

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

THE TENNESSEE VALLEY AUTHORITY, )  
a corporation, )  
Plaintiff, )  
-vs- )  
TULSA STEEL FABRICATORS, INC., )  
a corporation, )  
Defendant. )

Civil Action  
No. 68-C-49

**FILED**

**JUL 1 1968**

**M. M. EWING**  
Clerk, U. S. District Court

JUDGMENT

The Court having this 1st day of July, 1968, made and entered Findings Of Fact and Conclusions Of Law, and a decision having been duly rendered,

NOW, THEREFORE, IT IS BY THE COURT ORDERED, ADJUDGED AND DECREED, the plaintiff, The Tennessee Valley Authority, a corporation, have and is hereby granted Judgment against the defendant, Tulsa Steel Fabricators, Inc., a corporation, for the sum of \$80,766.94, with interest thereon at the rate of six per cent (6%) per annum from July 26, 1967, and for the cost of this action.

Done in open Court this 1st day of July, 1968.

Luther Bohannon  
Luther Bohannon  
United States District Judge

APPROVED AS TO FORM:

CRAWFORD, RIZLEY & PRICHARD

By Bill York  
Attorneys for Plaintiff

UNGERMAN, GRABEL, UNGERMAN & LEITER

By William Fester  
Attorneys for Defendant

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

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL NO. 67-C-73

vs.

N. R. PATTERSON, an individual,  
PATTERSON STEEL COMPANY, a corporation,  
and MIDWEST ENGINEERING & CONSTRUCTION  
COMPANY, INC., a corporation,

Defendants.)

FILED

JUL - 2 1968

M. M. EWING  
Clerk, U. S. District Court

ORDER OF DISMISSAL WITH PREJUDICE

NOW on this \_\_\_\_\_ day of June, 1968, there came on for hearing the Motion of the Plaintiff, United States of America, for dismissal with prejudice of the above case as to Midwest Engineering & Construction Co., Inc., a corporation, it appearing that a compromise settlement having been entered into by and between Plaintiff, United States of America, and Defendant, Midwest Engineering & Construction Co., Inc.,

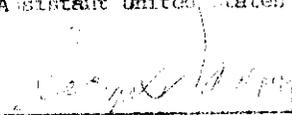
NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the above entitled action against Midwest Engineering & Construction Co., Inc., a corporation, be and the same is hereby dismissed with prejudice.

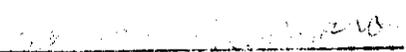
  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

s/ Robert P. Santee

ROBERT P. SANTEE  
Assistant United States Attorney

  
GEORGE E. DOWNEY

  
JOHN R. RICHARDS  
Attorneys for Defendant,  
Midwest Engineering & Construction  
Co., Inc.

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

DIXIE OVERMAN, d/b/a Overman )  
Insurance Company, )  
 )  
Plaintiff )  
vs. )  
 )  
THE INSURANCE COMPANY OF )  
NORTH AMERICA, )  
 )  
Defendant )

No. 67-C-169

**FILED**  
JUL - 2 1968 *DS*  
M. M. EWING  
Clerk, U. S. District Court

ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to the Stipulation of Voluntary Dismissal With Prejudice executed by the parties and filed herein, the Court finds that plaintiff's case should be dismissed with prejudice.

BE IT, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that plaintiff's case is hereby dismissed with prejudice.

DONE AND DATED this 27th day of June, 1968.

  
Judge of the United States District Court

# United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 67-C-172 ✓

Harry L. Ruth, Administrator of the Estate  
of Mrs. Harry L. Ruth, Deceased,  
vs.  
George M. Howard.

JUDGMENT  
**FILED**

JUL 2 1968

M. M. EWING  
Clerk, U. S. District Court

This action came on for trial (~~hearing~~) before the Court, Honorable Fred Daugherty

, United States District Judge, presiding, and the issues having been duly tried  
(~~heard~~) and a decision having been duly rendered,

It is Ordered and Adjudged that the plaintiff, Harry L. Ruth, Administrator of  
the Estate of Mrs. Harry L. Ruth, Deceased, have and recover judgment from  
the defendant, the sum of Twenty-Five Thousand (\$25,000.00) Dollars.

Dated at Tulsa, Oklahoma, this 2nd day  
of July, 1968.

M. M. Ewing  
Clerk of Court  
By *Annell H. ...*  
Deputy

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 67-C-173

Harry L. Ruth,

vs.

George M. Howard.

FILED  
JUL 2 1968

M. M. EWING  
Clerk U. S. District Court

This action came on for trial (~~hearing~~) before the Court, Honorable Fred Daugherty  
, United States District Judge, presiding, and the issues having been duly tried  
(~~heard~~) and a decision having been duly rendered,

It is Ordered and Adjudged that the plaintiff, Harry L. Ruth, have and  
recover judgment from the defendant, George M. Howard, the sum of  
Thirty-One Thousand Four Hundred Fifteen (\$31,415.86) and 86/100 -,

Dated at Tulsa, Oklahoma , this 2nd day  
of July , 1968 .

M. M. Ewing  
Clerk of Court  
By [Signature]  
Deputy

FILED

JUL - 2 1968

M. M. EWING  
Clerk, U. S. District Court

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

ESSIE HELSCEL, . . . Plaintiff, }  
-vs- }  
BETTER BUYS, INC., and }  
LARRY D. MENZE, . . . Defendants. }

No. 68-C-3

DISMISSAL WITH PREJUDICE

Comes now the plaintiff, ESSIE HELSCEL, and dismisses the above styled and numbered cause of action with prejudice to the bringing of a future action.

Dated this 1st day of July, 1968.

Essie Helscel  
Plaintiff

[Signature]  
Attorney for Plaintiff

Comes now the defendants, by and through their counsel of record, and consent to the dismissal of the above styled and numbered cause of action with prejudice to the bringing of any future action.

HUDSON, WHEATON & BRETT

By: [Signature]  
Attorneys for Defendants

IT IS HEREBY ORDERED that the above styled and numbered cause be dismissed with prejudice.

[Signature]  
UNITED STATES DISTRICT JUDGE

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

CONTINENTAL NATIONAL AMERICAN GROUP )  
INSURANCE COMPANIES, a Corporation, )

..... Plaintiff, )

vs. )

No. 66-C-9

LENA LORENE ROSS, KENNETH RAY ROSS, )  
and HAVANA ROACH, Administratrix with Will )  
Annexed of the Estate of Charles V. Ross, )  
Deceased, )

..... Defendants. )

**FILED**

**JUL - 2 1966**

M. M. EWING

Clerk U. S. District Court

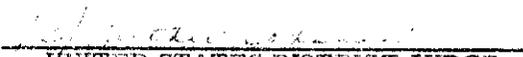
ORDER

The motion for summary judgment of the defendant KENNETH RAY ROSS, pursuant to Rule 56 of the Federal Rules of Civil Procedure, came on for hearing this 2nd day of July, 1966, after having been regularly set. The Court reviewed the file and concludes when the action was commenced by the plaintiff there was a justiciable dispute between the parties. However, since the filing of the action the defendant Lena Lorene Ross died on the 17th day of February, 1968, and under the provisions of the laws of the State of Oklahoma the individual defendant, Kenneth Ray Ross, is entitled to the proceeds of the insurance policies which are the subject of this action. The Court, therefore, concludes that no genuine issue of fact remains to be decided and the defendant, Kenneth Ray Ross, as a matter of law is entitled to the life insurance proceeds paid in the registry of this Court by the plaintiff.

IT IS THEREFORE ORDERED that the defendant, Kenneth Ray Ross, is to have judgment herein for the total sum of \$46,250.00, on the two insurance policies involved as well as the interest paid or accrued on the United States Treasury bills in which the money was invested by the Clerk to this date. The defendants, Lena Lorene Ross, and her estate, she now being deceased, and the defendant, the estate of Charles V. Ross, Deceased, are to

take nothing herein. IT IS FURTHER ORDERED the plaintiff, Continental National American Group Insurance Companies, is hereby fully discharged and released from any further obligation or responsibility to the defendants herein, their heirs, administrators or assigns under the life insurance policies which are the subject of this action. IT IS FURTHER ORDERED that out of the proceeds deposited with the Clerk, the Clerk is to pay the sum of Six Hundred (\$600.00) Dollars, as a reasonable attorney's fee to the law firm of Kucker & Tabor, counsel for the plaintiff. IT IS FURTHER ORDERED that out of the proceeds of the life insurance policies paid into the Clerk by the plaintiff, the Clerk is to pay the sum of Five Thousand (\$5,000.00) Dollars to attorney Elmore Page. IT IS FURTHER ORDERED that the balance of the total sum paid into the Clerk by the plaintiff, plus the interest accumulated thereon, is to be paid by the Clerk to the defendant, Kenneth Ray Ross, an adult as of July 5, 1968, and to Hudson, Wheaton & Brett, his attorneys.

DATED this 2nd day of July, 1968.

  
UNITED STATES DISTRICT JUDGE

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

Mary Rousseau and Hamilton )  
Hospital and Retirement Home, )  
Inc., )

Plaintiffs, )

v. )

Midwest Investors of America, )  
Inc., and Howard E. Turrel, an )  
Individual doing business as )  
Midwest Investors of America, )

Defendants. )

No. 6414 CIVIL

FILED

JUL 8 1968

M. M. EWING  
Clerk, U. S. District Court

JUDGMENT

Based upon the Findings of Fact and Conclusions of Law entered herein,

IT IS THE JUDGMENT OF THIS COURT that plaintiffs are not entitled to recover in this case, and judgment is hereby rendered in favor of the defendants.

DATED this 5<sup>th</sup> day of July, 1968.

LUTHERN BOHANON

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UNITED STATES DISTRICT JUDGE

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

DOROTHEA MOGER,

-vs-

NORTH AMERICAN LIFE AND CASUALTY  
COMPANY, an Insurance Corporation,

Plaintiff,

Defendant.

67-C-156 Civil

**FILED**

**JUL 8 1968**

M. M. EWING  
Clerk, U. S. District Court

JOURNAL ENTRY OF JUDGMENT

This matter coming on to be heard before me, the undersigned, one of the Judges of the District Court of the United States for the Northern District of Oklahoma. Plaintiff appeared in person and by her attorney of record, Hughey Baker, and the defendant appeared by its attorney, B. W. Tabor.

The court having heard evidence of witnesses sworn and examined in open court and being advised in the premises, finds that it has jurisdiction of the parties and the subject matter.

Both parties having announced ready for trial, the plaintiff introduced evidence and rested; whereupon, the defendant demurred to the evidence of the plaintiff and the court, after careful consideration, overruled said demurrer, to which defendant took exception.

Said matter was argued to the court and authorities presented.

The court finds that William Jordan Moger was the insured on a policy issued by the North American Life and Casualty Company, an insurance corporation. Court further finds that the insured, William Jordan Moger, absented himself from home and family on April 11, 1960. Court further finds that the plaintiff and relatives had inquired at every source known as to the whereabouts of the insured, had made every effort within their power to locate the insured, and that he had been missing for a period of more than eight years and two months at the time of trial of this case.

Court further finds that on April 11, 1967, he had been absent a period of seven years with no trace of his whereabouts and that no information has been obtained by plaintiff as to where the insured was or what had happened to him.

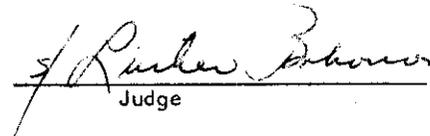
Court further finds that the insured left the plaintiff and three minor children, all of whom he loved very much, and that no logical reason was produced for his leaving his family and children and not returning to aid and assist them.

Court further finds that all premiums on said insurance policy were paid up to, through, and including April 11, 1967, and that said insurance policy was in full force and effect. .

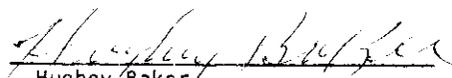
Court further finds as a matter of law that after the insured, William Jordan Moger, had not been heard from in seven years, he is presumed to be dead, and the court finds that by reason of Title 58, Section 941, of the statutes of Oklahoma,"that any person missing from his usual place of residence and whose address is unknown by his family or those who, in the ordinary course of events, would be expected to know his whereabouts, who is continuously absent and unheard of for a period of seven years or longer, shall be presumed to be dead. "

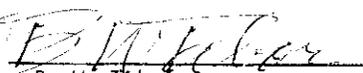
The court further finds that judgment should be entered for the plaintiff in the sum of \$25,000.00, the amount of the policy issued by the defendant, and that said judgment should be in favor of the plaintiff and that judgment should be entered for all court costs herein, and that the same should bear interest at six percent (6%) from July 1, 1968, until paid.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED BY THIS COURT that plaintiff, Dorothea Moger, have and recover judgment of and against the defendant, North American Life and Casualty Company, an insurance corporation, in the sum of \$25,000.00, together with all court costs herein expended, and that the same bear interest at the rate of six percent (6%) per annum from July 1, 1968, until paid.

  
Judge

Approved

  
Hughey Baker  
Attorney for Plaintiff

  
B. W. Tabor  
Attorney for Defendant

FILED

JUL 8 1968

M. M. EWING  
Clerk, U. S. District Court

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

CHARLES EBY, a/k/a )  
CHARLES CRAGG, )

Plaintiff, )

vs. )

UNITED STATES OF AMERICA, )

Defendant. )

68-C-131

MEMORANDUM OPINION AND ORDER OVER-  
RULING MOTION UNDER §2255

Petitioner was convicted upon his plea of guilty of the offense of agreeing, confederating and conspiring to obtain and become transferee of marihuana without paying the transfer tax imposed by 26 U.S.C.A. §4741(a), and to transport, conceal and facilitate the transportation and concealment of marihuana so acquired and obtained, in violation of 26 U.S.C.A. §4744(a) and 7237(a). Petitioner was placed on probation for three years in February of 1963. On November 9, 1965, petitioner violated probation, and, consequently, was sentenced to serve five years in prison. Petitioner's motion to vacate judgment of five years as it exceeded the three years probation previously granted was denied on December 16, 1965. Upon request of petitioner, the sentence was reduced to three years on April 22, 1966.

Petitioner contends that the transfer tax imposed by 26 U.S.C.A. §4741(a) violates his Fifth Amendment privilege against compulsory self-incrimination. Petitioner argues that the names and addresses of those who register and pay the taxes in accordance with the statutes are made available

to law enforcement agencies for the ultimate prosecution of said persons. Petitioner admits, in his memorandum, that at the time of his conviction, the "great weight of authorities in effect .... held that the privilege against self-incrimination could not appropriately be asserted by those in his circumstances".

Petitioner maintains that the three United States Supreme Court decisions announced on January 29, 1968, *Marchetti v. United States*, 390 U.S. 39; *Grosso v. United States*, 390 U.S. 62; and *Haynes v. United States*, 390 U.S. 85, have changed the law regarding self-incrimination. He therefore contends that the new law in these cases should serve as grounds to vacate his judgment under 28 U.S.C.A. §2255.

Since the petitioner's motion raises questions of law rather than fact, it is unnecessary to hold a hearing on the motion or to bring the petitioner to this district to testify.

Assuming arguendo, that the new law applies to petitioner, the question that must first be answered is whether or not the petitioner may use §2255 to his advantage. Petitioner devotes his entire memorandum to a discussion of the new and old law surrounding his case. He apparently takes §2255 for granted. Petitioner's case was closed, and he failed in the earlier proceedings to raise the issue now before the court. Title 28 U.S.C.A. §2255 permits a federal prisoner to move at any time to vacate or correct his sentence "upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack". The general rule appears to be that a change in law since a petitioner's conviction does not entitle him to

relief under §2255.

In *Warring v. Colpoys*, 74 App. D.C. 303, 122 F.2d 642, 136 A.L.R. 1025 (1941), Cert.Den. 314 U.S. 678 (1941), the Court said:

"When a case is decided it is expected that people will make their behavior conform to the rule it lays down and also to the principle expressed in so far as it can be determined. This is true whether the decision is regarded as 'the law', 'the best evidence of the law' or 'a prediction of what the court will do next time'. If, at last, the first decision is overruled, then there is new law, better evidence, or an enlightened basis for prediction. Those transactions which occurred between the two decisions, are, for the most part accepted history. This is true even though a person had presented, in proper fashion, his case to the courts. His rights being finally determined, an attempt to reopen the question, in view of the new enlightenment would be greeted with the powerful answer of *res judicata*."

The *Warring* case, *supra*, is supported by *Heinecke v. United States*, 209 F.Supp. 526 (D.D.C. 1962), *aff'd*. 115 U.S. App. D.C. 34, 316 F.2d 685 (1963), Cert.Den. 375 U.S. 846. The U.S. Court of Appeals for the District of Columbia said:

"Appellant's second point is that the material found obscene at his trial could not be found obscene under a Supreme Court opinion which intervened between conviction and this collateral motion. This allegation, even is supported by the record, affords no basis for relief under §2255."

Another significant case is *United States v. Sobell*, 204 F.Supp. 225 (S.D. N.Y. 1962), *aff'd*. 314 F.2d 314 (2nd Cir. 1963) Cert. Den. 374 U.S. 857, which held that a "Motion to vacate sentence is not vehicle for repeated reviews of judgments in cases which were properly decided after full consideration, because of subsequent changes in the law".

The Tenth Circuit has ruled in accordance with the general rule that a change in law since a petitioner's con-

viction does not entitle him to relief under §2255. United States v. Gaitan, 189 F.Supp. 674 (D. Colo. 1960), aff'd. 295 F.2d 277 (10th Cir. 1961), Cert.Den. 369 U.S. 857. In this case the petitioners were convicted for a violation of the narcotics laws. The petitioners failed in an attempt to suppress as evidence a bag of marihuana which had been found by officers in a search without a warrant. According to the rule of law at the time of conviction, this evidence was legal. Subsequent to their conviction the law was changed by Mapp v. Ohio, 367 U.S. 643 (1961), and on the basis of this new law the petitioners filed a motion under 28 U.S.C.A. §2255, to have their judgment vacated. The motion was denied, and Judge Bratton declared:

"The question whether the marihuana was admissible in evidence or should be excluded therefrom was put squarely in issue in the criminal case. The question was determined with pinpointed precision. The evidence was admitted and the judgments and sentences became final. Upon becoming final, they fell within the range of the doctrine of res judicata as between the petitioners and the United States in respect to the evidence being admissible or inadmissible, depending upon the circumstances under which it was obtained. And a change thereafter in the rule relating to the admissibility of evidence obtained in that manner did not arrest or suspend application of the principle of res judicata to such judgments and sentences."

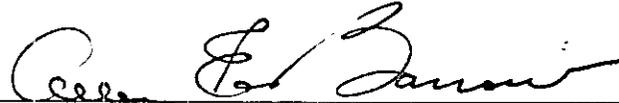
The Court then cited *Warring v. Colpoys*, supra, as authority. Further support for the above decisions is obtained from *LeClair v. United States*, 241 F.Supp. 819 (N.D. Ind. 1965). A pertinent paragraph in the decision reads:

"Moreover, it has been repeatedly held that subsequent changes in substantive decisional law does not warrant relief under Section 2255. \*\*\*We acknowledge that several of the above-cited cases deal with rulings entered at trial which were later effected by changes in the applicable law; however, this Court can see no significant distinction from a case such as this where a plea of guilty was entered based upon the prevailing, but later modified, construction of a statute."

This Court's research on this issue, as evidenced by the above cases, clearly demands the conclusion that 28 U.S.C.A §2255 does not entitle the petitioner to relief where subsequent to his conviction there has been a change in the law.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that petitioner's motion under 28 U.S.C.A. §2255 be and the same is hereby denied.

ENTERED this 8th day of July, 1968.



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UNITED STATES DISTRICT JUDGE

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

United States of America,

Plaintiff,

vs.

Bessie L. Eldridge,

Defendant.

Civil No. 68-C-65

**FILED**

**JUL 9 1968**

**M. M. EWING**  
Clerk, U. S. District Court

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, United States of America, by Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of dismissal in the above-captioned action for the reason that the same has been heretofore settled.

UNITED STATES OF AMERICA

LAWRENCE A. McSOD  
United States Attorney

*Robert P. Santee*

ROBERT P. SANTEE  
Assistant U. S. Attorney  
Room 460, U. S. Courthouse  
Tulsa, Oklahoma

161-005-007  
JPS:sll  
5/28/68

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

MASON ADVERTISING AGENCY, INC., ]  
Plaintiff, ]  
v. ]  
LeROY JENKINS EVANGELISTIC ]  
ASSOCIATION, INC., ]  
Defendant. ]

NO. 67-C-161 ✓

FILED

JUL 10 1968

M. M. EWING  
Clerk, U. S. District Court

DISMISSAL OF CROSS-COMPLAINT WITH PREJUDICE  
\*\*\*\*\*

COMES NOW the Defendant, LeROY JENKINS EVANGELISTIC ASSOCIATION, INC., and hereby dismisses with prejudice to the filing of another cause of action, its Cross-Complaint filed herein against the Plaintiff, MASON ADVERTISING AGENCY, INC.

DATED, this 10<sup>th</sup> day of July, 1968.

LeROY JENKINS EVANGELISTIC ASSOCIATION, INC.

By: Joseph H. Glass  
Title

BEST, SHARP, THOMAS & GLASS  
Attorneys for Defendant

By: Joseph H. Glass

IT IS SO ORDERED.

Esther Bohannon  
U. S. District Judge.

JUDGEL,  
WINN,  
AND SCOTT  
ATTORNEYS AT LAW  
406 BEACON BLDG.  
TULSA, OKLAHOMA

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

United States of America,

Plaintiff,

vs.

Huey Anthony Matthews and  
Martha Louise Matthews, and  
Charles Jesse Marsden and  
Cecilia Erika Marsden,

Defendants.

Civil No. 68-C-93

**FILED**

**JUL 11 1968**

**M. M. EWING**  
Clerk, U. S. District Court

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 11<sup>th</sup> day of July 1968, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and the defendants, Huey Anthony Matthews and Martha Louise Matthews and Charles Jesse Marsden and Cecilia Erika Marsden, appearing not.

The Court being fully advised and having examined the file herein finds that legal service by publication was made upon the defendants, Charles Jesse Marsden and Cecilia Erika Marsden, as appears by the Proof of Publication filed herein on June 24, 1968. And further, that personal service was made on the defendants, Huey Anthony Matthews and Martha Louise Matthews, on May 5, 1968; and

It appearing that the defendants, Huey Anthony Matthews and Martha Louise Matthews, husband and wife, and Charles Jesse Marsden and Cecilia Erika Marsden, husband and wife, have failed to file and Answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and foreclosure on a real property mortgage securing said mortgage note and that the real property described in said mortgage is located in Tulsa, Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma.

The Court further finds that the material allegations of Plaintiff's Complaint are true and correct;

That the defendants, Huey Anthony Matthews and Martha Louise Matthews, husband and wife, did on July 14, 1966, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note for the sum of \$9,750.00, with interest thereon at the rate of 6% per annum and further providing for the payment of monthly installments of principal and interest; and

It further appears that the defendants, Charles Jesse Marsden and Cecilia Erika Marsden, husband and wife, have or claim some right, title, or interest in and to the premises herein being foreclosed by reason of a General Warranty Deed, dated September 26, 1966, filed of record, October 3, 1966, in Book 3761, Page 293, Tulsa County, Oklahoma, but in this regard, plaintiff states that whatever right, title, or interest the defendants, Charles Jesse Marsden and Cecilia Erika Marsden, husband and wife, have in and to said property being foreclosed herein is junior and inferior to the first mortgage lien of this plaintiff; and

It further appears that the defendants, Charles Jesse Marsden and Cecilia Erika Marsden, husband and wife, made default under the terms of the aforesaid mortgage note and mortgage by reason of their failure to make the monthly installments due thereon on October 1, 1966, which default has continued and that by reason thereof the defendants are now indebted to the Plaintiff in the sum of \$9,772.04, as unpaid principal, with interest thereon at the rate of 6% per annum from October 1, 1966, until paid.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Plaintiff, United States of America, have and recover judgment against the defendants, Huey Anthony Matthews and Martha Louise Matthews, husband and wife, and Charles Jesse Marsden and Cecilia Erika Marsden, husband and wife, for the sum of \$9,772.04, with interest thereon at the rate of 6% per annum from October 1, 1966, until paid, plus the cost of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that upon failure of the defendants to satisfy Plaintiff's money judgment herein, an Order of sale shall issue to the United States Marshal for the Northern District

of Oklahoma, commanding him to advertise and sell, with appraisement, the above-described real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

*S/ Allen E. Brown*  
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

VELMA LILLIAN SMITH, )

Plaintiff, )

vs. )

RONALD RAE LATREMOUILLE, )

Defendant. )

No. 68-C-122

**FILED**

JUL 11 1968

M. M. EWING  
Clerk, U. S. District Court

ORDER REMANDING CASE

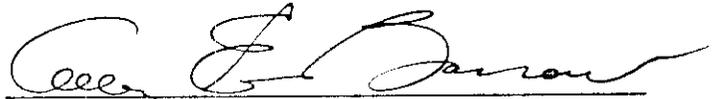
The Court being charged with the duty of inquiring into into its own jurisdiction, and being fully advised in the premises, finds:

That plaintiff has amended her complaint to reflect the amount of damages sought from \$13,000 to \$7500.

It is, therefore, apparent that the requisite jurisdictional amount is not present in this case.

IT IS, THEREFORE, ORDERED that this case be remanded to the District Court of Tulsa County, Oklahoma.

ENTERED this 11<sup>th</sup> day of July, 1968.



UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

11.27 Acres, More or Less, in Rogers  
County, Oklahoma, including all accre-  
tions and riparian rights thereto, and  
Frank Osborn, et al, and Unknown  
Owners,

Defendants.

CIVIL ACTION NO. 67-C-23

Tract No. 132

**FILED**

**JUL 12 1968**

**M. M. EWING**  
Clerk, U. S. District Court

J U D G M E N T

1.

Now, on this 12<sup>th</sup> day of July, 1968, this matter comes on for dis-  
position on application of plaintiff, United States of America, for entry of  
judgment on a stipulation agreeing upon 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. 132,  
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 publi-  
cation 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 3, 1967, 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 12 below.

7.

On the date of taking in this action, the owners of the estate taken in subject tract were the defendants whose names are shown in paragraph 12 below. Such named defendants are the only persons asserting any interest in the estate taken in such tract, all other persons having either disclaimed or defaulted, and such named defendants are entitled to receive the just compensation for the estate taken in this tract.

8.

The owners of the subject tract and the United States of America have executed and 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 12 below, and such stipulation should be approved.

9.

A deficiency exists between the amount deposited as estimated compensation for subject tract and the amount fixed by the stipulation as to just compensation, and the amount of such deficiency should be deposited for the benefit of the owners. Such deficiency is set out in paragraph 12 below.

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 tract named in paragraph 2 herein, as such tract is particularly described in the Complaint and Declaration of Taking filed herein; and such tract, to the extent of the estate described and for the uses and purposes described in such Declaration of Taking, is condemned, and title thereto is vested in the United States of America as of the date of filing such Declaration of Taking, and all defendants herein and all other persons interested in such estate 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 estate condemned herein in subject tract were the defendants whose names appear below in paragraph 12, and right to just compensation for the estate taken herein in this tract is vested in the parties so named.

12.

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. 132

Owners: Frank Osborn and  
Hazel Osborn

Award of just compensation pursuant to stipulation - - - - -	\$8,000.00	\$8,000.00
Deposited as estimated compensation - - - - -	\$4,102.00	
Disbursed to owners - - - - -		<u>\$4,102.00</u>
Balance due to owners - - - - -		\$3,898.00
Deposit deficiency - - - - -	\$3,898.00	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this civil action, to the credit of the subject tract, the deficiency sum of \$3,898.00. The Clerk of this Court then shall disburse from the deposit for subject tract to Frank Osborn and Hazel Osborn, jointly, the sum of \$3,898.00.

W. Lee J. Brown  
UNITED STATES DISTRICT JUDGE

APPROVED:

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

161-005-007  
JPS:sll  
6/28/68

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

MASON ADVERTISING AGENCY, INC.,            |  
  | Plaintiff, |  
v.    |            |  
  |            |  
LEROY JENKINS EVANGELISTIC                |            |  
ASSOCIATION, INC.                           |            |  
  | Defendant. |

NO. 67-C-161

**FILED**

JUL 12 1968

M. M. EWING  
Clerk, U. S. District Court

JUDGMENT UPON CONFESSION  
\*\*\*\*\*

NCW, on this 11<sup>th</sup> day of July, 1968, comes the Defendant, LEROY JENKINS EVANGELISTIC ASSOCIATION, INC., by its Attorneys, BEST, SHARP, THOMAS & GLASS, and files its written Confession of Judgment, wherein the Defendant states that it is indebted to Plaintiff, MASON ADVERTISING AGENCY, INC., for the sum of \$23,942.65 on its first cause of action, and for the sum of \$2,781.80 on its second cause of action, a total of \$26,724.45, and consents that Judgment may be rendered against it for the same.

WHEREFORE, it is ordered, adjudged, and decreed that the said Plaintiff, MASON ADVERTISING AGENCY, INC., have and recover of the said LEROY JENKINS EVANGELISTIC ASSOCIATION, INC., the sum of \$26,724.45 and the costs of this action.

M. M. Ewing  
Judge

APPROVED:

GUDGEL, WINN and SCOTT  
Attorneys for Plaintiff

By: [Signature]

BEST, SHARP, THOMAS and GLASS  
Attorneys for Defendant

By: [Signature]

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

FILED

JUL 12 1968

M. M. EWING  
Clerk, U. S. District Court

THE FIRST NATIONAL BANK OF  
ST. PAUL, a United States  
corporation,

Plaintiff,

-vs-

D. L. HAWES,

Defendant.

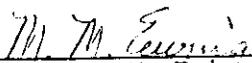
Civil Action

File No. 68-C-124

J U D G M E N T

The defendant, D. L. Hawes, having failed to plead or otherwise defend in this action and his default having been entered, now, upon application of the plaintiff and upon Affidavit that the defendant is indebted to plaintiff in the sum of \$19,310.87, that the defendant has defaulted for failure to appear and that the defendant is not an infant or incompetent person and is not in the military service of the United States,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff, The First National Bank of St. Paul, recover of defendant, D. L. Hawes, the sum of \$19,310.87 with interest at the rate of six percent (6%) per annum from January 2, 1968, and the costs of this action.

  
M. M. Ewing  
United States Clerk

DATED July 12th, 1968.

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

CONNECTICUT GENERAL INSURANCE COMPANY,  
a corporation,

Plaintiff,

vs.

MARGARET ATTERBERRY ROBERTS and BARBARA  
ROBERTS,

Defendants.

NO. 68-C-151

**FILED**

JUL 16 1968

M. M. EWING  
Clerk, U. S. District Court

JOURNAL ENTRY OF JUDGMENT

Now on this 16<sup>th</sup> day of July, 1968, there came on to be heard the above-entitled cause. The defendant, Margaret Atterberry Roberts appears by her attorneys of record herein, Gable, Gotwals, Hays, Rubin and Fox by Arthur E. Rubin and the defendant Barbara Roberts appears by her attorney of record, C. Lawrence Elder, and the plaintiff Connecticut General Insurance Company, a corporation, by their attorneys of record, Boesche, McDermott & Eskridge, by Glenn R. Davis, the Court finds:

That plaintiff and both defendants have entered into an agreement of settlement filed of record herein, which agreement is dated July 15, 1968; that said agreement between the parties is proper in all respects and should be approved, and same is hereby approved.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED as follows:

1. That the agreement be and the same is hereby approved.
2. That the plaintiff, Connecticut General Insurance Company, a corporation, is hereby released of all claims involved in this case by said defendants.
3. That the \$14,000.00 herein deposited by the plaintiff be disbursed by the clerk of this court as follows:
  - a. That plaintiff and its attorneys of record herein be reimbursed from said \$14,000.00, the court costs and marshal's fees expended.
  - b. That plaintiff's attorneys of record, Boesche, McDermott & Eskridge, be paid an attorney's fee from said \$14,000.00 in the amount of \$500.00.
  - c. That one-half of the remainder of said \$14,000.00 be paid by the clerk to the defendant, Margaret Atterberry Roberts and her attorney, Arthur E. Rubin, which said sum less her attorneys fees will be deposited by her in the Ponca City Savings and Loan Association in a trust account and in which Margaret Atterberry Roberts will be the sole trustee for Sammy Joe Roberts, minor grandson of Margaret Atterberry Roberts and minor son of defendant Barbara Roberts and Billy Joe Roberts, deceased.
  - d. The remainder of said \$14,000.00, which is \$7,000.00 less one-half of the attorneys fees of plaintiff's attorneys of record and the court costs and marshal's fees, which said sum shall be made payable to Barbara Roberts and her attorney, C. Lawrence Elder.

*Allen E. Barnes*

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

APPROVED AS TO FORM:

GABLE, GOTWALS, HAYS, RUBIN & FOX

BY:

*Arthur E. Rubin*  
Arthur E. Rubin,  
Attorneys for Defendant  
Margaret Atterberry Roberts

*G. Lawrence Elder*  
G. Lawrence Elder  
Attorney for Defendant  
Barbara Roberts



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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANCE PARIS,

Defendant.

CIVIL ACTION NO. 68-C-62

FILED

JUL 22 1968

M. M. EWING  
Clerk, U. S. District Court

ORDER OF DISMISSAL WITH PREJUDICE

NOW on this 17<sup>th</sup> day of July, 1968, there came on for hearing the Motion of the Plaintiff, United States of America, for dismissal with prejudice of the above case, it appearing that a compromise settlement having been entered into by and between the Plaintiff, United States of America, and the Defendant, France Paris.

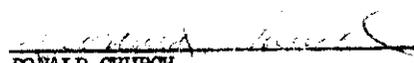
NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the above entitled action against France Paris be and the same is hereby dismissed with prejudice.

  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

s/ Robert P. Santee

ROBERT P. SANTEE  
Assistant United States Attorney

  
DONALD CHURCH  
Attorney for France Paris

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

UNITED STATES OF AMERICA,

Libelant,

CIVIL NO. 68-C-138 ✓

vs.

An article of food consisting of  
approximately 45 cases of 24 cans each,  
article labeled in part (can) "Food King  
Spaghetti in Tomato Sauce with Cheese --  
Net Weight 15-1/2 Oz. Avoir. ---Shurfine-  
Central Corporation, Northlake, Ill.,  
Distributors,"

Respondent.

FILED  
JUL 22 1968  
M. M. EWING *h*  
Clerk, U. S. District Court

DECREE OF CONDEMNATION

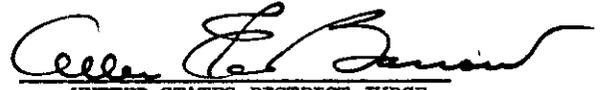
This matter comes on for consideration on Motion of the Libelant, United States of America, for Default Judgment and the Court, having examined the facts herein, finds that the Libel of Information was filed herein on June 13, 1968; that a Motion was duly issued and served by the United States Marshal for the Northern District of Oklahoma on June 17, 1968; that neither Affiliated Food Stores nor any other claimant has appeared or otherwise moved herein.

The Court finds that the allegations of the Libel of Information are true and correct; that the article of food described therein and seized by the United States Marshal was misbranded while held for sale after shipment in interstate commerce; that such article of food is within the jurisdiction of this Court and is liable for seizure and disposition pursuant to the provisions of 21 U.S.C. 334.

The Court further finds that, although the article of food mentioned herein was misbranded when introduced into and while in interstate commerce, said Food King Spaghetti is entirely suitable for human consumption as the violation of the Federal Food, Drug, and Cosmetic Act was in that it is food in package form and it fails to bear a label containing an accurate statement of quantity of contents.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED BY THE COURT that all of the misbranded article of food, seized and held by the United States Marshal for the Northern District of Oklahoma under and pursuant to the Monition heretofore issued and served herein, be and they are hereby ordered forfeited to the United States of America and the United States Marshal for the Northern District of Oklahoma is ordered and directed to dispose of said article of food by causing to be delivered 62 cases of said Food King Spaghetti to the Salvation Army of Tulsa, Oklahoma, for consumption.

Dated this 22 day of July, 1968.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT H. BRYANT  
Assistant United States Attorney

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

THE PRUDENTIAL INSURANCE COMPANY )  
OF AMERICA, a corporation, )  
 )  
Plaintiff, )  
vs. )  
 )  
BENNIE F. WHITE, aka BILLIE F. WHITE, )  
IRENE FOY and WILLIE FOY, SR., )  
 )  
Defendants, )  
 )  
ROBERT G. BROWN, ADMINISTRATOR )  
of the Estate of WILLIE FOY, Deceased, )  
 )  
Intervenor. )

No. 67-C-176

FILED *de*

JUN 12 1968

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

JUDGMENT AND ORDER

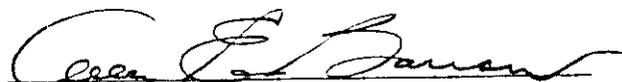
Based upon the Stipulation of the parties, the pretrial order and the findings of fact and conclusions of law entered herein, it is ordered, adjudged and decreed as follows:

1. The defendants, Irene Foy and Willie Foy, Sr., are hereby adjudged to be in default and judgment is hereby entered decreeing that they have no interest in the proceeds on deposit with the Court Clerk and have no claim upon The Prudential Insurance Company of America, based upon the insurance policy.
2. The defendant, Bennie F. White, aka Billie F. White, and the intervenor, Robert G. Brown, Administrator of the Estate of Willie Foy, deceased, are hereby declared to be the only claimants to the funds on deposit with the Clerk, and the above recited settlement and proposed disposition of the funds is hereby approved and the Clerk of this Court is authorized and directed to disburse the funds on deposit as follows: One-half of the amount on deposit to Robert G. Brown, Administrator of the Estate of Willie Foy, deceased, and Ed Stephens,

his attorney; and One-half of the amount on deposit to Bennie F. White, aka Billie F. White, and O. B. Graham, her attorney.

3. The defendants, Billie F. White, aka Bennie F. White, Irene Foy and Willie Foy, Sr., and the intervenor, Robert G. Brown, Administrator of the Estate of Willie Foy, deceased, their agents or attorneys, and each of them, are hereby restrained from instituting any action or further prosecuting any pending action, if any, against the plaintiff herein, affecting the obligation or money involved in this interpleader action, or any claim based upon the group policy No. G-81700 and the certificate issued upon the life of Willie Foy.

The plaintiff, having waived any claim for an attorney fee out of the proceeds on deposit with this Court as a part of the settlement, is hereby discharged from all liability with respect to the matters herein set forth.



United States District Judge for the  
Northern District of Oklahoma.

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

FRED KIE STOROZYSZYN, )

Plaintiff, )

vs. )

WILBUR COHEN, Acting Secretary of )  
Health, Education and Welfare, )  
U.S.A., )

Defendant. )

68-C-117

FILED

JUL 25 1968

M. M. EWING  
Clerk, U. S. District Court

ORDER SUSTAINING MOTION TO DISMISS

The Court has for consideration the Motion to Dismiss filed by the defendant herein, and brief in support thereof, and being fully advised in the premises, finds:

That on March 21, 1968, there was mailed to plaintiff Notice of the Final Decision of the Secretary of Health, Education and Welfare.

Section 205(g) of Title II of the Social Security Act provides:

"(g) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow.\*\*\*."

The instant action was not commenced in this Court until May 21, 1968, no extension had been granted, and, thus, the action was filed one day after the expiration of the 60 day period proscribed above.

The sixty day limitation is a part of the statute creating a cause of action and vesting jurisdiction in this Court. Thus, the time limitation is a part of the statute creating a cause of action and the limitation operates as a condition of jurisdiction and liability and not merely a period of limitation. Rauch v. Davis, 8 F.2d 907; Ewing v. Risher (CCA 10th) 176 F.2d 641; Robinson v. Celebrezze, 237 F.Supp. 115; Zeller v. Folsom, 150

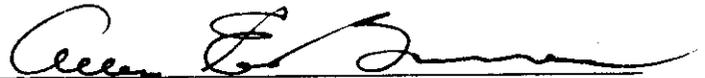
F.Supp. 615.

The Court further finds that Rule 6(a) and 6(e) of the Federal Rules of Civil Procedure are not applicable. Rule 82 of the Federal Rules of Civil Procedure provides that the Rules shall not be construed to extend or limit jurisdiction of the United States District Courts. It, therefore, follows that jurisdiction of this action must exist in this court before the rules may apply thereto. *Edwards v. E. I. Du Pont De Nemours Co.*, 5 Cir., 183 F.2d 165; *Zeller v. Folsom*, supra; *Robinson v. Celebrezze*, supra.

It is, therefore, concluded that the Court lacks jurisdiction of the subject matter of this action and the defendant's motion to dismiss should be granted.

IT IS ORDERED that the Motion to Dismiss filed by the defendant in the instant case be and the same is hereby sustained and this cause of action is hereby dismissed.

ENTERED this 25<sup>th</sup> day of July, 1968.



UNITED STATES DISTRICT JUDGE





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

GAYMON LAWSON,

Plaintiff )

vs

No. 68-C-174

PAMELA JEAN WOODWARD,

Defendant )

FILED

JUL 26 1968

M. M. EWING

ORDER REMANDING CAUSE TO DISTRICT COURT S. District Court

On Stipulation and Agreement of the parties to remand this cause to the District Court of Tulsa County, Oklahoma, and the Court being fully advised, finds that the cause should be remanded to the District Court of Tulsa County, Oklahoma;

IT IS THEREFORE ORDERED AND ADJUDGED that the Stipulation and Agreement to remand this cause to the District Court of Tulsa County, Oklahoma, is hereby sustained and the cause is remanded to the District Court of Tulsa County, Oklahoma, for further proceedings.

DATED this 27th day of July, 1968.

*Arthur K. Hanson*  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

W. WILLARD WIRTZ, Secretary of Labor )  
United States Department of Labor )  
 )  
Plaintiff )  
 )  
v. )  
 )  
FAMILY PUBLICATIONS SERVICE, )  
INCORPORATED, a Corporation )  
 )  
Defendant )

Civil Action ✓  
File No. 68-C-14

**FILED**

JUL 29 1968

M. M. EWING  
Clerk, U. S. District Court

ORDER OF DISMISSAL

Plaintiff having filed his complaint herein, and thereafter defendant, Family Publications Service, Inc., having assured plaintiff and this court that it will fully comply in the future with the provisions of the Fair Labor Standards Act of 1938, as amended, and defendant having heretofore entered into a stipulation of compliance wherein it specifically agrees to comply with all pertinent provisions of the Fair Labor Standards Act, and defendant having paid to plaintiff \$1,146 for the use and benefit of certain of defendant's present and former employees;

It is, therefore, ORDERED, ADJUDGED, and DECREED that the above styled and numbered cause be and the same hereby is dismissed with costs to defendant.

Luther Bohannon  
UNITED STATES DISTRICT JUDGE

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

ROBERT L. SNIDER,

Plaintiff,

vs.

DISTRICT ATTORNEY, NOWATA COUNTY,  
NOWATA, OKLAHOMA,

Defendant.

)  
)  
)  
) 68-C-91  
)  
)  
)  
)  
)  
)

**FILED**

**JUL 29 1968**

M. M. EWING  
Clerk, U. S. District Court

ORDER DENYING MOTION FOR DECLARATORY JUDGMENT  
AND DISMISSING CAUSE OF ACTION

The Court has for consideration the Motion for Declaratory Judgment filed by the plaintiff herein, and, being fully advised in the premises, finds:

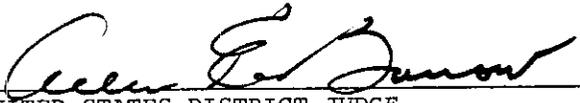
Plaintiff alleges he has been denied his constitutional rights to a speedy trial on a warrant issued by defendant and filed in the place of his incarceration at the federal prison at Leaverworth, Kansas. In his complaint he invokes jurisdiction under 28 USCA §2201. Petitioner seeks an order of this Court requiring defendant to remove the Warrant and dismiss same for lack of prosecution.

The Courts have consistently refused to use federal declaratory judgment procedure as a means of attack upon a state criminal judgment. *Booker v. State of Arkansas*, 380 F.2d 240; *Waldon v. State of Iowa*, 323 F.2d 852; *Christopher v. State of Iowa*, 324 F.2d 180; *United States ex rel. Bennett v. People of State of Illinois*, 356 F.2d 946. The Court, therefore, concludes if a declaratory judgment procedure cannot be used as a means of attack upon a state criminal judgment, then,

it would, by analogy, be an improper procedure to attack a warrant that has issued where the individual has not been tried for the crime charged, nor convicted and sentenced.

IT IS, THEREFORE, ORDERED that the Motion for Declaratory Judgment be and the same is hereby denied and this cause of action is hereby dismissed.

ENTERED this 29~~th~~ day of July, 1968.

  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

W. WILLARD WIRTZ, Secretary of Labor, )  
United States Department of Labor, )  
 )  
Plaintiff )  
 )  
v. )  
 )  
C & C TILE COMPANY, INC., )  
a Corporation, )  
 )  
Defendant )

Civil Action File  
No. 68-C-152

**FILED**

JUL 29 1968

M. M. EWING  
Clerk, U. S. District Court

JUDGMENT

Plaintiff having filed his complaint and defendant having appeared by counsel, waived answer herein and agreed to the entry of this judgment without contest, it is, therefore, upon motion of the attorneys for plaintiff and for cause shown:

ORDERED, ADJUDGED and DECREED that the defendant, C & C Tile Company, Inc., a corporation, its agents, servants, employees and all persons acting or claiming to act in its behalf and interest, be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), hereinafter referred to as the Act, in any of the following manners:

(1) The defendant shall not, contrary to sections 7 and 15(a)(2) of the Act, employ an employee in an enterprise

engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for a workweek longer than 40 hours without compensating said employees for their employment in excess of such hours in said workweeks at rates not less than one and one-half times the regular rates at which they were employed.

(2) The defendant shall not fail to make, keep and preserve records of its employees, and of the wages, hours and other conditions and practices of employment maintained by it, as prescribed by the Administrator of the Wage and Hour Division of the Department of Labor, issued, and from time to time amended, pursuant to sections 11(c) and 15(a)(5) of the Act, and found in Title 29, Chapter V, Code of Federal Regulations, Part 516.

(3) Defendant is further enjoined and restrained from withholding from the employees listed below the unpaid overtime compensation reflected opposite their respective names, to which they are entitled under the Act:

A. W. Billingsley	\$325.34
Charles Avery	276.65
George Clifton	14.46
Don Crutchfield	247.15
Orville Cummins	208.78
Bob Davis	223.56
Claude Davis	178.64
Kenneth W. Fike	300.83
Melvin M. Fuqua	46.80

Vert T. Leary	\$ 200.02
Donald Martin	253.36
Richard Martin	486.97
Howard Spear	100.00
Robert H. Seagle	358.85
Charles Corbett	26.36
Gay B. Seank	58.26

The provisions of this order shall be deemed satisfied when the defendant delivers to the plaintiff a cashier's check for \$3,315.76 (less appropriate tax deduction). The plaintiff shall distribute the proceeds of the check to the persons named above or to their estates if that is necessary, and any money not so paid within a reasonable time, because of inability to locate the proper persons or because of their refusal to accept it, shall be covered in to the treasury of the United States as miscellaneous receipts.

It is further ORDERED, ADJUDGED and DECREED that plaintiff have and recover from the defendant the court costs herein.

Dated this 27<sup>th</sup> day of July,

1968.

William G. Pearson  
United States District Judge

The entry of this judgment  
is hereby consented to:

C & C TILE COMPANY, INC.

By [Signature]  
President

[Signature]  
Attorney for Defendant

Richard L. Tolles  
Attorney for Plaintiff



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

A. J. FLOYD, d/b/a A. H. Floyd  
Construction Company,

Plaintiff,

vs.

FRAM CORPORATION,

Defendant.

No. 68-C-98

FILED

JUL 30 1968

M. M. EWING  
Clerk, U. S. District Court

ORDER OF DISMISSAL

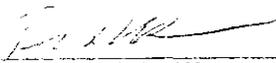
It having been made to appear to the court that satisfactory  
settlement has been made in the above entitled cause,

IT IS HEREBY ORDERED that the cause of action filed herein by  
plaintiff be and the same is hereby dismissed with prejudice.

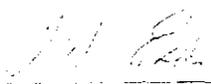
Dated this 30 day of July, 1968.

  
United States District Judge

APPROVED:

  
Attorney for Plaintiff

Boesler, McDermott & Eskridge

By   
Attorney for Defendant

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

AMERICAN AIRLINES, INC., )  
Plaintiff, )  
-vs- )  
TRANSPORT WORKERS UNION, et al., )  
Defendants )

No. 67-C-223

FILED

JUL 31 1968

M. M. EWING  
Clerk, U. S. District Court

O R D E R

The plaintiff ~~having heretofore in open court on April 11,~~ 1968, moved to dismiss the portion of its Complaint requesting monetary damages and the defendants having offered no objection, ~~the Court having ruled favorably upon such motion and now in order to memorialize such~~ action;

IT IS NOW HEREBY ORDERED AND DECREED that the request for judgment for monetary damages as contained in plaintiff's Complaint is dismissed.

*Leda Danaharty*  
U. S. DISTRICT JUDGE

*Paul Peneguer*