited into the Registry of this Court as estimated just compensation for said lessee interest upon the filing of the Declaration of Taking herein.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the lessee estate set forth in the Complaint and Declaration of Taking in and to the tract hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above lessee interest is the sum of \$4,000.00, inclusive of interest, which amount has previously been disbursed as follows:

M. L. Marrs	\$1,500.00
A. Leo Davis	500.00
W. A. Perrine.	500.00
H. A. Wright	500.00
Clifford M. & Phyllis E. Bassett	500.00
May E. and Doyce A. Griffin	500.00

Entered

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
Plaintiff,)
vs.)
230.87 Acres of Land, More or Less,)
Situate in Creek County, Oklahoma,)
and General American Oil Company of)
Texas, et al., & Unknown Owners,)
Defendants.)

Civil No. 6136 **FILED**

Tract No. 4361E

NOV - 1 1965

NOBLE C. HOOD
Clerk, U. S. District Court

PARTIAL JUDGMENT (LESSEE INTEREST ONLY)

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a Partial Judgment determining the ownership and the just compensation to be awarded the owners of the lessee interest in the above case.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the lessee interest; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Court finds, upon the evidence presented that the below-listed defendant was the sole owner of the lessee interest on the date of taking, and is entitled to receive the award therefor.

4. The Court finds that prior to the institution of the above proceeding the United States of America and General American Oil Company of Texas entered into a contract, as evidenced by an option for the purchase of land granted by said defendants and accepted on behalf of the plaintiff by the Corps of Engineers, Department of the Army, wherein it was agreed that the amount of \$400.00, inclusive of interest, would be awarded as just compensation for the taking of the lessee interest to be condemned in the above tract; that the contract and agreement is a valid one.

5. The Court finds the amount of \$400.00, inclusive of interest, is just compensation for the taking of the lessee estate by the plaintiff in the above tract, as such estate and said tract are described and set forth

in the Complaint and Declaration of Taking heretofore filed in this cause. The sum of \$400.00 was deposited into the Registry of this Court as estimated just compensation for said lessee interest upon the filing of the Declaration of Taking herein.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the lessee estate set forth in the Complaint and Declaration of Taking in and to the tract herein-above referred to, as said tract is described therein, is hereby confirmed.

(b) The just compensation to be paid by the plaintiff for the taking of the above lessee interest is the sum of \$400.00, inclusive of interest;

(c) The Clerk of this Court is hereby authorized and directed to draw a check on the funds in the Registry of this Court in the amount hereinafter set forth, payable to the order of the following-named payee:

General American Oil Company of Texas . . . \$400.00

Entered

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,
Plaintiff,
vs.
230.87 Acres of Land, More or Less,
Situat in Creek County, Oklahoma,
and General American Oil Company of Texas,
et al., and Unknown Owners,
Defendants.

Civil No. 6136

Tract No. 4361E

FILED

OCT - 1 1965

NOBLE C. HOOD
Clerk, U. S. District Court

PARTIAL JUDGMENT (LESSOR INTEREST ONLY)

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of the lessor interest, based on the Report of Commissioners filed herein on the 26th day of October, 1965.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Report of Commissioners filed herein on the 26th day of October, 1965, is hereby accepted and adopted as a finding of fact as to all tracts covered by such report. The amount of just compensation as to the lessor interest as fixed by the Commission is set out in paragraph 5 below.

4. The Court finds upon the evidence presented that the defendants listed below in paragraph 5 were the sole owners of the above-captioned tract on the date of taking and are entitled to receive the award thereof.

5. IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the lessor interest is the sum of \$250.00, as determined by the

Report of Commissioners of October 26, 1965, which report is hereby confirmed and the sums therein fixed and adopted as just compensation for subject tract, as shown by the following schedule:

TRACT NO. 4361E (LESSOR INTEREST ONLY)

Owner: Wynona Conner Lynch now Clemons
Award of Just Compensation (lessor only) \$250.00
Deposited as Estimated Compensation 250.00
(lessor interest only)
Disbursed to Owner 0
Balance due to Owner 250.00
Deposit Deficiency 0

6. The Clerk of this Court is hereby authorized and directed to draw a check on the funds in the Registry of this Court in the amount hereinafter set forth, payable to the order of the following-named payee:

Bureau of Indian Affairs,
Muskogee, Oklahoma, for
deposit to the account of
Wynona Conner Lynch now Clemons . . . \$250.00

Entered

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

Robert P. Santee
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES FOR THE USE OF)
ROBERSON STEEL COMPANY, a)
corporation)

Plaintiff,)

vs.)

No. 6255)

A. P. KASCH & SONS, a Co-Partnership)
composed of: ARTHUR PAUL KASCH,)
ARTHUR FRED KASCH and PAUL)
EUGENE KASCH; TRAVELERS INDEM-)
NITY COMPANY, a corporation,)

Defendants.)

FILED

NOV - 1 1965

NOBLE C. HOOD
Clerk, U. S. District Court

MOTION TO DISMISS

COMES now the plaintiff and moves the Court to dismiss the above cause with prejudice to the filing of a future action, for the reason that all claims have been satisfied against this defendant.

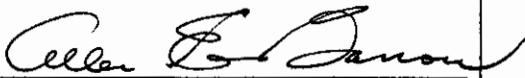

JOHN B. HAYES
219 Couch Drive
Oklahoma City, Oklahoma

Of Counsel:

LOONEY, WATTS, LOONEY, NICHOLS & JOHNSON
Attorneys for Plaintiff

ORDER OF DISMISSAL

NOW, on this 1 day of November, 1965, the above cause came on to be heard upon application of the plaintiff to dismiss and the Court hereby dismisses the above cause with prejudice to the filing of a future action, for the reason that all claims have been satisfied against this defendant.


JUDGE of the United States District
Court for the Northern District of
Oklahoma

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Andrew Steele,

Petitioner,

vs.

United States of America,

Respondent.

Civil No. **FILED**

NOV - 1965

NOBLE C. HOOD
Clerk, U. S. District Court

O R D E R

This matter coming on before me, the undersigned Judge, this 1st day of ~~October~~ ^{November}, 1965, upon the motion made pursuant to 26 U.S.C. 2255 to vacate sentence filed by Andrew Steele, and the court having carefully considered said motion and the files and records in this case, as well as Criminal Case No. 14223, United States of America v. Andrew Steele, in this court, and being fully advised in the premises finds:

That a two count indictment was returned against the petitioner alleging in Count One an offense against the Internal Revenue Laws in violation of 26 U.S.C. 5179(a), 5601(a)(1), and alleging as follows:

"On or about January 12, 1965, on premises located at 3741 East 31st Place North, Tulsa, Oklahoma, in the Northern Judicial District of Oklahoma, Andrew Steele did unlawfully possess a still and distilling apparatus, set up, which he had failed to register as required by law."

And was further charged in Count Two alleging an offense against the Internal Revenue Laws in violation of 26 U.S.C. 5601(a)(7), which count alleges as follows:

"On or about January 12, 1965, on premises located at 3741 East 31st Place North, Tulsa, Oklahoma, in the Northern Judicial District of Oklahoma, Andrew Steele did make and ferment mash fit for distillation on premises other than a distillery duly authorized according to law."

Petitioner appeared before this court on April 22, 1965, with his court appointed attorney, Robert W. Booth, and entered pleas of not guilty to each of these counts. On May 3, 1965, the court ordered Criminal Case No. 14223 to be set for jury trial on Monday, May 24, 1965, at 9:30 a. m. On May 24, 1965, the court called this case for trial by jury and the petitioner appeared and was represented by his court appointed counsel. Both

the government and the attorney for the petitioner announced they were ready for trial. Thereupon the jury was empaneled and advised that the government made its opening statement and accused for the petitioner made his opening statement. Thereafter, on the same date, being May 21, 1965, the petitioner by and through his counsel filed a motion to quash one/or to suppress the evidence based upon the following grounds:

1.

That the defendant, Andrew Steele, was unlawfully arrested by the officers of the Sheriff's Department, of Tulsa County, Oklahoma, and therefore all the evidence adduced after said unlawful arrest should be suppressed as in violation of the defendant's constitutional rights.

2.

That the evidence adduced and secured as a result of the unlawful search and seizure of certain premises, all as set forth in the indictment returned herein, was secured as a result primarily of an unlawful arrest and therefore the search and seizure would be illegal, all in violation of the defendant's constitutional rights.

3.

That the defendant's constitutional rights against an unlawful arrest and an illegal search and seizure was violated as respects both Count One and Count Two of the indictment returned herein.

On the same day, the court advised the petitioner's motion to quash would be taken under advisement pending the hearing of testimony during the course of trial. The petitioner's motion to suppress was overruled. Thereupon the court recessed the trial until May 23, 1965. On May 23, 1965, the trial continued and the government rested its case. Thereupon counsel for the petitioner moved for a dismissal and for a judgment of acquittal and renewed his motion to quash. The same was taken under advisement by the court. Thereafter the defendant swore in witnesses and presented his testimony and rested. The petitioner renewed motions to dismiss and judgment for acquittal and to quash, which were overruled by the court. On the same date, being May 25, 1965, at 5:40 p. m., the jury returned with a verdict of guilty as to both counts. On May 27, 1965, the defendant appeared with his attorney before the court and was sentenced by the court as follows:

Count One - It is adjudged by the court that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a term of not less than (3) years.

Count Two - Imposition of sentence on Count Two is hereby suspended and the defendant placed on probation for a period of five (5) years. Such period of probation to commence at the expiration of sentence in Count One.

Thereafter, after his committal, the writt came before his present motion in this court. From a review of the petitioner's motion, it appears he complains as follows:

1.

The record will show that the petitioner was not in possession of a still and distilling apparatus, set up.

2.

The court violated Article VIII of the constitutional right of the petitioner which prohibits cruel and unusual punishments being inflicted because the court found the petitioner guilty of 28 U.S.C. 917, which has been omitted from the Code as obsolete, and therefore the court has no jurisdiction to convict the defendant.

3.

The indictment and conviction are invalid because the section of the law which the defendant was convicted has been omitted from the Code as obsolete.

Based upon these complaints, the petitioner seeks by his motion to have the sentence imposed vacated.

A review and study of the transcript, records and proceedings in the above mentioned criminal case in this court conclusively show that no appeal has been taken from the judgment and sentence. The records further reveal that no attack was ever raised against the sufficiency of the indictment upon which the petitioner was convicted up to nor during the trial in which the petitioner was convicted. The reason for petitioner's stated contention appears to be that petitioner claims the record of the trial will show that he was not in possession of a still and distilling apparatus, set up. It appears he is attacking the sufficiency of the evidence at the trial by which he was convicted. However, by his motion he does not state for what reasons he failed to take an appeal from the judgment and sentence. From a review of the files and records of the criminal case, the court finds that the petitioner's motions to quash the

evidence and the record and for a judgment as to the sufficiency of the government's case against the petitioner, and for the government to attack on the sufficiency of the evidence to sustain the conviction. It has recently been ruled on by this court. And from a review of the records and proceedings, and particularly those proceedings had during the trial of the petitioner in the criminal case, the court finds there is evidence in the records to indicate there were errors which would constitute plain reversible error or infringement of petitioner's constitutional rights.

If this court were to consider the petitioner's first contention in which he complains he was not in possession of a still and distilling apparatus, set up, it might well be construed as recognizing the right of the defendant under the motion filed herein to retry the question of the validity of the evidence which resulted in his conviction. While the defendant has a right to appeal from the judgment and sentence of the criminal case, he may not by his motion filed under the authority of A. W. C. 2255 seek a review of alleged error during the course of the trial. The court has previously ruled that the record of the petitioner's trial did not reveal any plain reversible error and finds the petitioner suffered no prejudice, even though he failed to secure a review of the conviction and judgment and sentence by appeal. Therefore, petitioner's first contention attacking the sufficiency of the evidence during the course of a trial by which he was convicted is not proper grounds for collateral attack upon his conviction under the provisions of this motion. Kinney v. United States, 177 F. 23 (9th Cir. 1949), 338 U. S. 922, 30 L.Ed. 134; Also, see Simmons v. United States, 237 F. 23 (9th Cir. 1956), cert. denied, 75 S. Ct. 704, 351 U. S. 921, 166 L.Ed. 1377.

Petitioner's assertion by his second contention he was liable for being in violation of an obsolete statute is not substantiated by the facts and records. A review of the records and files in the above mentioned criminal case, and particularly Count One and Count Two of the indictment by which the petitioner was charged, conclusively shows that the indictment charged the petitioner with offenses in the strictest language of the statute. The petitioner contends that he was indicted and tried and convicted under the obsolete Section 517, United States Code, Title 26. However, the records, and particularly the indictment, conclusively show that the petitioner was indicted and convicted under Title 26, Section 517(a) of the United States Code and the related Section 517 of Title 26, United States Code. There is no question of

contention as to the validity of the indictment, the records and proceedings of the criminal case conducted in the District Court was reviewed by counsel, never raised such a contention prior to the time such contention was made by the petitioner in the records and proceedings of the criminal case. Furthermore, that the notice upon the indictment was not raised by any direct appeal. In the review of the records the court finds the indictment conclusively and substantively charged an offense for which the petitioner was convicted, the petitioner has suffered no prejudice in failing to secure an appeal on this contention. Guidino v. United States, 311 F. 2d 613 (9 Cir. 1963) cert. denied, 375 U. S. 862, 11 L. Ed. 2d, rehearing den. 375 U. S. 911, 11 L. Ed. 2d 476.

The petitioner's contention that his constitutional rights were further violated in that he was rendered cruel and unusual punishment because he was found guilty of an obsolete statute is further refuted in that the records and proceedings in the criminal case conclusively show and reveal that the indictment charging the petitioner by which he was indicted, convicted and convicted provided for criminal penalties found within Title 21 U.S.C., Sections 5601(a) and 5601(a)(7), which provide as follows:

"21 U.S.C. 5601(a). Any person who has in his possession or custody, or under his control, any still or distilling apparatus set up which is not registered as required by Section 5179(a); or

"21 U.S.C. 5601(a)(7). Except as otherwise provided in this chapter, makes or ferments mash, wort, or wash, fit for distillation or for the production of distilled spirits, in any building or on any premises other than the designated premises of a distilled spirits plant lawfully qualified to produce distilled spirits, or removes, without authorization by the secretary or his delegate, any mash, wort or wash, so made or fermented, from the designated premises of such lawfully qualified plant before being distilled, shall be fined not more than \$15,000, or imprisoned not more than year, or both, for each such offense.

The record further conclusively shows that the petitioner was by jury trial found guilty for having been in violation of both criminal offenses as set out in Count One and Count Two of the indictment, and on Count One was sentenced to be imprisoned for a term of three (3) years, and on Count Two received a suspended sentence and placed on a period of three (3) years probation, to commence at the completion of the sentence in Count One. This contention of the petitioner is obviously contrary to the indictment, the proceedings and the record in that the sentence imposed is not within the penalty prescribed

by the statute. When the records are reviewed, it is clear that the plaintiff did not take an appeal on this contention, and that the action was taken within the time prescribed by the statute. The plaintiff is held to prejudice as failing to secure a review by a court, and such a case is not subject to collateral attack under provisions of the statute relating to direct appeal.

Since the files, records and proceedings of the court, and their conclusiveness that the petitioner is entitled to a writ, it is not necessary to hold a hearing on the motion or to bring the petitioner to the court to testify.

The motion to vacate and set aside the sentence pronounced by the U.S.C. 2255 should be overruled and denied for the foregoing reasons.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that petitioner's motion to vacate and set aside judgment and sentence is, and it is hereby so ruled and denied.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA.

United States of America,
Plaintiff,
vs.
297.32 Acres of Land, More or Less,
Situate in Creek County, Oklahoma, and
Gary W. Henry, et al., and
Unknown Owners,
Defendants.

Civil No. 6172
Tract No. 8719-3M

FILED

NOV 19 1951

NOBLE C. MOOD
Clerk U. S. District Court

J U D G M E N T

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of the above tract.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Court finds upon the evidence presented that the below-listed defendants were the sole owners of the above-captioned tracts on the date of taking, and are entitled to receive the award therefor.

4. The Court finds the amount of \$2,475.00, inclusive of interest, is just compensation for the taking of the estates by the plaintiff in the above tract, as such estates and said tracts are described and set forth in the Complaint and Declaration of Taking heretofore filed in this cause. The sum of \$2,475.00 was deposited into the Registry of this Court as estimated just compensation for said tract upon the filing of the Declaration of Taking herein.

5. The Court finds that prior to the institution of the above proceeding the United States of America and E. E. Park, William C. Doenges and William Shibley, dba Shibley Oil Co., Susie Marsey Burnside, Bennie Marsey, John Daniels, Jr., Easter Sunday Fixico (Incompetent, A. N. Boatman, guardian)

entered into a contract, as evidenced by an option for the purchase of land granted by said defendants and accepted on behalf of the plaintiff by the Corps of Engineers, Department of the Army, wherein it was agreed that the amount of \$2,185.47 for their interests, inclusive of interest, would be awarded as just compensation for the taking of the estates to be condemned in the above tracts; that the contract and agreement is a valid one.

6. The Court finds that plaintiff and Opportune Investments, Ltd., Alice M. Cox, Kay Sue Hurd, Harry Lee Williams, Patsy Ann Pearson and Johnny Mae Williams, defendants herein, have by the stipulation agreed that the just compensation to be paid by the plaintiff for the taking of the estate taken in the above tract is the sum of \$293.53 for their interests, inclusive of interest.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above tract is the sum of \$2,479.00, inclusive of interest;

(c) The plaintiff shall forthwith deposit into the Registry of this Court the deficiency in the amount of \$74.00, without interest. Upon receipt of the last-mentioned deficiency the Clerk of this Court is hereby authorized and directed to draw checks on the funds in the Registry of this Court in the Amounts hereinafter set forth, payable to the order of the following-named payees:

E. E. Park	\$292.25
William C. Doenges and William Shibley, dba Shibley Oil Co.	340.22
Opportune Investments, Ltd.	36.53
Alice M. Cox	140.00
Susie Marsey Burnside.	292.50
Bennie Marsey	292.50
John Daniels, Jr.	292.50
Easter Sunday Fixico (Incompetent, A. N. Boatman, Guardian)	175.50
Kay Sue Hurd	29.25
Harry Lee Williams	29.25
Patsy Ann Pearson.	29.25
Johnny Mae Williams.	29.25

Entered

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
Plaintiff,)
vs.)
682.75 Acres of Land, More or Less,)
Situate in Creek and Pawnee Counties,)
Oklahoma, and J. F. Quinlan, et al.,)
and Unknown Owners,)
Defendant.)

Civil No. 5924

Tract Nos. 4334-1
4334-2
4334E

FILED

NOV - 5 1965

NOBLE C. HOOD
Clerk, U. S. District Court

PARTIAL JUDGMENT (LESSOR INTEREST ONLY)

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a Final Judgment determining the ownership and the just compensation to be awarded the former owners of the lessor interest, based on the Report of Commissioners filed herein on the 26th day of October, 1965.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Report of Commissioners filed herein on the 26th day of October, 1965, is hereby accepted and adopted as a finding of fact as to all tracts covered by such report. The amount of just compensation as to the lessor interest as fixed by the Commission is set out in paragraph 5 below.

4. The Court finds upon the evidence presented that the defendants listed below in paragraph 5 were the sole owners of the above captioned tracts on the date of taking and are entitled to receive the award therefor.

5. IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tracts are described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the lessor interest is the sum of \$6,000.00, as determined by the

Report of Commissioners of October 26, 1965, which report is hereby confirmed and the sums therein fixed and adopted as just compensation for the lessor interest, as shown by the following schedule:

TRACT NOS. 4334-1, 4334-2 & 4334E

Owners:

Lydia Simpson Mitchell	\$2,000.00
Freeman Proctor	666.50
Pauline Proctor Yahola.	190.50
Wanda Proctor Davis	190.50
Woody Proctor	190.50
Bessie Proctor Noriega.	190.50
Washie Proctor	190.50
Jonas (Janice) Proctor	190.50
Beatrice Proctor	190.50
Joe Simpson, Jr.	400.00
Archie Simpson	400.00
Isaac Simpson.	400.00
Amy Simpson	400.00
Susie Simpson	400.00

Award of Just Compensation (lessor interest)	\$6,000.00
Deposited as Estimated Compensation	6,000.00
(lessor only)	
Disbursed to Owners (lessor only)	6,000.00
Balance due to Owners	0

Entered

/s/ Allen E. Barrows

APPROVED:

UNITED STATES DISTRICT JUDGE

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,) Civil No. 6131
)
 vs.) Tract No. 8720-1M
)
 619.30 Acres of Land, More or Less,)
 Situate in Pawnee and Creek Counties,)
 Oklahoma, and James T. Hoke, et al,)
 and Unknown Owners,)
)
 Defendants.)

FILED

NOV - 5 1965

NOBLE C. HOOD
Clerk, U. S. District Court

PARTIAL JUDGMENT
(LESSEE INTEREST ONLY)

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a Partial Judgment determining the ownership and the just compensation to be awarded the owners of the lessee interest in the above case.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the lessee interest; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Court finds, upon the evidence presented that the below-listed defendants were the sole owners of the lessee interest on the date of taking, and are entitled to receive the award therefor.

4. The Court finds that plaintiff and M. L. Marrs, Mary E. and Doyce A. Griffin, Link Oil Company, and W. A. Perrine, defendants herein, have by the stipulation agreed that the just compensation to be paid by the plaintiff for the taking of the lessee interest in the above tract is the sum of \$10.00, inclusive of interest.

5. The Court finds the amount of \$10.00, inclusive of interest, is just compensation for the taking of the lessee estate by the plaintiff in the above tract, as such estate and said tract are described and set forth in the Complaint and Declaration of Taking heretofore filed in this

cause. The sum of \$10.00 was deposited into the Registry of this Court as estimated just compensation for said lessee interest upon the filing of the Declaration of Taking herein.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the lessee estate set forth in the Complaint and Declaration of Taking in and to the tract hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above lessee interest is the sum of \$10.00, inclusive of interest;

(c) The Clerk of this Court is hereby authorized and directed to draw a check on the funds in the registry of this Court in the amount hereinafter set forth, payable to the order of the following-named payees.

M. L. Marrs, Mary E. and Doyce A. Griffin,
Link Oil Company and W. A. Ferrine \$10.00

Entered this 22nd day of November, 1965.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
) Plaintiff,) Civil No. 6131
vs.))
)) Tract No. 8720-1M
619.30 Acres of Land, More or Less,)
Situating in Pawnee and Creek Counties,)
Oklahoma, and James T. Hoke, et al,)
and Unknown Owners,)
)
) Defendants.)

FILED

NOV 1965

PARTIAL JUDGMENT
(LESSOR INTEREST ONLY)

NOBLE C. HOOD
Clerk, U. S. District Court

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of the lessor interest, based on the Report of Commissioners filed herein on the 26th day of October, 1965.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Report of Commissioners filed herein on the 26th day of October, 1965, is hereby accepted and adopted as a finding of fact as to all tracts covered by such report. The amount of just compensation as to the lessor interests as fixed by the Commission is set out in paragraph 5 below.

4. The Court finds upon the evidence presented that the defendants listed below in paragraph 5 were the sole owners of the lessor interest in the above captioned tract on the date of taking and are entitled to receive the award thereof.

5. IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove

referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the lessor interest is the sum of \$30.00 as determined by the Report of Commissioners of October 26, 1965, which report is hereby confirmed and the sums therein fixed and adopted as just compensation for the lessor interest as shown by the following schedule:

TRACT NO. 8720-LM

(Lessor Interest Only)

Owners: Simon Lebow Corporation, Josephine Kinney, Luvon Smith,
Cheneya Haynie Holladay, Mary E. Haynie Geren, Rulison Haynie,
and Rulison Haynie, Jr.

Award of Just Compensation (Lessors only)	<u>\$30.00</u>
Deposited as estimated compensation (Lessors only)	<u>30.00</u>
Disbursed to Owner (Lessors only)	<u>3.75 to Luvon Smith</u>
Balance due to Owners	<u>26.25</u>
Deposit Deficiency	<u>-0-</u>

6. The Clerk of this Court is hereby authorized and directed to draw checks on the funds in the registry of this Court in the amounts hereinafter set forth, payable to the order of the following-named payees:

Simon Lebow Corporation	\$ 3.75
Josephine Kinney	7.50
Bureau of Indian Affairs, Muskogee, Oklahoma, for deposit to the accounts of Cheneya Haynie Holladay	2.50
Mary E. Haynie Geren	2.50
Rulison Haynie	7.50
Rulison Haynie, Jr.	<u>2.50</u>
Total	\$26.25

Entered this 27th day of November, 1965.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUNE V. THOMPSON,)
)
 Plaintiff,)
)
 -VS-)
)
 JOHN LEE McCALL, JR.,)
)
 Defendant.)

NO. 6177

FILED

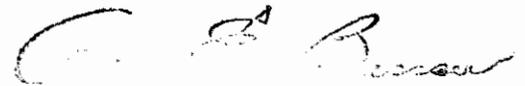
NOV - 2 1965

NOBLE C. HOOD
Clerk, U. S. District Court

ORDER OF DISMISSAL

Now on this 5 day of November, 1965, this cause comes on for hearing of the stipulation of dismissal of plaintiff and defendants hereto in the above-entitled cause. The Court finds that said cause has been settled and that the Defendant has this date paid to Plaintiff the sum of Two Thousand, Five Hundred Dollars (\$2,500.00) in full settlement, release and satisfaction of Plaintiff's cause of action as set forth in her Petition herein, and that Plaintiff has accepted said sum in full satisfaction, release and discharge of its cause of action and claim against the Defendant and the Court, after due consideration, finds that said dismissal should be approved.

IT IS, THEREFORE, ORDERED that this cause be, and the same is hereby dismissed, with prejudice, at the cost of the Defendant.



Judge of the United States District Court,
Northern District of Oklahoma

APPROVED AS TO FORM:


Attorney for Plaintiff


Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HICKORY PTT, INC. a corporation,)
)
 Plaintiff,)
)
 vs.) No.6232 Civil
)
 JAMES G. WATTS,)
)
 Defendant.)

FILED

NOV - 8 1965

ORDER GRANTING MOTION TO REMAND

NOBLE C. HOOD,
Clerk, U. S. District Court

This action was brought in the Court of Common Pleas in and for Tulsa County, State of Oklahoma and was removed to this court by the defendant. The plaintiff seeks to remand this cause to the state court.

The complaint alleges that the plaintiff, an Oklahoma corporation is operating a restaurant specializing in the retail sale of barbecued food under the name "Flaming Sword". It is alleged that the defendant is preparing to open a retail restaurant under the name of "Flaming Sword Restaurant" in the same neighborhood; that the defendant lacks the authority to appropriate the use of the said name "Flaming Sword", and that if the defendant is permitted to open his restaurant the plaintiff will suffer irreparable harm. The plaintiff further alleges that it was granted the exclusive right to use the name "Flaming Sword" for retail restaurant operation by Flaming Sword Corporation, a Georgia Corporation, by a written agreement; that the name Flaming Sword has been copyrighted pursuant to Federal law and that the defendant has no right to the use of said name.

The plaintiff prays for damages in the amount of \$2,500. and for an injunction enjoining the defendant from using the name

"Flaming Sword" in any retail restaurant operation.

The defendant's petition for removal alleges that the plaintiff's action is an action arising under the Acts of Congress pursuant to 28 U. S. C. A. Section 1338(a) and (b) relating to infringement of copyrights "insofar as same are owned by Plaintiff or are of benefit to Plaintiff....". It is further alleged that the defendant is entitled to remove this case on the grounds of diversity of citizenship due to the fact that the defendant is a resident and citizen of the State of Florida and the plaintiff is an Oklahoma corporation, and that there is more than \$10,000 involved.

The plaintiff's brief in support of the motion to remand claims that this action is not based upon a federally created right but is based upon a state-created right, namely its rights based upon its contract with Flaming Sword Corporation. The plaintiff denies that the amount in controversy exceeds \$10,000.

It thus appears that there is no federal question involved in this controversy. The plaintiff is not suing on a federally created right but on a contract right. The plaintiff has been granted a limited right, an exclusive distributorship, and has not been assigned the entire copyright. The limited right is a license under a contract. Becton, Dickinson & Co. v. Eisele & Co., 1936, CCA 6th, 86 F. 2d 267. Moreover, a licensee has no title in a copyright itself and cannot sue without joining the owner of the copyright. The first and fifth syllabi in Local Trademarks, Inc., v. Powers, et al. (DC-F.D. Penn - 1944) 56 F. Supp. 751 provide:

"A licensee under copyright cannot sue in his own name for infringement thereof. Copyright Act, as amended March 2, 1913, 17 U.S.C.A. § 1 et seq.

"Federal jurisdiction of suit by licensee under copyright, to which owner of copyright is not made a party, to enjoin infringement of copyright by strangers, depends upon diversity of citizenship, since such suit is based on contract rights and not on violation of Copyright Act. Copyright Act, as amended March 2, 1913, 17 U.S.C.A. § 1 et seq.

Therefore, the plaintiff cannot be suing on a federally created right since the plaintiff is a mere licensee and has not joined the copyright owner. If, however, it develops later that the plaintiff relies on a federal right, this case may then be removable at that time.

It is further determined that this case is not removable on the grounds of diversity since there is no jurisdictional amount involved. The plaintiff has fixed the value of its damages at \$2500. The defendant has alleged no facts which would show that the value of this controversy to the defendant would exceed \$10,000. Therefore, it does not appear that a judgment would produce a pecuniary result to either party of more than \$10,000. Bonzio v. Denver & R. G. W. R.R., C.C.A. 10th, 116 F. 2d 604.

In view of the above, the Court remands this case to the Court of Common Pleas in and for Tulsa County, State of Oklahoma. The Clerk of this Court will take the necessary action to effect the remand of this case.

Dated this 8 day of November, 1965.

(5) Fred Daugherty
Fred Daugherty
United States District Judge

Doris G. Lorino, defendants herein, have by the stipulations agreed that the just compensation to be paid by the plaintiff for the taking of the estate taken in the above tracts is the sum of \$26,800.00, inclusive of interest.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tracts are described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above tracts is the sum of \$26,800.00, inclusive of interest;

(c) The plaintiff shall forthwith deposit into the Registry of this Court the deficiency in the amount of \$8,981.00, without interest.

Upon receipt of the last-mentioned deficiency, the Clerk of this Court is hereby authorized and directed to draw checks on the funds in the Registry of this Court in the amounts hereinafter set forth, payable to the order of the following-named payees.

Big Four Petroleum Corporation	\$16,000.00
William E. and Leona A. Sallee	8,500.00
Grace A. Smith	766.70
Ima I. Horalek	255.55
Ila Williams	255.55
Roberta W. Moore	255.55
Lois E. Blue	255.55
Kelma Grace Simpson	255.55
Doris G. Lorino	255.55

Entered this 9th day of November, 1965.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

IN THE UNITED STATES COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

STEVE LEARY REALTY COMPANY,
a corporation,

Plaintiff,

-vs-

SUNRAY DX OIL COMPANY,
a corporation,

Defendant.

No. 6242

FILED

NOV -9 1965

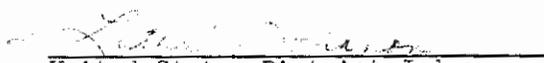
NOBLE C. HOOD
Clerk, U. S. District Court

ORDER GRANTING ALTERNATIVE
MOTION TO TRANSFER ACTION

ON this 9th day of November, 1965, this action comes on for hearing on the Motion of the defendant, Sunray DX Oil Company, to dismiss the Complaint for failure to state a claim upon which relief can be granted; to dismiss the Complaint for failure to join an indispensable party and its Alternative Motion to Transfer Action, pursuant to 28 U.S.C. Sec. 1404(a) to the United States District Court for the District of Arizona.

The Court, having examined the Motions, Affidavits and Statements on file in this case and having heard the argument of counsel, finds that, for the convenience of parties and witnesses and in the interest of justice, this action should be transferred to the United States District Court for the District of Arizona, before which Court all other issues and matters raised by the Motions heard this day may be resolved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this action be, and the same is hereby, transferred to the United States District Court for the District of Arizona pursuant to Section 1404(a) of Title 28 of the United States Code.


United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Ernest Philip McCaskey
Petitioner,

vs.

David Lee Hill,
Respondent.

United States of America,
Respondent.

DAVID LEE HILL
FILED
NOV 11 1966

O R D E R

NOBLE C. HOOD
Clerk, U. S. District Court

This matter coming on before me, the undersigned Judge, this 9th day of November, 1966, upon the motion of the petitioner, Ernest Philip McCaskey, to vacate and set aside sentence pronounced by the District Court and the petitioner appearing in person and by counsel, William A. Adams, and the defendant appearing and being represented by Theodore L. Smith, Assistant United States Attorney, and the court after hearing the parties, records and proceedings in this case and finding that the petitioner is being still advised in the Southern District.

That the petitioner, with the assistance of counsel, appeared in open court and was his wish to withdraw his motion to vacate and set aside sentence pursuant to 28 U.S.C. 833. That thereafter the court questioned said petitioner for what reason he desired to withdraw his motion filed herein. That the petitioner answered upon questioning by the Assistant United States Attorney in open court, that prior to his pleading guilty and sentencing he was advised and familiar with the substantial provisions of the Youth Corrections Act by which he was sentenced to Federal Prison No. 11 in this court, and was aware that he could be imprisoned and under supervision for a period which could exceed the maximum statutory sentence provisions under the statute by which he was convicted and that his plea which herein was a result of a misunderstanding. That thereafter, the Assistant United States Attorney questioned petitioner's counsel as to whether or not the petitioner's wishes to withdraw said motion to vacate and set aside sentence had in fact, and petitioner further indicated by whom the withdrawal of said motion was advised with the assistance of counsel and that the withdrawal of said motion was

to withdraw the motion which he had filed herein.

For the foregoing reasons, the petitioner should be allowed to withdraw said motion and the same should therefore be and is hereby withdrawn and as such dismissed, overruled and denied.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the motion pursuant to 28 U.S.C. 2255 filed herein by the petitioner Terry Fink McGastey be and is hereby overruled and denied.

(5) *Luther Robinson*
UNITED STATES DISTRICT JUDGE

FILED

JUDGMENT ON JURY VERDICT

CIV 81 (7-68)

1965

United States District Court

FOR THE
NORTHERN DISTRICT OF OKLAHOMA

NOBLE C. HOOD
Clerk, U. S. District Court

Russell Elliston

CIVIL ACTION FILE NO. 6162

vs.

William Botsch

JUDGMENT

This action came on for trial before the Court and a jury, Honorable ALLEN E. BARROW, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged that the plaintiff take nothing, that the action is dismissed on its merits, and that the defendant, William Botsch, recover of the plaintiff, Russell Elliston, his costs of action.

Dated at Tulsa, Oklahoma, this 1st day of October, 1965.

NOBLE C. HOOD

BY W. Michael Hamon
Deputy Clerk

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

Dean Allen Snider,

Defendant.

CIVIL NO. 6240

FILED

NOV 10 1965

DEFAULT JUDGMENT BY THE CLERK

NOBLE C. HOOD
Clerk, U. S. District Court

This cause came on to be heard on motion of the plaintiff for default judgment for the relief demanded in the complaint, and it appearing the complaint and summons in this action were served on the defendant on August 24, 1965, as appears from the Marshal's return of service of said summons; that the time within which the defendant may answer or otherwise move as to the complaint has expired; that the defendant has not answered or otherwise moved and that the time for defendant to answer or otherwise move has not been extended.

It further appearing, as evidenced by the affidavit of the plaintiff, that the defendant is neither an infant nor incompetent person, and that the defendant is not in the military service of the United States.

It further appearing plaintiff's claim against the defendant is for a sum certain which can by computation be made certain.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiff recover of the defendant the amount prayed for in the sum of \$ 1,632.13 with interest on the sum of \$ 1,632.13 at the rate of 6 % per annum from December 5 1955, until paid, and the costs of this action.

Dated this 10th day of November, 19 65.

NOBLE C. HOOD
Clerk, United States District
Court for the Northern District of
Oklahoma

By _____
Deputy

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

Wayne B. Legg,

Defendant.

CIVIL NO. 6259

FILED

NOV 10 1965

DEFAULT JUDGMENT BY THE CLERK

NOBLE C. HOOD
Clerk, U. S. District Court

This cause came on to be heard on motion of the plaintiff for default judgment for the relief demanded in the complaint, and it appearing the complaint and summons in this action were served on the defendant on ~~September 1, 1963~~ as appears from the Marshal's return of service of said summons; that the time within which the defendant may answer or otherwise move as to the complaint has expired; that the defendant has not answered or otherwise moved and that the time for defendant to answer or otherwise move has not been extended.

It further appearing, as evidenced by the affidavit of the plaintiff, that the defendant is neither an infant nor incompetent person, and that the defendant is not in the military service of the United States.

It further appearing plaintiff's claim against the defendant is for a sum certain which can by computation be made certain.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiff recover of the defendant the amount prayed for in the sum of \$ 1,000.00 with interest on the sum of \$ 1,000.00 at the rate of 6 % per annum from February 5, 1963, until paid, and the costs of this action.

Dated this 10th day of November, 19 65.

NOBLE C. HOOD
Clerk, United States District
Court for the Northern District of
Oklahoma

By _____
Deputy

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

C. T. & H. CONSTRUCTION COMPANY,
INC.,

Plaintiff,

vs.

CONTINENTAL CASUALTY COMPANY, a
Corporation,

Defendant.

No. 6123 - Civil

FILED

NOV 11 1965

NOBLE C. HOOD
Clerk, U. S. District Court

J U D G M E N T

Based upon the Findings of Fact and Conclusions of
Law filed herein on the 12th day of November, 1965,

IT IS THE ORDER AND JUDGMENT OF THE COURT that the
plaintiff have and recover of and from the defendant, Conti-
nental Casualty Company, a corporation, the sum of Six Thousand
One Hundred Forty-five and 66/100 Dollars, which sum has been
tendered plaintiff, and that plaintiff's claims for additional
sums over and beyond the contract provisions are denied.

IT IS FURTHER ORDERED that the defendant recover its
costs herein.

DATED this 12th day of November, 1965.

(5) *Valter Brown*
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
Plaintiff,)
vs.)
271.89 Acres of Land, More or Less,)
Situate in Tulsa, Pawnee, and Creek)
Counties, Oklahoma, and Sidney Gore,)
et al, and Unknown Owners,)
Defendants.)

Civil No. 6129

Tract No. 8718-2M

FILED

NOV 15 1961

J U D G M E N T

NOBLE C. HOOD
Clerk, U. S. District Court

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of the above tract.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Court finds, upon the evidence presented, that the below-listed defendants were the sole owners of the above-captioned tract on the date of taking and are entitled to receive the award therefor.

4. The Court finds the amount of \$49,197.00, inclusive of interest, is just compensation for the taking of the estates by the plaintiff in the above tract, as such estates and said tract are described and set forth in the Complaint and Declaration of Taking heretofore filed in this cause. The sum of \$48,992.00 was deposited into the Registry of this Court as estimated just compensation for said tract upon the filing of the Declaration of Taking herein.

5. The Court finds that prior to the institution of the above proceeding the United States of America and Sellers Petroleum Co., Maude D. Sellers, Janice M. Crouch, James A. Sellers, Jack B. Sellers, W. C. Sellers,

Mariam A. Lapham, John R. Crain, Malcolm Deisenroth, Jr., John R. Less, Ulster Corporation, Western Hemisphere Petroleum Corporation, Barron Kidd, Jill Leda Appleman, Oil & Gas Property Management, Inc., PIA Investing Corp., Cantexas Royalty Co., Ltd., W. B. Snyder (Trustee), Empire Trust Co.; James R. Meredith & First National Bank & Trust, Tulsa; Harrison Oil Co., Swan Oil Co., Susan Appleman, Elizabeth W. Parsons, C. R. Bennett, Edward F. Reed Trust; Sam T. Allen, III, W. I. Gilbert, Jr., and Jack P. Longstreet, Trustees for Mary Elizabeth Reed and Margaret R. Kosek; Kirby Petroleum Company, and Livingston Oil Company entered into a contract, as evidenced by an option for the purchase of land granted by said defendants and accepted on behalf of the plaintiff by the Corps of Engineers, Department of the Army, wherein it was agreed that the amount of \$46,393.66, for their interests, inclusive of interest, would be awarded as just compensation for the taking of the estates to be condemned in the above tract; that the contract and agreement is a valid one.

6. The Court finds that plaintiff and Dorothy Sellers and W. R. Wofford, defendants herein, have by the stipulation agreed that the just compensation to be paid by the plaintiff for the taking of the estates taken in the above tract is the sum of \$1,496.74, for their interests, inclusive of interest.

7. The Court finds that William W. Crandell, Kenneth Crandall, Jr., Edna H. Nickerson, International Society of Christian Endeavor, Gerald F. Fitzgerald, Mary Ellen Fitzgerald, Alta B. Ryan, Mary M. Cook, Hanora Ammons, Nellie Henshaw, and John O'Donnell have failed to appear or answer nor have their attorneys appeared or answered in their behalf and that said parties defendant are in default at this time.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above tract is the sum of \$49,197.00, inclusive of interest, of which sum the following amounts have previously been disbursed:

Sellers Petroleum Co.	\$31,264.00
Maude D. Sellers	3,857.16
Janice M. Crouch	857.14
James A. Sellers	857.14
Jack B. Sellers	857.14
W. C. Sellers	857.14
Edward F. Reed Trust	426.40
Sam T. Allen, III, W. I. Gilbert, Jr., and Jack P. Longstreet, Trustees for Mary Elizabeth Reed	213.20
Sam T. Allen, III, W. I. Gilbert, Jr., and Jack P. Longstreet, Trustees for Margaret R. Kosek	213.20
Dorothy Sellers	857.14
Mariam A. Lapham	857.14
	<hr/>
	\$41,116.80

(c) The plaintiff shall forthwith deposit into the Registry of this Court the deficiency in the amount of \$205.00, without interest, and upon receipt of the last-mentioned deficiency, the Clerk of this Court is hereby authorized and directed to draw checks on the funds in the Registry of this Court in the amounts hereinafter set forth, payable to the order of the following-named payees:

John R. Crain and Malcolm Deisenroth, Jr.	\$ 200.00
Elizabeth W. Parsons	213.20
C. R. Bennett	639.60
Kirby Petroleum Company	817.20
Livingston Oil Company	2,132.00
W. R. Wofford	639.60
William W. Crandall	319.80
Kenneth Crandall, Jr.	319.80
Edna H. Nickerson	124.20
International Society of Christian Endeavor	41.40

Gerald F. Fitzgerald	\$ 213.20
Mary Ellen Fitzgerald	213.20
Alta B. Ryan	17.00
Mary M. Cook	14.50
Hanora Azmons	14.50
Nellie Henshaw	14.50
John O'Donnell	14.50
So-Roy Corporation, as Agent for: John R. Less, Ulster Corporation, Western Hemisphere Petroleum Corporation, Barron Kidd, Jill Leda Appleman, Oil & Gas Property Management, Inc., PIA Investing Corporation, Cantexas Royalty Co., Ltd., W. B. Snyder (Trustee), Empire Trust Co.; James R. Meredith & First National Bank & Trust, Tulsa; Harrison Oil Co., Swan Oil Co., and Susan Appleman	2,132.00
	<hr/>
	\$ 8,080.20

Entered: NOV 15 1965

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
Plaintiff,)
)
vs.)
)
1,663.10 Acres of Land, More or Less,)
Situat e in Nowata and Rogers Counties,)
Oklahoma, and Katherine J. Steil, et al,)
and Unknown Owners,)
)
Defendants.)

CIVIL ACTION NO. 4643

Tract No. S-1941

FILED

NOBLE C. HOOD

Clerk, U. S. District Court

J U D G M E N T

1.

NOW, on this 17th day of November, 1965, this matter comes on for disposition on application of plaintiff, United States of America, for entry of Judgment on a Stipulation as to Just Compensation, and the Court, after having examined the files in this action and being advised by counsel for plaintiff, finds:

2.

This Judgment applies only to the estate condemned in Tract No. S-1941, as such estate and tract are described in the Complaint and the Declaration of Taking filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of process has been perfected either personally, or by publication notice, as provided by Rule 71A of Federal Rules of Civil Procedure on all parties defendant in this cause who are interested in subject tract.

5.

The Acts of Congress set out in paragraph 2 of the Complaint herein give the United States of America the right, power, and authority to condemn for public use the estate described in paragraph 2 herein. Pursuant thereto, on February 19, 1959, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

On filing of the Declaration of Taking, there was deposited in the Registry of this Court, as estimated compensation for the taking of a certain estate in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out in paragraph 11 below.

7.

On the date of taking in this action, the owner of the estate taken in subject tract was the defendant whose name is shown in paragraph 11 below. Such named defendant is the only person asserting any interest in the estate taken in such tract, all other persons having either disclaimed or defaulted, and such named defendant is entitled to receive the just compensation awarded by this Judgment.

8.

The owner of the subject tract and the United States of America have filed herein a Stipulation as to Just Compensation wherein they have agreed that just compensation for the estate condemned in subject tract is in the amount shown as compensation in paragraph 11 below, and such Stipulation should be approved.

9.

It Is, Therefore, ORDERED, ADJUDGED, AND DECREED that the United States of America has the right, power, and authority to condemn for public use the tract named in paragraph 2 herein, as such tract is particularly described in the Complaint and the Declaration of Taking filed herein; and such tract, to the extent of the estate described in such Declaration of Taking, and for the uses and purposes therein described, is condemned and title thereto is vested in the United States of America, as of February 19, 1959, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim thereto.

10.

It Is Further ORDERED, ADJUDGED AND DECREED that on the date of taking, the owner of the estate condemned herein in subject tract was the defendant whose name appears below in paragraph 11, and the right to just compensation for the estate taken herein in this tract is vested in the party so named.

11.

It Is Further ORDERED, ADJUDGED, AND DECREED that the Stipulation as to Just Compensation, mentioned in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject tract as follows:

TRACT NO. S-1941

OWNER:

Norman E. Haner

Award of just compensation pursuant to Stipulation -----	\$2,200.00	\$2,200.00
Deposited as estimated compensation -----	<u>\$2,200.00</u>	
Disbursed to owner -----		<u>\$2,200.00</u>

A. Allen E. Barron
UNITED STATES DISTRICT JUDGE

APPROVED:

H. Hubert A. Marlow
HUBERT A. MARLOW
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

THOMAS S. MACKIE, d/b/a)	
T. S. Mackie and Associates,)	
)	
)	
Plaintiff,)	
)	
vs.)	NO. 6246 Civil
)	
KIMRAY, INC., an Oklahoma Corporation,)	
DAUPHIN CORPORATION, a Delaware Corpora-)	FILED
tion, COMPUTER INSTITUTE OF OKLAHOMA,)	
an Oklahoma Corporation, GARMAN O.)	
KIMMELL, ALBERT W. REDDICK, E. N. SANDERS,)	NOV 22 1965
RICHARD GARRETT, and RICHARD F. MERGENER,)	
)	
Defendants.)	NOBLE C. HOOD Clerk, U. S. District Court

ORDER REMANDING SUIT TO STATE COURT

The motion of plaintiff to remand this suit to the District Court of Tulsa County, Oklahoma, coming on for hearing this 9th day of November, 1965, pursuant to regular setting, and the court having heard the argument of counsel, and being fully advised, upon consideration finds that the said motion should be sustained.

On motion of plaintiff's counsel that attorney fees be allowed plaintiff by reason of the necessity of incurring additional expenses to resist said wrongful removal, the court finds that attorney fees in the amount of \$250.00 are reasonable, and does hereby allow said amount to plaintiff as attorney fees for his attorney, to be charged as costs and against the bond posted herein by the defendants.

IT IS THEREFORE ORDERED that the motion of the plaintiff to remand this case to the District Court of Tulsa County, Oklahoma, be, and the same is hereby granted, and this cause be and the same is hereby remanded to the District Court of Tulsa County, Oklahoma.

IT IS FURTHER ORDERED that plaintiff
have and recover his costs and disbursements in this court
against defendants, including the attorney fees above specified,
all to be taxed by the Clerk.

Lutty Babanon
Judge of the United States District Court

UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

Kathie I. Layman, . . . Plaintiff,)
)
vs.) No. 6285 Civil
)
Walter Davignon and Lambert Associated)
Companies, Inc., a Corporation,)
 . . . Defendants.)

FILED

NOV 23 1965

STIPULATION FOR DISMISSAL

ROBLE C. HOOD
U. S. District Court

It is hereby stipulated and agreed by and between the parties to this
action that the plaintiff, Kathie I. Layman, may and she does hereby dismiss
the above styled and numbered cause of action with prejudice to the bringing
of a future action.

Dated this 16 day of November, 1965.

s/ Kathie Irene Layman
Plaintiff

SMITH & BROWN
s/ By Robert E. Martin
Attorneys for Plaintiff

s/ R.D. Hudson
Attorney for Defendants

IT IS HEREBY ORDERED that the above numbered and styled cause
of action be dismissed with prejudice this 23 day of November, 1965.

U. S. District Judge

rdh/mh

11-9-65

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
) Plaintiff,)
)
 vs.)
)
 760.42 Acres of Land, More or Less,)
 Situate in Nowata and Rogers Counties,)
 Oklahoma, and Mrs. O. C. (Corrine) Cash,)
 et al, and Unknown Owners,)
)
 Defendants.)

CIVIL ACTION NO. 4856 ✓

Tracts Nos.

N-1428 (Partial)

N-1442 (Partial)

FILED

NOV 24 1965

NOBLE C. HOOD *h*
Clerk, U. S. District Court

J U D G M E N T

1.

NOW, on this 24 day of November, 1965, this matter comes on for disposition on application of the plaintiff, United States of America, for entry of Judgment on the Reports of Commissioners filed herein on October 19, 1965, and the Court, after having examined the files in this action and being advised by counsel for the plaintiff, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This Judgment applies only to 15/16 of the entire lessee interest in the estate taken in Tract No. N-1428, and to the working interest only in the lessee interest (being the entire leasehold interest, subject to a 1/16 overriding royalty interest) in the estate taken in Tract No. N-1442. The description of each tract and the estate taken in each is as set forth in the Complaint and the Declaration of Taking filed in this action.

4.

Service of Process has been perfected either personally or by publication notice as provided by Rule 71A of the Federal Rules of Civil Procedure on all parties defendant in this cause, who are interested in subject tracts.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject tracts of land. Pursuant thereto, on February 19, 1960, the United States of America filed its Declaration of Taking of certain estates in such tracts of land, and title to such property should be vested in the United States of America as of the date of filing such Declaration of Taking.

6.

On filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the property described in paragraph 3, a certain sum of money, and part of this deposit has been disbursed as set out in paragraph 12 below.

7.

The Report of Commissioners filed herein on October 19, 1965, hereby is accepted and adopted as a finding of fact as to all property covered by such report. The amount of just compensation as to the subject property as fixed by the Commission is set out in paragraph 12 below.

8.

As to Tract No. N-1428, a deficiency exists between the amount deposited as estimated just compensation and the amount fixed by the Commission and the Court as just compensation. As to Tract No. N-1442, the amount deposited as estimated compensation is larger than the amount fixed by the Commission and the Court as just compensation. The deficiency and the surplus are set out in paragraph 12 below. The surplus in the one deposit should be used to satisfy the deficiency in the other and the balance should be refunded to the Plaintiff.

9.

The defendants named in paragraph 12 as owners of subject property are the only defendants asserting any interest in such property, all other defendants having either disclaimed or defaulted; the named defendants are the owners of the subject property and, as such, are entitled to receive the just compensation awarded by this Judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED AND DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tracts, as such tracts are described in the Declaration of Taking filed herein, and such property, to the extent of 15/16 of the lessee interest in the estate taken in Tract No. N-1428, and to the extent of the working interest only in the lessee interest in the estate taken in Tract No. N-1442, as such estates are described in the Declaration of Taking filed herein, is condemned, and title thereto is vested in the United States of America, as of the date of filing the Declaration of Taking, and all defendants herein and all other persons are forever barred from asserting any claim thereto.

11.

It Is Further ORDERED, ADJUDGED AND DECREED that on the date of taking the owners of the subject property were the parties whose names appear below in paragraph 12, and the right to receive the just compensation for the taking of such property is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED AND DECREED that the Report of Commissioners of October 19, 1965, hereby is confirmed and the sum therein fixed is adopted as just compensation for the subject interests in the estates taken in the subject tracts, as shown by the following schedule:

<u>15/16 of the Lessee Interest in</u> <u>TRACT NO. N-1428</u>		
Award of just compensation		
pursuant to Commissioners' Report ---	\$1,032.00	\$1,032.00
Deposited as estimated compensation ---	890.64	\$ 890.64
Disbursed to owners -----		237.50
Difference between deposit and award --	<u>\$ 141.36</u>	
Plus interest on difference @ 6%		
from date of taking to 11-24-65 ----	48.89	48.89
Plus excessive disbursement to		
one owner (see below) -----	21.32	
Total award including interest -----		<u>\$1,080.89</u>
Present balance on deposit -----		<u>\$ 653.14</u>
Balance due to owners -----		<u>\$ 864.71</u>
Total present deposit deficiency -----	<u>\$ 211.57</u>	<u>\$ 211.57</u>
Owners and distribution of deposit and award:		

<u>Owners</u>	<u>Fraction of Entire Lessee Int. Owned</u>	<u>Dollar Share of Award, Incl Interest on Deficiency</u>	<u>Disbursed</u>	<u>Balance due to Owners</u>	<u>Refund due to Plaintiff</u>
Irvin Vawter	3/16	\$ 216.18	\$ 237.50		\$ 21.32
Eugene Hyden (now deceased - The Nat'l Bank & Trust Co. of Paris, Kentucky is legal repre- sentative)	7/48	168.14	None	\$168.14	
Dr. J. C. Hart (now deceased - Armenta S. Hart is legal repre- sentative.)	1/8	144.12	None	\$144.12	
John R. Roche	1/12	96.08	None	\$ 96.08	
Dr. H. S. Grubbs	1/12	96.08	None	96.08	
D. M. Wilson	1/8	144.12	None	144.12	
Sam Belt	7/96	84.07	None	84.07	
Mrs. Sam Milner	1/24	48.04	None	48.04	
Dr. William Cox	1/32	36.03	None	36.03	
William Earl Wilson	1/32	36.03	None	36.03	
Mrs. Nancy Hart Bobbitt	<u>1/96</u> 15/16	<u>12.00</u> \$1,080.89	<u>None</u> \$ 237.50	<u>12.00</u> \$664.71	<u>21.32</u>

Working Interest Only in Lessee Interest in
TRACT NO. N-1442

Deposited as estimated compensation -----	\$ 1,225.00	\$ 1,225.00
Disbursed to owners -----		306.25
Present balance on deposit -----		\$ 918.75
Award of just compensation pursuant to Commissioners' Report -----	\$ 942.00	
Original Overdeposit -----	\$ 283.00	
Less excessive disbursement to one owner (see below) -----	\$ 70.75	
Balance due to owners -----		\$ 706.50
Present deposit surplus -----	\$ 212.25	\$ 212.25

Owners and distribution of deposit and award:

	<u>Fraction of Working Interest Owned</u>	<u>Dollar Share of Award</u>	<u>Disbursed</u>	<u>Balance due to Owners</u>	<u>Refund due to Plaintiff</u>
Irvin Vawter	1/4	\$235.50	\$306.25	None	\$ 70.75
Eugene Hyden (Now deceased - The Nat'l Bank & Trust Co. of Paris, Kentucky, is legal representative)	5/24	196.25	None	\$196.25	
Dr. J. C. Hart (Now deceased - Armenta S. Hart is legal representative)	1/8	117.75	None	\$117.75	
John R. Roche	1/12	78.50	None	78.50	
Dr. H. S. Grubbs	1/12	78.50	None	78.50	
D. M. Wilson	1/8	117.75	None	117.75	
Sam Belt	1/24	39.25	None	39.25	
Mrs. Sam Milner	1/24	39.25	None	39.25	
Mrs. Nancy Hart Bobbitt	1/24	39.25	None	39.25	
		<u>\$942.00</u>	<u>\$306.25</u>	<u>\$706.50</u>	<u>\$ 70.75</u>

13.

It Is Further ORDERED that the Clerk of this Court shall transfer from the surplus in the deposit for Tract No. N-1442 the sum of \$211.57 to the deposit for Tract No. N-1428.

The Clerk of this Court then shall disburse the funds on deposit for the subject tracts as follows:

1. From the deposit for Tract No. N-1428, to each of the owners, the balance due to such owner as shown in the schedule for such tract in paragraph 12 above.

2. From the deposit for Tract No. N-1442:

A. To each of the owners, the balance due to such owner as shown in the schedule for such tract in paragraph 12 above.

B. To Treasurer of the United States of America the sum of \$0.68 (68 cents).

14.

It Is Further ORDERED, ADJUDGED AND DECREED that the Plaintiff, United States of America shall have judgment against Irvin Vawter for the overpayments made to him from the deposits for the subject tracts in the total sum of \$92.07.

To effect payment of this judgment, Irvin Vawter shall pay to the Clerk of the United States District Court, Northern District of Oklahoma, at Tulsa, Oklahoma, the total sum of \$92.07.

When this judgment has been paid, the Clerk of this Court shall credit the deposit for Tract No. N-1428 with \$21.32 and the deposit for Tract No. N-1442 with \$70.75, and then shall disburse from such deposits the total sum of \$92.07 to Treasurer of the United States of America.

William E. Kasper

UNITED STATES DISTRICT JUDGE

APPROVED:

Hubert A. Marlow

HUBERT A. MARLOW

Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAMES D. HARDRIDGE,)
)
 Plaintiff,)
)
 vs.)
)
 ANTHONY J. CELEBREZZE, Secretary)
 of Health, Education and Welfare,)
)
 Defendant.)

No. 5650 Civil

FILED

NOV 24 1965

NOBLE C. HOOD
Clerk, U. S. District Court

ORDER DENYING MOTION FOR NEW TRIAL

The plaintiff has filed a motion for new trial alleging that the judgment entered by this Court on the 3rd day of September, 1965, is contrary to the facts in evidence, and that said judgment is contrary to the law applicable to the facts. The plaintiff's brief submits that the standards of the case of Park v. Celebrezze, 214 F. Supp. 153 should apply to this case. It was found in the Park case, as well as the instant case, that the plaintiff was suffering from a medically determinable physical impairment which could be expected to result in death or to be of long and indefinite duration. However, the Park case and the case at bar have very little in common beyond the above finding. Unlike the Park case, in which there was no vocational expert whose testimony was called upon, the defendant in the case before this Court presented testimony by a vocational witness that there were jobs of a sedentary and light work nature which the plaintiff could perform despite his impairment and that such work was available in the immediate community of the plaintiff.

The plaintiff never attempted to refute this testimony or to show that there existed an inability to engage in any substantial gainful activity due to the physical impairment.

It is incumbent upon the plaintiff in a case of this nature to prove not only the physical or medical impairment, but to also prove that there is an inability to engage in any substantial gainful employment. Title 42 U.S.C.A. Section 416(i)(1). The defendant in the present case produced evidence that the plaintiff could do some type of work; actually, not apparently. Ellerman v. Fleming, 188 F. Supp. 521. Therefore, the Court in reviewing the record, giving consideration to the plaintiff's age, background, and training, found that there was substantial evidence to support the decision of the Secretary.

The granting of a motion for a new trial is within the sound discretion of the trial Court. English v. Mattson, 214 F. 2d, 406. In this action the Court is convinced that the granting of a new trial would serve no purpose except to again review the decision of the Secretary which has been fully considered and correctly and finally affirmed.

For the reasons herein stated, it is ordered that the plaintiff's motion for new trial be denied.

Dated this 24 day of November, 1965.

(s) Fred Daugherty
Fred Daugherty
United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
Plaintiff,)
vs.)
297.32 Acres of Land, More or Less,)
Situat e in Creek County, Oklahoma,)
and Gary W. Henry, et al., and)
Unknown Owners,)
Defendants.)

Civil No. 6172

Tract No. 4757E

FILED

NOV 24 1965

J U D G M E N T

NOBLE C. HOOD
Clerk, U. S. District Court

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of the above tract.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Court finds upon the evidence presented that the below-listed defendants were the sole owners of the above-captioned tract on the date of taking, and are entitled to receive the award therefor.

4. The Court finds the amount of \$2,565.00, inclusive of interest, is just compensation for the taking of the estates by the plaintiff in the above tract, as such estates and said tract are described and set forth in the Complaint and Declaration of Taking heretofore filed in this cause. The sum of \$2,565.00 was deposited into the Registry of this Court as estimated just compensation for said tract upon the filing of the Declaration of Taking herein.

5. The Court finds that prior to the institution of the above proceeding the United States of America and E. P. Underwood entered into a contract, as evidenced by an option for the purchase of land granted by said defendants and accepted on behalf of the plaintiff by the Corps of Engineers,

Department of the Army, wherein it was agreed that the amount of \$70.00 for his interest, inclusive of interest, would be awarded as just compensation for the taking of the estates to be condemned in the above tract; that the contract and agreement is a valid one.

6. The Court finds that plaintiff and Clarence L. Brook and Sunray D-X Oil Company, defendants herein, have by the stipulation agreed that the just compensation to be paid by the plaintiff for the taking of the estate taken in the above tract is the sum of \$2,355.00 for their interests, inclusive of interest.

7. The Court finds that defendant Faust Gonsett Estate has failed to appear or answer, nor have their attorneys appeared or answered in their behalf, and that said parties defendant are in default at this time.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above tract is the sum of \$2,565.00, inclusive of interest, of which amount the following sums have been previously disbursed:

Clarence L. Brook \$ 630.00
Sunray D-X Oil Company 1,725.00

(c) The Clerk of this Court is hereby authorized and directed to draw checks on the funds in the Registry of this Court in the amounts hereinafter set forth, payable to the order of the following-named payees:

E. P. Underwood \$70.00
Robert Faust Gonsett \$70.00
Diane Irene Gonsett \$70.00

Entered

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
) Plaintiff,)
 vs.) Civil No. 4740
)
 244.20 Acres of Land, More or Less,) Tract No. G-716E
 Situate in Creek and Pawnee Counties,)
 Oklahoma, and Ruth I. Knee, et al,)
 and Unknown Owners,)
)
 Defendants.)

FILED

NOV 29 1965

PARTIAL JUDGMENT

NOEL B. COOPER
Clerk, U. S. District Court

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of one-half of the mineral interest.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Court finds, upon the evidence presented that the below listed defendants were the sole owners of one-half of the mineral interest on the date of taking, and are entitled to receive an award therefor.

4. The Court finds the amount of \$62.50, inclusive of interest, is just compensation for the taking of one-half of the mineral interest by the plaintiff in the above tract, as such estate and said tract are described and set forth in the Complaint and Declaration of Taking heretofore filed in this cause. The sum of \$62.50 was deposited into the Registry of this Court as estimated just compensation for said one-half of the mineral interest upon the filing of the Declaration of Taking herein.

5. The Court finds that defendants George W. Roark; James B. Kite; Viking Oil Corporation; Triangle Royalty Corporation; Houston Huffman; Nan Ferguson; B. Carl Snyder; L. E. Lansden, Jr.; M. T. Myers and Charles E.

Stewart, Trustees; and Erick P. Frank and Aileen Frank, joint tenants, have failed to appear or answer nor have their attorneys appeared or answered in their behalf, and that said parties defendant are in default at this time.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the mineral interest hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of one-half of the mineral interest is the sum of \$62.50, inclusive of interest;

(c) The plaintiff shall forthwith deposit into the Registry of this Court the deficiency in the amount of \$62.50, without interest.

The Clerk of the Court is hereby authorized and directed to retain the amounts set out below for this tract for a period of five years from the date of this Judgment, unless said deposit is properly claimed by the defendant owners set forth below, and in event said deposit is not claimed, the Court Clerk is directed, without further order of this Court, to return said deposit, five years from this date, into the United States Treasury.

George W. Roark	\$ 7.80
James B. Kite	7.80
Viking Oil Coporation	7.80
Triangle Royalty Corporation	3.90
Houston Huffman	11.00
Nan Ferguson.	4.70
B. Carl Snyder	4.70
L. E. Lansden, Jr.	7.80
M. T. Myers and Charles E. Stewart, Trustees	3.90
Erick P. Frank and Aileen Frank, Joint Tenants	<u>3.10</u>
Total	\$62.50

Entered *Thompson*

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

nld

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
Plaintiff,)
vs.)
780.51 Acres of Land, More or Less,)
Situatē in Tulsa, Creek and Pawnee)
Counties, Oklahoma, and Carl H. Abel,)
Jr., et al., and Unknown Owners,)
Defendants.)

Civil No. 4927
Tract No. I-926

FILED

NOV 29 1965

NOBLE C. HOOD
Clerk, U. S. District Court

PARTIAL JUDGMENT

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of 15/16 mineral interest in Lot 6.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Court finds upon the evidence presented that the below-listed defendant was the sole owner of 15/16 mineral interest in Lot 6 on the date of taking, and is entitled to receive the award therefor.

4. The Court finds the amount of \$227.00, inclusive of interest, is just compensation for the taking of 15/16 mineral interest in Lot 6 by the plaintiff in the above tract, as such estates and said tract are described and set forth in the Complaint and Declaration of Taking heretofore filed in this cause. The sum of \$227.00 was deposited into the Registry of this Court as estimated just compensation for said 15/16 mineral interest in Lot 6 upon the filing of the Declaration of Taking herein.

5. The Court finds that defendant Ed Buchanon has failed to appear or answer, nor has his attorney appeared or answered in his behalf, and that said party defendant is in default at this time.

IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of 15/16 mineral interest in Lot 6 is the sum of \$227.00, inclusive of interest;

(c) The plaintiff shall forthwith deposit into the Registry of this Court the deficiency in the amount of \$227.00, without interest. The Clerk of the Court is hereby authorized and directed to retain the amount set out below for this tract for a period of five years from the date of this Judgment, unless said deposit is properly claimed by the defendant owner set forth below, and in event said deposit is not claimed, the Court Clerk is directed, without further order of this Court to return said deposit, five years from this date, into the United States Treasury:

Ed Buchanan \$227.00.

Entered NOV 29 1965

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

APACHE CORPORATION,

Judgment Creditor,

vs.

EUGENE S. RYAN,

Judgment Debtor,

and

THE FIRST NATIONAL BANK AND TRUST
COMPANY OF TULSA, Tulsa, Oklahoma,

Garnishee.

Civil Action
No. 5562

FILED
in open court.
NOV 29 1965

NOBLE C. HOOD
Clerk, U. S. District Court

JUDGMENT AGAINST GARNISHEE

The Clerk is directed to enter the following judgment:

IT IS ADJUDGED that Apache Corporation have and recover of
and from The First National Bank and Trust Company of Tulsa,
Garnishee herein, the sum of \$1,176.33.

Dated this 29th day of November, 1965.



Judge of United States District Court

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

427.05 Acres of Land, More or Less,
Situate in Creek, Pawnee, and Osage
Counties, Oklahoma, and Glenn A.
Milam, et al, and Unknown Owners,

Defendants.

Civil No. 5844

Tract No. 3823E and 3823E-2

FILED

NOV 29 1965

NOBLE C. HOOD
Clerk, U. S. District Court

J U D G M E N T

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of the above tracts, based on the Report of Commissioners filed herein on the 10th day of May, 1965.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tracts; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Report of Commissioners filed herein on the 10th day of May, 1965, is hereby accepted and adopted as a finding of fact as to all tracts covered by such report. The amount of just compensation as to the subject tracts as fixed by the Commission is set out in paragraph 6 below.

4. Certain deficiencies exist between the amounts deposited as estimated just compensation for subject tracts and the amounts fixed by the Commission and the Court as just compensation and a sum of money sufficient to cover such deficiencies should be deposited by the Government. These deficiencies are set out in paragraph 6 below.

5. The Court finds upon the evidence presented that the defendants listed below in paragraph 6 were the sole owners of the above captioned tracts on the date of taking and are entitled to receive the award thereof.

6. IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tracts are described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above tracts is the sum of \$4,400.00, as determined by the Report of Commissioners of May 10, 1965, which report is hereby confirmed and the sums therein fixed and adopted as just compensation for subject tracts, as shown by the following schedule:

TRACTS NOS. 3823E and 3823E-2

Owner: <u>F. B. Weaver and Leona Weaver</u>	
Award of Just Compensation	<u>\$4,400.00</u>
Deposited as estimated compensation	<u>\$1,125.00</u>
Disbursed to Owner	<u>\$1,125.00</u>
Balance due to Owner	<u>\$3,275.00</u>
Deposit Deficiency	<u>\$3,275.00</u>

7. The plaintiff shall forthwith deposit into the Registry of this Court the deficiency in the amount of \$3,275.00, with interest at 6% per annum from December 5, 1963, until the date of deposit of such deficiency. Upon receipt of the last-mentioned deficiency, the Clerk of this Court is hereby authorized and directed to draw a check on the funds in the Registry of this Court in the amount hereinafter set forth, payable to the order of the following-named payees.

F. B. and Leona Weaver and Federal Land Bank of
Wichita \$3,275.00 plus
all accrued interest.

Entered this 19 day of October, 1965.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
) Plaintiff,)
 vs.)
)
) 343.20 Acres of Land, More or Less,)
) Situate in Tulsa, Creek, and Pawnee)
) Counties, Oklahoma, and George)
) Campbell, et al, and Unknown Owners,)
)
) Defendants.)

Civil No. 5995

Tract No. 3741E

FILED

NOV 29 1965

J U D G M E N T

NOBLE C. HOOD
Clerk, U. S. District Court

1. On this day this cause came on for hearing upon the application of the United States of America, by its attorney, for a final Judgment determining the ownership and the just compensation to be awarded the former owners of the above tract, based on the Report of Commissioners filed herein on the 10th day of May, 1965.

2. The Court finds that the Declaration of Taking and Complaint were duly filed and that the Court has jurisdiction of the parties and the subject matter of this action; that service of process has been perfected either personally or by publication of notice, as prescribed by Rule 71A of the Federal Rules of Civil Procedure, on all parties having compensable interests in the subject tract; that upon the date the Declaration of Taking and the Complaint were filed title to the estate taken, as set out therein, became vested in the United States of America.

3. The Report of Commissioners filed herein on the 10th day of May, 1965, is hereby accepted and adopted as a finding of fact as to the tract covered by such report. The amount of just compensation as to the subject tract, as fixed by the Commission, is set out in paragraph 6 below.

4. A certain deficiency exists between the amount deposited as estimated just compensation for subject tract and the amount fixed by the Commission and the Court as just compensation and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out in paragraph 6 below.

5. The Court finds upon the evidence presented that the defendant listed below in paragraph 6 was the sole owner of the above-captioned tract on the date of taking and is entitled to receive the award thereof.

6. IT IS, THEREFORE, BY THE COURT ORDERED AND ADJUDGED:

(a) The vesting in plaintiff of title to the estates set forth in the Complaint and Declaration of Taking in and to the lands hereinabove referred to, as said tract is described therein, is hereby confirmed;

(b) The just compensation to be paid by the plaintiff for the taking of the above tract is the sum of \$5,600.00, as determined by the Report of Commissioners of May 10, 1965, which report is hereby confirmed and the sum therein fixed and adopted as just compensation for subject tract, as shown by the following schedule:

TRACT NO. 3741E

Owner: Maude E. Poos	
Award of Just Compensation:	\$5,600.00
Deposited as Estimated Compensation:	\$1,250.00
Disbursed to Owner:	\$1,250.00
Balance Due to Owner:	\$4,350.00
Deposit Deficiency:	\$4,350.00

7. The plaintiff shall forthwith deposit into the Registry of this Court the deficiency in the amount of \$4,350.00, with interest at 6% per annum from July 16, 1964, until the date of deposit of such deficiency. Upon receipt of the last-mentioned deficiency, the Clerk of this Court is hereby authorized and directed to draw a check on the funds in the Registry of this Court in the amount hereinafter set forth, payable to the order of the following-named payee:

Maude E. Poos - \$4,350.00, plus all accrued interest.

Entered: NOV 20 1965

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Robert P. Santee

ROBERT P. SANTEE
Assistant U. S. Attorney

ksm

FOR THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
)
 Plaintiff,)
)
 v.)
)
 FRED MICKLE,)
)
)
)
)
 Defendant .)

Civil Action No. _____

FILED

NOV 29 1965

NOBLE C. HOOD
Clerk, U. S. District Court

J U D G M E N T

The Court having examined plaintiff's complaint herein and the annexed confession of judgment, and having further examined the original promissory note herein sued upon, which contains a power of attorney authorizing confession of judgment; and the Court now expressly finding that said power of attorney is valid and properly executed by defendant personally; and it appearing that the issuance and service of process herein has been waived, that the indebtedness claimed in the complaint has been confessed as justly due the plaintiff, and that judgment has been confessed for the amount sought herein, it is therefore

ORDERED, ADJUDGED and DECREED that the plaintiff, the United States of America, do have and recover of and from the defendant , Fred Mickle ~~(United States of America)~~ the sum of \$300.00 Dollars, together with interest thereon at the rate of 6% from the date of entry of this judgment, and costs as taxed; and it is

FURTHER ORDERED that the Clerk shall file plaintiff's complaint herein without issuance or service of process, shall assign a new index number and docket such complaint in the usual manner, and shall then file the aforesaid confession of judgment and this executed judgment in the same action. Execution may thereafter issue immediately, at plaintiff's option.

Done this 29 day of November, 1965

Consent:

151 Herbert A. Marlow
Attorney for Plaintiff

151 Lawrence A. McLeod
Attorney for Defendant

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

283.77 Acres of Land, More or Less,
Situate in Nowata County, Oklahoma,
and Lillian M. Coker Sweaney, et al,
and Unknown Owners,

Defendants.

CIVIL ACTION NO. 4867

Tract No. N-1441 (Partial)

NOBLE C. MOORE
Clark, U. S. District Court

J U D G M E N T

1.

NOW, on this 30 day of November, 1965, this matter comes on for disposition on application of the plaintiff, United States of America, for entry of Judgment on the Report of Commissioners filed herein on October 19, 1965, and the Court, after having examined the files in this action and being advised by counsel for the plaintiff, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This Judgment applies only to the working interest in the oil and gas lessee interest (being the entire oil and gas leasehold interest, subject to a 1/16 overriding royalty interest) in the estate taken in Tract No. N-1441. The description of the tract and the estate taken therein is as set forth in the Complaint and the Declaration of Taking filed in this action.

4.

Service of Process has been perfected either personally or by publication notice as provided by Rule 71A of the Federal Rules of Civil Procedure on all parties defendant in this cause, who are interested in subject tract.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject tract of land. Pursuant thereto, on March 1, 1960, the United States of America filed its Declaration of Taking

of certain estates in such tract of land, and title to such property should be vested in the United States of America, as of the date of filing such Declaration of Taking.

6.

On filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the property described in paragraph 3 above, a certain sum of money, and none of this deposit has been disbursed as set out in paragraph 12 below.

7.

The Report of Commissioners filed herein on October 19, 1965, hereby is accepted and adopted as a finding of fact as to all property covered by such report. The amount of just compensation as to the subject property, as fixed by the Commission, is set out in paragraph 12 below.

8.

The sum deposited as estimated compensation for the subject property exceeds the amount of the award for such property as fixed by this Judgment as shown in paragraph 12 below. The surplus in the deposit for the subject tract should be refunded to the Plaintiff.

9.

The defendants named in paragraph 12 as owners of subject property are the only defendants asserting any interest in such property, all other defendants having either disclaimed or defaulted; the named defendants are the owners of the subject property and, as such, are entitled to receive the just compensation awarded by this Judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED AND DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as such tract is described in the Declaration of Taking filed herein, and such property, to the extent of the working interest only in the oil and gas lessee interest in the estate taken in Tract No. N-1441, as such estate is described in the Declaration of Taking filed herein, is condemned, and title thereto is vested in the United States of America, as of the date of filing the Declaration of Taking, and all defendants herein and all other persons are forever barred from asserting any claim thereto.

11.

It Is Further ORDERED, ADJUDGED AND DECREED that on the date of taking, the owners of the subject property were the parties whose names appear below in paragraph 12, and the right to receive the just compensation for the taking of such property is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED AND DECREED that the Report of Commissioners of October 19, 1965, hereby is confirmed and the sum therein fixed is adopted as just compensation for the subject interest in the estate taken in the subject tract, as shown by the following schedule:

WORKING INTEREST ONLY IN LESSEE INTEREST IN
TRACT NO. N-144

Deposited as estimated compensation -----	\$ 775.00	\$ 775.00
Disbursed to owners -----		None
Present balance on deposit -----		<u>\$ 775.00</u>
Award of just compensation pursuant to Commissioners' Report -----	\$ 750.00	
Balance due to owners -----		\$ 750.00
Deposit surplus -----	<u>\$ 25.00</u>	<u>\$ 25.00</u>

Owners and distribution of deposit and award:

<u>Owners</u>	<u>Fractional Interest In Lease, subject to 1/16 O.R.R.I.</u>	<u>Dollar Share of Award</u>	<u>Disbursed to Owners</u>	<u>Balance due to Owners</u>
Irvin Vawter	3/16	\$150.00	None	\$150.00
Eugene Hyden - (now deceased and The National Bank & Trust Co. of Paris, Kentucky, is legal representative.)	17/96	141.67	None	141.67
John R. Roche	1/12	66.67	None	66.67
D. M. Wilson	1/8	100.00	None	100.00
Dr. H. S. Grubbs	1/12	66.67	None	66.67
J. C. Hart - (now deceased and Armenta S. Hart is legal representative.)	1/8	100.00	None	100.00
Dr. William H. Cox	1/32	25.00	None	25.00
Sam Belt	1/24	33.33	None	33.33
Mrs. Nancy Hart Bobbitt	1/24	33.33	None	33.33
Mrs. Sam Milner	<u>1/24</u>	<u>33.33</u>	<u>None</u>	<u>33.33</u>
Totals	15/16	\$750.00	None	\$750.00

It Is Further ORDERED that the Clerk of this Court shall disburse the balance on deposit for the subject tract as follows:

1. To each of the owners of the subject property the balance due to such owner as shown in the schedule in paragraph 12 above.
2. To Treasurer of the United States of America the sum of \$25.00.

st. Allen G. Barron

UNITED STATES DISTRICT JUDGE

APPROVED:

st. Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,) CIVIL ACTION NO. 5000
)
 vs.) Tract No. K-1137
)
 493.75 Acres of Land, More or Less,)
 Situate in Nowata & Rogers Counties,)
 Oklahoma, and Ivoy Byrd, et al,)
 and Unknown Owners,)
)
 Defendants.)

J U D G M E N T

1.

NOW, on this 30 day of November 1965, this matter comes on for disposition on application of the plaintiff, United States of America, for entry of Judgment on the Report of Commissioners filed herein on November 4, 1965, and the Court, after having examined the files in this action and being advised by counsel for the plaintiff, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This Judgment applies only to the estate taken in Tract No. K-1137, as such estate and tract are described in the Complaint and the Declaration of Taking filed herein.

4.

Service of Process has been perfected either personally or by publication notice as provided by Rule 71A of the Federal Rules of Civil Procedure on all parties defendant in this cause who are interested in subject tract.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject tract of land. Pursuant thereto, on August 19, 1960, the United States of America filed its Declaration of Taking of a certain estate in such tract of land, and title to such property should be vested in the United States of America, as of the date of filing such instrument.

6.

On the filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the subject tract a certain sum of money, and none of this deposit has been disbursed as set out in paragraph 11 below.

7.

The Report of Commissioners filed herein on November 4, 1965, hereby is accepted and adopted as a finding of fact as to subject tract. The amount of just compensation as to the subject tract, as fixed by the Commission, is set out in paragraph 11 below.

8.

A certain deficiency exists between the amount deposited as estimated just compensation for subject tract and the amount fixed by the Commission and the Court as just compensation. This deficiency is set out in paragraph 11 below.

The sum now on deposit for the subject tract is sufficient to pay the share of the award allocated to the lessor interest. The owners of the lessee interest in the estate taken in the subject tract have not been located, so their share of the award cannot be disbursed. Therefore, no additional deposit by the Plaintiff is necessary at this time. Also, the running of interest on the deposit deficiency for this tract should be stopped upon the filing of this Judgment.

9.

The defendants named in paragraph 11 as owners of subject tract are the only defendants asserting any interest in the estate condemned herein, all other defendants having either disclaimed or defaulted; the named defendants are the owners of the estate condemned herein and, as such, are entitled to receive the just compensation awarded by this Judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED AND DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, described in the Declaration of Taking filed herein, and such property, to the extent of the estate described in the Declaration of Taking filed herein, is condemned, and title thereto is vested in the United States of America, as of the date of filing the Declaration of Taking, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED AND DECREED that the right to just compensation for the estate taken herein in subject tract is vested in the defendants whose names appear below in this paragraph; the Report of Commissioners of November 4, 1965, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for subject tract, as shown by the following schedule:

TRACT NO. K-1137

OWNERS:

Lessor interest:

Hartwell Green and
Maudie M. Green

Lessee interest:

The Onego Corporation ----- Working interest
Earl Marlow and) ----- Oil payment from 1/16 of
Anthony Maneres) ----- Working interest
Harry Winston, Inc. ----- Collateral assignee interest
Delaware Valley
Financial Corp. ----- Collateral assignee interest

Award of just compensation
pursuant to Commissioners' Report ----- \$1,035.00 \$1,035.00
(Based on the premise that 6.9
acres are subordinated.)

Allocated:

To lessor interest ----- \$345.00
To lessee interest ----- \$690.00

Deposited as estimated compensation ----- 545.00

Allocated:

To lessor ----- \$175.00
To lessee ----- 370.00

Disbursed to owners ----- None

Balance due to owners ----- \$1,035.00

Deposit deficiency ----- \$ 490.00

12.

It Is Further ORDERED, ADJUDGED AND DECREED that because of the facts stated in paragraph 8 above, the Plaintiff shall not deposit any additional funds for the subject tract at the present time, and the deficiency for the subject tract shall not draw interest after the date of filing this Judgment.

In the event that the owners of the lessee interest in the subject tract, (or any of them) shall appear and request payment of their share of the award of just compensation, then the Court will enter an appropriate Order requiring whatever deposit be necessary to enable it to make distribution of the award.

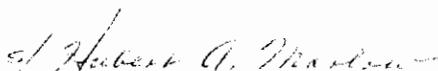
13.

It Is Further ORDERED that the Clerk of this Court shall disburse from the deposit for the subject tract to Hartwell Green and Maudie M. Green, jointly, the sum of \$398.86. (Being their share of the award plus interest on deficiency in amount of \$53.86.)

In the event that the balance on deposit for the subject tract, in the amount of \$146.14, shall remain on deposit for a period of five years, then at the end of that period, without further Order of Court, the Clerk of this Court shall disburse such funds to the Treasurer of the United States of America pursuant to the provision of Title 28, Section 2042 U.S.C..


UNITED STATES DISTRICT JUDGE

APPROVED:


HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

203.05 Acres of Land, More or Less,
Situating in Nowata and Rogers Counties,
Oklahoma, and Orland O. Parish, et al,
and Unknown Owners,

Defendants.

CIVIL ACTION NO. 5078

Tract No. 5705-B

(Lessee Interest Only)

FILED

NOV 20 1965

J U D G M E N T

NOBLE C. HOOD

1.

Clerk, U. S. District Court

NOW, on this 30 day of November, 1965, this matter comes on for disposition on application of the plaintiff, United States of America, for entry of Judgment on the Report of Commissioners filed herein on October 19, 1965, and the Court, after having examined the files in this action and being advised by counsel for the plaintiff, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This Judgment applies to the lessee interest only in the estate taken in Tract No. 5705-B, as such tract and estate are described in the Complaint and the Declaration of Taking, filed herein.

4.

Service of Process has been perfected either personally or by publication notice as provided by Rule 71A of the Federal Rules of Civil Procedure on all parties defendant in this cause who are interested in subject tract.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power, and authority to condemn for public use the subject tract of land. Pursuant thereto, on December 8, 1960, the United States of America filed its Declaration of Taking of such tract of land, and title to such tract should be vested in the United States of America as of the date of filing such Declaration of Taking.

6.

On the filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the subject property a certain sum of money, and none of this deposit has been disbursed as set out in paragraph 11 below.

7.

The Report of Commissioners filed herein on October 19, 1965, is hereby accepted and adopted as a finding of fact as to the subject property. The amount of just compensation as to the said property, as fixed by the Commission, is set out in paragraph 11 below.

8.

The defendants named in paragraph 11 as owners of subject tract are the only defendants asserting any interest in the lessee interest in the estate condemned herein, all other defendants having either disclaimed or defaulted; the named defendants are the owners of such interest in the estate condemned herein and, as such, are entitled to distribution of the just compensation awarded by this Judgment.

9.

The sum deposited as estimated compensation for the lessee interest in the estate taken in the subject tract is larger than the award of just compensation for such interest as fixed by the Report of the Commissioners. The surplus, thus created in the deposit for the subject tract, as set forth in paragraph 11 below, should be refunded to the Plaintiff.

10.

It Is, Therefore, ORDERED, ADJUDGED, AND DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as it is described in the Declaration of Taking filed herein, and such tract to the extent of the lessee interest in the estate described in the Declaration of Taking filed herein, is condemned, and title thereto is vested in the United States of America, as of the date of filing the Declaration of Taking, and all defendants herein and all other persons are forever barred from asserting any claim to such estate taken.

11.

It Is Further ORDERED, ADJUDGED, AND DECREED that the right to just compensation for the lessee interest in the estate taken herein in

subject tract is vested in the defendants whose names appear below in this paragraph; the Report of Commissioners of October 19, 1965, hereby is confirmed, and the sum therein fixed is adopted as just compensation for the lessee interest in the estate taken in the subject tract as shown by the following schedule:

LESSEE INTEREST ONLY IN
TRACT NO. 5705-B

Deposited as estimated compensation -----	\$ 333.00	\$ 333.00
Disbursed to owners -----		None
Present balance on deposit -----		<u>\$ 333.00</u>
Award of just compensation -----	\$ 110.00	
Balance due to owners -----		\$ 110.00
Deposit surplus -----	<u>\$ 223.00</u>	<u>\$ 223.00</u>

Owners and distribution of deposit and award:

<u>Owners</u>	<u>Fractional Interest in Lease</u>	<u>Dollar Share of Award</u>	<u>Disbursed to Owners</u>	<u>Balance due to Owners</u>
Irvin J. Vawter	1/4	\$ 27.50	None	\$ 27.50
Eugene Hyden - (Now deceased and The National Bank & Trust Company of Paris, Kentucky, is legal Representative)	5/24	22.92	None	22.92
Sam Belt	1/24	4.58	None	4.58
Mrs. Sam Milner	1/24	4.58	None	4.58
Nancy Hart Bobbitt	1/24	4.58	None	4.58
John R. Roche	1/12	9.17	None	9.17
D. M. Wilson	1/8	13.75	None	13.75
J. C. Hart (Now deceased and Armenta S. Hart is legal representative)	1/8	13.75	None	13.75
H. S. Grubbs	1/12	9.17	None	9.17
	<u>24/24</u>	<u>\$110.00</u>	<u>None</u>	<u>\$110.00</u>

12.

It Is Further ORDERED that the Clerk of this Court shall disburse the balance on deposit for the subject tract as follows:

1. To each of the owners of the lessee interest the balance due to such owner as shown in the schedule in paragraph 11 above.

2. To Treasurer of the United States of America the sum of \$223.00.

St. Allison G. Bannister
UNITED STATES DISTRICT JUDGE

APPROVED:

St. Hubert A. Marlow
HUBERT A. MARLOW
Assistant United States Attorney