

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

JAMES E. YEAGER,)
)
Petitioner,)
)
) NO. 73-C-104
)
UNITED STATES OF AMERICA,)
)
Respondent.)

O R D E R

The Court has carefully reviewed this file and the criminal file no. 13722 which contains the Court Reporter's shorthand notes of the plea and sentence in 1961 of James Edward Yeager as well as a partial transcript thereof. The original Court Reporter is no longer available to transcribe the notes not previously transcribed, but the Court has requested that said notes be read aloud by two persons who have used "Stettman" shorthand. Therefrom, it appears that the Judge did advise the defendant that he had a constitutional right to an attorney and then asked: "Did you decide to proceed this morning without counsel?" to which the defendant responded, "Yes Sir." Further, it clearly appears on the Judgment and Commitment, signed by the United States District Judge presiding at the plea and sentence, that "the court advised the defendant of his right to counsel and asked him whether he desired to have counsel appointed by the court," which right was waived by the defendant.

The Court further finds that at sentence the defendant spoke directly to the Judge and asked to be released to the Army even though he admitted that he knew the Army did not want him back. He stated that making some way to alleviate the worry he was causing his mother, who he had learned was ill. Such allocution clearly belies that he had been promised probation by the United States attorney or anyone else, which a promise would have made the defendant's request of the sentencing Court wholly unnecessary.

The Court, therefore, is satisfied and convinced from the file and records of this cause that the plea was made voluntarily and intelligently.

with an understanding waiver of counsel by the defendant; and also, that the defendant's own words belie that he had been promised protection, which promise was not kept, by the prosecuting attorney or any other person.

Further, the Court finds that although the remedy provided by 28 U.S.C. § 2255 is available only to a prisoner who is serving a sentence which he alleges to be void, said § 2255 does not supersede all remedies that can be invoked to determine the validity of a judgment and sentence when the petitioner has completed the service of the sentence and is no longer in custody thereunder. Therefore, the Court finds that the present petition should be treated as an application for a writ of coram nobis. Igo v. United States, 303 F.2d 317 (10th Cir. 1962). Further, the Court finds that in the circumstances here presented an evidentiary hearing is not required and that the proceeding should be denied and dismissed.

IT IS, THEREFORE, ORDERED that the petition before the Court be and it is hereby denied and dismissed.

Dated this 15th day of September, 1973, at Tulsa, Oklahoma.



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

an action for loss of consortium but at the same time giving such an action to her husband is unconstitutional as depriving Plaintiff of the equal protection of the laws based on sex. Plaintiff next cites a recent amendment to 32 Oklahoma Statutes §15 which became effective on April 27, 1973 and which amendment provides that a wife has the right in her own name to seek damages by reason of her loss of consortium. Plaintiff asserts that this amendment is procedural in nature and therefore should be given retroactive application so as to allow Plaintiff to seek damages by reason of her loss of consortium which occurred as a result of the accident sustained by her husband on April 25, 1971.

The Defendant in response urges that the Oklahoma law on the date of the accident of Plaintiff's husband was not unconstitutional and further that the new amendment to 32 Oklahoma Statutes §15 creates a new right or cause of action in a wife by statutory law of Oklahoma, is not procedural but is substantive, and may be applied only prospectively, thus, not being the applicable law at the time Plaintiff's alleged cause of action arose on April 25, 1971.

The Court finds and concludes that the great weight of authority in the United States is that there is a reasonable and rational basis for the common law rule (in force in Oklahoma when the husband of Plaintiff sustained his accidental injuries) under which a husband has a right of action to recover for loss of his wife's consortium, whereas, a wife has no such right of action for loss of her husband's consortium. For the most part, those cases relied upon by Plaintiff as holding that a wife has a cause of action for loss of her husband's consortium are based on State legislative

enactments to that effect. They do not rest on a constitutional basis. Those few cases that base such a right on constitutional grounds are believed to have been incorrectly decided. See 36 ALR 3d 900. In Miskunas v. Union Carbide Corp., 399 F. 2d 847 (Seventh Cir. 1968) cert. den. 393 U.S. 1066, the Court

"...held that the Indiana law permitting the husband to recover for loss of his injured wife's consortium, but denying the wife a similar right for loss of her injured husband's consortium, was not unconstitutional on the ground that it denied her equal protection of the law. The court pointed out that the equal protection clause does not prevent a state from making a reasonable classification based on sex. The court reasoned that because the injured husband could recover damages for loss of earnings, Indiana courts could reasonably conclude that it would be undesirable to give the wife an action that might result in double recovery. The court also noted that since more than twice as many married men are employed than are married women, Indiana law could justifiably discriminate in this respect between the spouses."

Also see Krohn v. Richardson-Merrell, Inc., 406 SW 2d 166 (Tenn. 1966) cert. den. 386 U.S. 970. In Lunow v. Fairchance Lumber Co., Case No. 66-122 Civil, WD Okl. Memorandum Opinion entered February 14, 1967, this Court held that Oklahoma decisional law following the common law and giving a husband but denying a wife a right of action for loss of consortium was not unconstitutional. Our Court of Appeals in a Kansas case held to the same effect in Criqui v. Blaw-Knox Corp., 318 F. 2d 811 (Tenth Cir. 1963).

As to the effect of 32 Oklahoma Statutes §15 and the amendment thereto which became effective April 27, 1973, the Court finds and concludes that the legislative intent by this amendment was to create a new right or cause of action in a wife for recovery for the loss of her husband's consortium. In these circumstances this new right of action in a wife

may not be given retroactive application under the law so as to cover the accident of Plaintiff's husband which occurred on April 25, 1971. In State v. Bailey, 305 P. 2d 548 (Okla. 1956) the Oklahoma Supreme Court in a Syllabus by the Court said:

"Statutes are to be construed as having a prospective operation unless the purpose and intention of the Legislature to give them a retrospective effect is expressly declared or is necessarily implied from the language used. In case of doubt the doubt must be resolved against the retrospective effect."

50 AmJur. Statutes, Sec. 478, pages 494-501, states:

"§478. General Rules as to Interpretation. -- The question whether a statute operates retrospectively, or prospectively only, is one of legislative intent. In determining such intent, the courts have evolved a strict rule of construction against a retrospective operation, and indulge in the presumption that the legislature intended statutes, or amendments thereof, enacted by it to operate prospectively only, and not retroactively. Indeed, the general rule is that they are to be so construed, where they are susceptible of such interpretation and the intention of the legislature can be satisfied thereby, where such interpretation does not produce results which the legislature may be presumed not to have intended, and where the intention of the legislature to make the statute retroactive is not stated in express terms, or clearly, explicitly, positively, unequivocally, unmistakably, and unambiguously shown by necessary implication or terms which permit no other meaning to be annexed to them, preclude all question in regard thereto, and leave no reasonable doubt thereof. Ordinarily, an intention to give a statute a retroactive operation will not be inferred. If it is doubtful whether the statute or amendment was intended to operate retrospectively, the doubt should be resolved against such operation. It is especially true that the statute or amendment will be regarded as operating prospectively only, where it is in derogation of a common-law right, or where the effect of giving it a retroactive operation would be to interfere with an existing contract, destroy a vested right, or create a new liability in connection with a past transaction, invalidate a defense which was good when the statute was passed, or, in general, render the statute or amendment unconstitutional."

The Court disagrees with Plaintiff in her attempt to characterize this legislative enactment as being procedural in nature. It is clearly substantive in granting a cause of

action where none existed before. In State v. Bailey, supra, the Oklahoma Supreme Court said in quoting with approval from a New York decision:

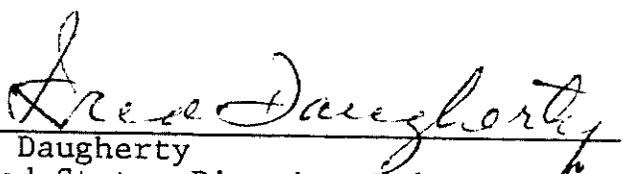
"The general rule is that statutes are to be construed as prospective only. * * * It takes a clear expression of the legislative purpose to justify a retroactive application. * * * Changes of procedure - - i.e., of the form of remedies -- are said to constitute an exception * * * but that exception does not reach a case where before the statute there was no remedy whatever. * * * To supply a remedy where previously there was none of any kind is to create a right of action."

By the amendment to 32 Oklahoma Statutes §15 the Oklahoma Legislature (as have many other State legislatures) provided a remedy to a wife for the loss of her husband's consortium by the negligence of another where previously, under Oklahoma decisional law following the common law, there was none. In doing so the Oklahoma Legislature created a right of action. The amendment is not procedural in nature. In Leventhal v. Melville Shoe Corp., 268 A 2d 840 (N.H.) and Burroughs v. Jordan, 456 SW 2d 652 (Tenn.) it was held that under a new statute allowing a wife's action for loss of consortium, no such right of action exists for injuries received before the effective date of the statute. Art. 5, Sec. 52 of the Oklahoma Constitution provides in part:

". . . After suit has been commenced on any cause of action, the Legislature shall have no power to take away such cause of action, or destroy any existing defense to such suit."

See Maynard v. Central Nat. Bank of Okmulgee, 91 P. 2d 653 (Okla. 1939). The Court may not give retroactive application to said amendment to 32 Oklahoma Statutes §15.

For the foregoing reasons Defendant's Motion To Dismiss is granted and the Plaintiff's action is dismissed this 28 day of September, 1973.


Fred Daugherty
United States District Judge

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

Eastman Kodak Company, a corporation,)
)
 Plaintiff,)
)
 -vs-)
)
 Sun Photo Color, Inc., a corporation,)
 Bob Bolles and Mrs. Bob Bolles,)
)
 Defendants.)

No. 73-C-190

FILED

SEP 28 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

At Tulsa in said district this 27th day of September, 1973, this matter came on for hearing, the plaintiff being present by its attorney, Norman E. Reynolds, and the defendants being present by their attorney, John W. Moody, and the parties agreeing to proceed to trial and evidence and argument being heard, and the court finds that the plaintiff is entitled to judgment as against the defendants in conformity with the prayer of the Complaint, together with a reasonable attorney's fee in the amount of \$ 13,832.30, and for good cause shown,

IT IS THEREFORE ORDERED that plaintiff have judgment against Sun Photo Color, Inc., Bob Bolles and Mrs. Bob Bolles, defendants, in the amount of \$13,832.30 together with costs of this action, including an attorney's fee in the amount of \$ 1,383.22, and interest on said judgment at 10% per annum from this date.

Luther Bohanon

U. S. District Judge

O.K.

/s/ Norman E. Reynolds
Attorney for Plaintiff

/s/ John Moody
Attorney for Defendants

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 26 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
Plaintiff,)
)
vs.) CIVIL ACTION NO. 69-C-94
)
76.50 Acres of Land, More or) Tract No. 529M
Less, Situate in Rogers County,)
State of Oklahoma, and Crumie) (Lessor Interest Only)
G. Delozier, et al., and)
Unknown Owners,)
)
Defendants.)

J U D G M E N T

1.

NOW, on this 26th day of September, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the lessor interest in the estate condemned in Tract No. 529M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of 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 property.

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 property described above in paragraph 2. Pursuant thereto, on May 15, 1969, the United States of America filed its Declaration of Taking of such property, and title thereto should be

vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the lessor interest in the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial conference in this case was held by the parties on May 15, 1973. The Plaintiff, United States of America, appeared at such conference by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. W. E. Maddux, Attorney, appeared for the owners of the subject property.

8.

At the said pretrial conference the parties stated their respective opinions as to the value of the subject interest. Neither party requested a trial. Based upon the pre-trial statements of the parties, the Court concludes that a trial is not necessary or advisable and that the sum of \$2,000.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the lessor interest in the estate taken in subject tract and the amount fixed by 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 below in paragraph 13.

10.

The defendants named in paragraph 13 as the owners of the lessor interest in the estate taken in the subject tract 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 such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this Judgment.

11.

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 Complaint filed herein, and such property, to the extent of the lessor interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of May 15, 1969, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the lessor interest in the estate taken herein in subject tract were the defendants whose names appear below in paragraph 13, and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$2,000.00, hereby is adopted as the award of just compensation for the lessor interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 529M

Owners of Lessor Interest:

Crumie G. Delozier and
Mary Jane Delozier

Award of just compensation pursuant to Court's findings -----	\$2,000.00	\$2,000.00
Deposited as estimated compensation	387.00	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$2,000.00
Deposit deficiency -----	\$1,113.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court

for the benefit of the owners the deposit deficiency shown in paragraph 13 above, in the total amount of \$1,113.00, together with interest thereon, computed at the rate of 6% per annum from May 15, 1969, to the date of such payment, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract as follows:

To - Crumie G. Delozier and Mary Jane Delozier, jointly, the sum of \$2,000.00 together with all accrued interest included in the afore-said deficiency deposit.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

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

RUDOLPH CHRISTIAN,)
)
 Petitioner,)
)
 vs.)
)
 PARK J. ANDERSON, WARDEN,)
 ET AL,)
)
 Respondents.)

73-C-129

FILED

SEP 26 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THE COURT, having examined the files and records of this proceedings, including the trial court files of the District Court in and for Tulsa County, Oklahoma in Cases No. 23,475 and 23,476, and the Second Report of the United States Magistrate, and being fully advised in the premises, FINDS:

1. The petitioner has exhausted the remedies available to him in the courts of the State of Oklahoma.
2. The first allegation for relief of petitioner that his plea of guilty was not knowingly and voluntarily made is not supported by the records of the District Court in and for Tulsa County, Oklahoma and under the authority of Webb vs. Crouse, C.A. Kan. 1966, 359 F.2d 394 and Mitchell vs. United States, 432 F.2d 14 (10th Cir. 1970) an evidentiary hearing is not required.
3. The petitioner's second and third allegations are not supported by any alleged facts or legal authority and the petitioner has wholly failed to sustain the burden and produce evidence to overcome the presumption of the validity and regularity surrounding his plea of guilty in the state court. The allegations of the petitioner are conclusory and are unsupported by any statement of fact or legal authority in support thereof. Hampton vs. Tinsley,

D.C. Colo. 1965, 240 F. Supp 213; Lorraine vs. United States,
444 F.2d 1 (10th Cir. 1971).

IT IS, THEREFORE, ORDERED:

1. That the Petition for Writ of Habeas Corpus filed herein
is denied and the case is dismissed.

2. That a copy of this Order be mailed by the Clerk of
this Court to the petitioner together with a copy of the Second
Report of the United States Magistrate.

Dated this 26th day of September, 1973.


CHIEF JUDGE, UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA.

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

WELLS-CHRISTENSEN FEDERAL HOME, INC.,
CORPORATION,

Plaintiff,

AMERICAN EMPLOYERS INTERNATIONAL UNION,
LOCAL 245,

Defendant.

ORDER DISMISSING ACTION

Upon the stipulation of the parties hereto, the Court,
being fully advised:

Case # IT IS ORDERED, ADJUDGED, AND DECREED that the *and complaint* ~~entire~~ *action* be discontinued and dismissed.

15/ William E. Barron
Judge

IEU:lg
9/19/73

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

PIERCE GLASS COMPANY, a Division of)
Indianhead, Inc., a corporation,)
)
Plaintiff)
)
vs.)
)
BUSINESS BUILDERS, INC.,)
a corporation,)
)
Defendant)

No. 73-C-104

FILED

SEP 26 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER DISMISSING ACTION WITH PREJUDICE

Upon joint application of the parties hereto requesting an order dismissing this action with prejudice and for good cause shown:

IT IS HEREBY ORDERED BY THIS COURT that the above styled and numbered ^{Case of} ~~action~~ ^{and Complaint} be and the same is hereby dismissed with prejudice.

Dated this 26th day of September, 1973.

William E. Brown
Chief United States District Judge

APPROVED:

UNGERMAN, GRABEL & UNGERMAN

By *[Signature]*
Attorneys for Plaintiff

FOLLENS, TIPS, GIBSON & COMFORT

By *[Signature]*
Attorneys for Business Builders, Inc.

UNGERMAN
GRABEL &
UNGERMAN
BANK BUILDING
OKLAHOMA

U. S. STATE- DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DELMAN EUGENE BAZER,)
)
Petitioner,)
)
)
J. ANDERSON, Warden,)
)
)
Respondents)

NO. 73-C-105

FILED

SEP 25 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

The petitioner herein seeks a writ of habeas corpus discharging him from custody because of the alleged invalidity of his convictions in the District Court of Tulsa County, Oklahoma in the following cases:

- (1) Case No. 22715, Robbery With Firearms After Former Conviction of a Felony, sentence of twenty-five (25) to seventy-five (75) years imprisonment;
- (2) Case No. 22716, First Degree Rape After Former Conviction of a Felony, sentence of life imprisonment;
- (3) Case No. 22717, Kidnapping After Former Conviction of a Felony, sentence of ten (10) years imprisonment;
- (4) Case NO. 22718, Kidnapping After Former Conviction of a Felony, Sentence of ten (10) years years imprisonment;
- (5) Case No. 22719, Robbery With Firearms After former Conviction of a Felony, sentence of twenty-five (25) to seventy-five (75) years;
- (6) Case No. 22721, Crime of Carrying Firearm After Conviction of a felony, sentence of ten (10) years imprisonment;
- (7) Case NO. 22722, Kidnapping After Former Conviction of a Felony, sentence of ten (10) years imprisonment;
- (8) Case No. 22723, Robbery With Firearms After former Conviction of a felony, sentence of twenty-five (25) to seventy-five (75) years imprisonment;
- (9) Case No. 22724, Operating a Motor Vehicle After Former Conviction of a Felony, sentence of five (5) years imprisonment and

- (10) Case No. 22762, Larceny of an Automobile
After Former Conviction of a Felony, sentence
of three (3) years imprisonment.

As grounds for relief he contends that:

- (1) His pleas of guilty were not voluntarily made because he was suffering from "a mental aberration, loss of memory, and/or concussion" due to a blow on his head by a jailer 11 days before he changed his pleas to guilty;
- (2) The court did not satisfy the requirements of *Boykin v. Alabama*, 395 U.S. 238 (1969);
- (3) The court erred in refusing to permit the petitioner to withdraw his pleas of guilty;
- (4) The petitioner was denied a fair trial because of prejudicial remarks by the trial judge; and
- (5) The record does not affirmatively reflect that he changed his pleas to guilty in Cases Nos. 22719, 22722 and 22718.

The court has examined the files and records herein, which include the Casemade for said cases and the transcript of the hearing on petitioner's motion to withdraw his pleas of guilty. It appears that all of the charges in these cases arose out of the same transaction or series of events. The petitioner was first tried by a jury on the rape charge (No. 22716) and received a sentence of ninety-nine (99) years imprisonment. An appeal was taken in this case to the Oklahoma Court of Criminal Appeals. While this appeal was pending a plea bargain was reached between the defense and the prosecution with the approval and agreement of the court that the defendant would change his pleas to guilty in the other cases and receive the same sentences which three of his co-defendants who were convicted had received. This was contingent upon the petitioner dismissing his appeal in the rape case and the district court granting a new trial therein so that the petitioner could plead guilty to that charge and receive a sentence of life imprisonment. All sentences were to run concurrently. In accordance with this agreement, the petitioner appeared in court on September 18, 1963, with his three attorneys, Mr. Richard K. McGee, Mr. Ronald H. Mook and Mr. James R. Spourie to change his pleas to guilty in the other cases. The

petitioner's attorney, Mr. McGee, made the announcement to the court that after "extensive conferences" on these matters the petitioner wished to withdraw his pleas of not guilty and enter pleas of guilty. (C.M. 23). The court carefully explained to the petitioner the bargain. (C.M. 23-28). The petitioner acknowledged that he understood the agreement and advised the court that he wished to enter pleas of guilty in all cases then before the court. (C.M. 26). The petitioner further stipulated that he had been represented from the time of his arrest by experienced able counsel and he felt that he had been properly advised and represented. (C.M. 27). He informed the court that he had many days and weeks to consider the matter and that he wished the court to dispose of his cases in this manner. (C.M. 27). He disavowed any other promises or consideration than the described bargain. (C.M. 32). His counsel advised the court that they knew of no reason why the court should not accept these pleas of guilty. (C.M. 24). The court deferred sentencing in these cases until the rape case appeal could be dismissed and the district court had reacquired jurisdiction of that case. This was necessary under the Oklahoma law in order that all sentences could be made to run concurrently. (C.M. 34, 35). If this could not be accomplished, the court assured the petitioner that it would vacate his guilty pleas and grant him a jury trial in these cases, if he so desired. (C.M. 27).

Thereafter, and before sentencing, the petitioner on November 19, 1968, moved the court to withdraw his plea in each of these cases for the reason "that at the time said plea was entered the defendant was under a mental aberration directly resulting from a beating administered by a jailer in the Tulsa County Jail and that the plea of guilty was entered as a result of this aberration and without due deliberation or understanding of the consequences of the act." (C.M. 37). The court conducted an evidentiary hearing on this motion on November 20, and 21, 1968. Appearing for the

defendant in this proceeding also were Mr. Khourie, Mr. McGee and Mr. Mook. It was the defendant's contention that he was struck on the head by a jailer on September 7, 1968, and that he suffered a loss of memory for events subsequent to the blow until sometime after his court appearance on September 18th. In response to a question by the court he stated that he had no recollection of being in the court on September 18th. At the conclusion of the hearing the court found that the petitioner's story of memory loss was fictitious and that petitioner was in fact "in complete control of his faculties at the time he entered these pleas". (Tr. 198-200). The motion was therefore denied. (Tr. 202).

On December 10, 1968, after the Court of Criminal Appeals had dismissed the petitioner's appeal in the rape case and the district court had granted a new trial, the petitioner appeared before the district judge with three attorneys. The petitioner first withdrew his plea of not guilty in the rape case and then plead guilty to that offense. (C.M. 40). After being advised by the petitioner that he did not desire to delay his sentencing further, the court imposed a life sentence in that case and six concurrent sentences in the other cases in accordance with the plea bargain. The petitioner then appealed to the Oklahoma Court of Criminal Appeals in case No. A-15,385 urging that his pleas were not knowingly, understandingly and voluntarily entered, the trial court did not meet the standards of Boykin v. Alabama, supra, and error of the trial court in not permitting him to withdraw his guilty pleas. The appeals court, on March 11, 1970, determined these issues adversely to the petitioner and affirmed the judgments and sentences of the trial court.

Since the first three propositions submitted to this Court have previously been considered by the Oklahoma courts, the Court concludes that the petitioner has exhausted his state remedies on these issues. Sandoval v. Rodriguez, 761 P.2d 1097 (CA10 1972).

The other issues raised by petitioner herein were not considered on direct appeal and the petitioner has ignored the remedy available to him under the Oklahoma Post Conviction Procedure Act, 22 O.S.A. § 1080, et seq., to present these matters first to the sentencing court and to appeal any unfavorable ruling to the Court of Criminal Appeals. Accordingly, these other issues will not be considered in this proceeding. Under these circumstances the state courts must be given an opportunity to pass on these new claims. Gurule v. Turner, 461 F.2d 1083 (CA10 1972).

Under Boykin v. Alabama, supra, the inadequacy of the arraignment record alone may justify relief from a guilty plea. However, the rule of Boykin, supra, is not to be applied retroactively. Green v. Turner, 443 F.2d 832 (CA10 1971); Perry v. Crouse, 429 F.2d 1083 (CA10 1970). The pleas of petitioner were taken in 1968 prior to that decision and therefore its requirements were not applicable.

Since the claim of petitioner that the court abused its discretion in refusing him permission to withdraw his guilty pleas does not amount to a federal constitutional claim cognizable in habeas corpus, Stinson v. Turner, 473 F.2d 913 (CA10 1973); see also Dorton v. United States, 447 F.2d 401 (CA10 1971), the ultimate issue to be determined by this court is whether the petitioner was mentally competent to enter his pleas of guilty on September 18, 1968, in the cases then before the court.

After a full evidentiary hearing to consider this issue, the trial court determined that petitioner's claim was without merit. The findings of the state court are presumptively correct. 28 U.S.C. § 2254(d). The petitioner, however, claims that this hearing did not meet the requirements of Townsend v. Sain, 372 U.S. 293, 82 S.Ct. 745, 9 L.Ed.2d 770 (1963) and challenges the sufficiency of the evidence adduced in that proceeding to support the factual findings of the court because the court denied the defense request for examination of the petitioner by a medical doctor.

This court has made an independent examination of the state court records and is satisfied that the adjudication there made was fairly supported by the facts and that the failure of the trial court to secure expert testimony was not, under the circumstances, a "vital flaw." The state at the conclusion of the petitioner's testimony felt that a medical examination was indicated (Tr. 35) but after the evidence was further developed withdrew its request (Tr. 179). The defense at that point requested that petitioner be examined by a court-appointed physician "with regard to his mental condition and to his physical condition," (Tr. 179), which was denied. (Tr. 180).

The court heard the testimony of 22 witnesses. The defense presented the testimony of the petitioner and two of his cellmates. The petitioner testified that on September 7, 1968, he was confined in a cell with two other prisoners, Smith and Kennedy, when their shower flooded their cell. (Tr. 8). Petitioner refused to mop it up. (Tr. 9). Two jailers then took him out of the cell and when he stumbled on the way to the "hole" a third jailer hit him in the head with a small bat. (Tr. 11). "He stated that he fell to the floor unconscious and woke up in the "hole". (Tr. 12). Smith was the only other occupant of the "hole". (Tr. 13). Petitioner did recall his attorney coming to visit him during the 72 hours that he spent in the "hole". (Tr. 13). He never saw a doctor although he requested medical attention from his jailers. (Tr. 13 and 14). As a result of this incident petitioner testified that he suffered frequent blackouts and on the morning of September 18th, he had experienced blackouts and dizziness. (Tr. 15). However, at the time of the evidentiary hearing it was not affecting his testimony and he felt perfectly competent. (Tr. 16). On cross examination he testified that he had no memory of pleading guilty and that he only became aware of what had happened after reading back through his pleadings. (Tr. 19). According to Smith, petitioner was able to talk into the cell (Tr. 53) and during their 72 hours in the "hole" they talked some and petitioner ate all his meals except one. (Tr. 54)

Kennedy testified to the circumstances under which the petitioner was taken from his cell on September 7th, but never saw him thereafter. (Tr. 67).

The state produced the jailers who transferred the petitioner on September 7th and it was not denied that an altercation occurred in which the petitioner was struck one time in the head with a club. (Tr. 78, 91, 104). They also testified that the petitioner was not rendered unconscious and never asked for medical aid. The state also called every jailer to whom the petitioner might have addressed a request for medical attention, but none of them had received a request. None ever observed any abnormal conduct by the petitioner. One of the sheriff's deputies who had known the petitioner for 20 years testified that he was with him for 35 to 40 minutes on the day he changed his plea. (Tr. 70). He observed nothing unusual about the petitioner who never complained about any dizziness or drowsiness and in fact seemed quite alert. (Tr. 71). He relayed to the petitioner a message from his mother and discussed with him in a lengthy conversation his approaching court appearance. (Tr. 72). Petitioner had no difficulty in apprehending what was said or in expressing himself very plainly about the matter. (Tr. 73). The petitioner had also denied any memory of being transferred to the Oklahoma State Penitentiary at McAlester, Oklahoma, on September 12th, and his confinement there until September 16th. (Tr. 131). This officer, however, testified that he drove the petitioner there on that date with three other prisoners. They had requested that he be the one who transported them. (Tr. 129). All of the boys were strapped during the two and one-half hour trip, (Tr. 139), and the officer and the petitioner talked during the trip:

"Oh yes, we talked. I talked with all three of the boys because I had handled all of them and we talked about past experiences, things that had happened, there was nothing unusual or abnormal or anything, just like old friends together, old acquaintances."

The classifications supervisor and the hospital administrator (Tr. 140) from the Oklahoma State Penitentiary testified that their records did

to reflect his condition and treatment of a head injury, or received any medication during his stay at McAlester. (Tr. 186, 192). Richard K. McGee, an attorney with 17 years experience and a legal instructor at Tulsa University, represented the petitioner in the trial of his rape case. (Tr. 143). He worked closely with the petitioner in preparation of that case for approximately three weeks and on September 18th he spent three to four hours with the petitioner. (Tr. 144). At that time he did not have the remotest suspicion that the petitioner did not know fully what was transpiring and what he was doing. (Tr. 146). Ronald H. Mook, another attorney, had also participated in the petitioner's defense and conferred with him on many occasions prior to September 18th. In his judgment petitioner was in full possession of his mental faculties on September 18th and completely aware of the proceedings. (Tr. 148). James Khourie, one of the public defenders of Tulsa County, who was appointed to represent petitioner on September 4, 1968, conferred with the petitioner in the "hole" and on September 18th, and there was nothing in his relationship with the petitioner to suggest that the petitioner was in a blackout or did not know where he was or what was going on. (Tr. 153). John E. Morgan, who first met petitioner as a public defender on July 10, 1967, and represented the state on the guilty pleas on September 18th observed nothing inconsistent with the normal behavior of petitioner. (Tr. 175).

After our review of the record we can only concur in the trial court's conclusion that the alleged incapacity of petitioner was feigned. Apart from petitioner's own testimony the evidence overwhelmingly contradicted that the petitioner was normal at all times of an extended period. His testimony was self-contradictory. Although he said he remembered nothing from September 23 to October 1st time concerning his awakening in the "hole" and his reaction to the medical attention. He remembered that he awoke on September 18th (Tr. 15) but not the day he was brought to the hospital. He said his memory of the past was going back to

surrounding the blow (Tr. 20) but his memory was very clear on the history of his legal representation (Tr. 42-44, 127-128), and he recalled his confinement at McAlester prior to September 4, 1968. (Tr. 133).

The petitioner's reliance upon the case of Wilson v. United States, 391 F.2d 460 (C.A.D.C. Cir. 1968) is misplaced. If it was conceded that the defendant suffered from permanent retrograde amnesia as a result of which he had no recollection of any of the events alleged in his indictments. The issue presented was whether this loss of memory deprived him of a fair trial and effective assistance of counsel and the court propounded the criteria to determine this. Here the petitioner has never stated in any positive or serious way that he does not recall the events culminating in the charges against him. His own testimony negates the possibility of retrograde amnesia. He vividly recalls the details of events immediately preceding the trauma. If he had suffered true retrograde amnesia the blow to the head would have been forgotten and memories for a variable period of time preceding the impact would have been lost. Gray's Attorney's Textbook of Medicine, 3rd Ed. Vol. 3A ¶ 90.28(1). The condition which the petitioner apparently attempts to describe is the inability to fix or recall memory impressions of events as they occur so that there is no memory of events which have occurred since the onset of the condition, known as anterograde amnesia. See Dorland, The American Illustrated Medical Dictionary, 20th Ed. Anterograde amnesia is simply the loss of memory for the period following the blow to the head with concussion and more recently is referred to as "post-traumatic amnesia". It is complete for all periods of total unconsciousness and usually complete for periods of stupor and confusion. It may be spotty loss of memory so long as the state of consciousness is still altered. Gray, Attorney's Textbook of Medicine,

While the evidence may be conflicting as to whether the petitioner was ever rendered totally unconscious by the blow, there is no doubt that 11 days later he could be fully conscious.

and competency issues were being resolved. In light of the petitioner's admitted competency at the evidentiary hearing it would appear unlikely that a subsequent medical examination could reveal any objective findings and the examiner's opinion would probably be based solely upon the subject symptoms told to him by the petitioner. While the expert may have detected the petitioner's delinquency, it does not appear that a witness could be able to corroborate or unequivocally confirm the alleged incapacity of the petitioner. This is not a case where the petitioner had a prior history of mental illness and an expert could be expected to answer the question of the extent to which the mental faculties of the petitioner were impaired by such mental disease. Cf. Carroll v. Bess, 421 F.2d 1065 (CA5 1970). The court mustered all of the evidence which was available to it and which was necessary to adequately develop the facts. Since the state court hearing was adequate to develop the facts and it met the requirements of Townsend v. Sain, supra, and 28 U.S.C.A. § 2254(d) this court is not required to hold an evidentiary hearing. See Maxwell v. Turner, 411 F.2d 805 (CA10 1969).

In summary the court finds:

1. The petitioner has exhausted his remedies in the courts of the State of Oklahoma on the first three issues enumerated above but not on any other;
2. The evidentiary hearing in the District Court of Tulsa County on November 20 and 21, 1968, was adequate to develop the facts concerning the petitioner's allegations as to his mental condition at the time he entered his pleas of guilty on September 18, 1968, and it met the requirements of Townsend v. Sain, supra and U.S.C.A. § 2254(d). Therefore, this court is not required to hold an evidentiary on this issue;
3. The findings by the District Court of Tulsa County are deemed to be correct and from an examination of the transcript of the evidentiary hearing and the records of this case, this

and the evidence that the record in the state court proceedings in this case does fairly support the factual findings of the state court.

IT IS THEREFORE ORDERED:

1. That the petitioner's application for the appointment of a receiver is denied in the court's discretion;

2. The petition for writ of habeas corpus is denied;

3. That a copy of this Order be mailed by the clerk of this court to the petitioner;

4. That a copy of this Order be mailed by the clerk of this court to the respondent by mailing the same to the Attorney General of the State of Oklahoma.

Dated this 24th day of September, 1973.

Luther Holman
UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 BLANE BENHARDT and)
 LEILA BENHARDT,)
)
 Defendants.)

CIVIL ACTION NO. 73-C-278 ✓

FILED

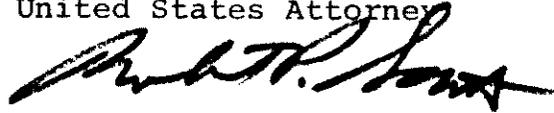
SEP 24 1973 ✓

Jack C. Silver, Clerk
U. S. DISTRICT COURT

NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney, Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal of the Complaint filed herein on August 23, 1973.

UNITED STATES OF AMERICA
NATHAN G. GRAHAM
United States Attorney



ROBERT P. SANTEE
Assistant United States Attorney

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

MARGARET B. RAYMOND,)
)
) Plaintiff,)
)
 vs.)
)
) PIONEER CORPORATION, a)
) foreign corporation,)
)
) Defendant.)

NO. 73-C-119

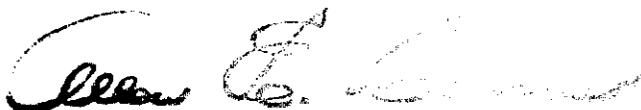
FILED
SEP 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITHOUT PREJUDICE

ON this 21st day of September, 1973, upon the written appli-
cation of the parties for a Dismissal Without Prejudice of the Complaint
and all causes of action, the Court having examined said application,
finds that said parties have settled all claims involved in the Complaint
and have requested the Court to dismiss said Complaint without prejudice
to any future action, and the Court being fully advised in the premises,
finds that said Complaint should be dismissed without prejudice pursuant
to said application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court
that the Complaint and all causes of action of the plaintiff filed
herein against the defendant be and the same hereby is dismissed without
prejudice to any future action.



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

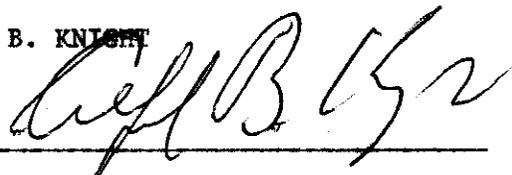
APPROVALS:

JONES, GIVENS, BRETT, GOTCHER, DOYLE & ATKINS

By: 

Attorney for the Plaintiff

ALFRED B. KNIGHT



Attorney for the Defendant

advise each member of said Local Union that said Local Union is
no longer on strike.

ENTERED this 4th day of April, 1971.

Allen S. Barron

CHIEF UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO. 73-C-139
 vs.)
)
)
 BEULAH KELLEY, a single)
 women,)
)
 Defendant.)

FILED

SEP 20 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 19 day
of September, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendant, Beulah Kelley,
a single women, appearing not.

The Court being fully advised and having examined
the file herein finds that Beulah Kelley was served by publication,
as appears from Proof of Publication filed herein on September 7,
1973, and

It appearing that the said defendant has failed
to 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 following described
real property is located in Tulsa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Lot Thirteen (13), Block One (1), VACATION
CENTER SECOND ADDITION to the City of
Broken Arrow, Tulsa County, State of Oklahoma,
according to the recorded plat thereof.

THAT the defendant, Beulah Kelley, did, on the 14th
day of April, 1970, execute and deliver to the Lomas & Nettleton
West, Inc., her mmortgage and mortgage note in the sum of
\$15,300.00 with 8 1/2 percent interest per annum, and further

providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendant, Beulah Kelley, made default under the terms of the aforesaid mortgage note by reason of her failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendant is now indebted to the plaintiff in the sum of \$15,068.95 as unpaid principal, with interest thereon at the rate of 8 1/2 percent interest per annum from April 1, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendant, Beulah Kelley, in rem, for the sum of \$15,068.95 with interest thereon at the rate of 8 1/2 percent interest per annum from April 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendant to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the 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 defendant be and she is forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

Allen E. Barrow

United States District Judge

APPROVED.

Robert P. Santee

ROBERT P. SANTEE
Assistant United States Attorney

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.) CIVIL ACTION NO. 73-C-232
)
)
 GILBERT O. HENRY, JR., et al.,)
)
 Defendants.)

FILED
SEP 20 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 17TH day of September, 1973, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, and the defendants, Gilbert O. Henry, Jr., and Mary Carol Henry, appearing not.

The Court being fully advised and having examined the file herein finds that the above-named defendants were served with Summons and Complaint on August 2, 1973, as appears from the Marshal's Return of Service herein, and

It appearing that the said defendants have failed to 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 following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Thirty-five (35), Block Four (4), Lake-View Heights Amended Addition to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded plat thereof.

THAT the defendants, Gilbert O. Henry, Jr., and Mary Carol Henry, did, on the 10th day of September, 1971, execute and deliver to Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$8,250.00 with 7 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Gilbert O. Henry, Jr., and Mary Carol Henry, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$8,307.98 as unpaid principal, with interest thereon at the rate of 7 1/2 percent interest per annum from August 1, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Gilbert O. Henry, Jr., and Mary Carol Henry, in personam, for the sum of \$8,307.98 with interest thereon at the rate of 7 1/2 percent interest per annum from August 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the 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, all of 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.

Allen E. Barnes

United States District Judge

APPROVED.

Robert P. Santee

ROBERT P. SANTEE
Assistant United States Attorney

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO. 73-C-111
 vs.)
)
)
 ROY D. QUICK, et al.,)
)
)
 Defendants.)

FILED

SEP 19 1973

JUDGMENT OF FORECLOSURE

Jack C. Silver, Clerk

U.S. DISTRICT COURT

THIS MATTER COMES on for consideration this 19 day
of September, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Roy D. Quick
and Rochelle A. Quick, appearing not.

The Court being fully advised and having examined
the file herein finds that defendants, Roy D. Quick and Rochelle A.
Quick, were served by publication, as appears from Proof of Pub-
lication filed herein on September 7, 1973, and

It appearing that the said defendants have failed
to 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 following described
real property is located in Ottawa County, Oklahoma, within
the Northern Judicial District of Oklahoma:

Beginning at the Northeast corner of the
S 1/2 SE 1/4 of Section 32, Township 27
North, Range 23 East of the Indian Meridian,
Ottawa County, Oklahoma; thence South 80
feet; thence West 178; thence North 80
feet; thence East 178 feet to the point of
beginning.

THAT the defendants, Roy D. Quick and Rochelle A.
Quick, did, on the 28th day of February, 1972, execute and
deliver to the United States of America, acting through the
Farmers Home Administration, their mortgage and mortgage note
in the sum of \$12,100.00 with 7 1/4 percent interest per annum,

and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Roy D. Quick and Rochelle A. Quick, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 8 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$12,580.60 as unpaid principal, with interest thereon at the rate of 7 1/4 percent interest per annum from January 8, 1973, until paid, plus \$163.00 for insurance premiums, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Roy D. Quick and Rochelle A. Quick, in rem, for the sum of \$12,580.60 with interest thereon at the rate of 7 1/4 percent interest per annum from January 8, 1973, plus \$163.00 for insurance premiums, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the 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, all of 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.


United States District Judge

APPROVED.



ROBERT P. SANTEE
Assistant United States Attorney

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.) CIVIL ACTION NO. 73-C-210
)
)
 JOSEPH SIMMONS, a single)
 person, et al.,)
)
 Defendants.)

FILED
SEP 19 1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 18th day of September, 1973, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, and the defendant, Joseph Simmons, a single person, appearing not and the defendant, Brenda M. Robinson, having filed her Disclaimer on August 22, 1973,

The Court being fully advised and having examined the file herein finds that Joseph Simmons, a single person, was served with Summons and Complaint on July 23, 1973, and Brenda M. Robinson was served with Summons and Complaint on August 9, 1973, both as appears from the Marshal's Return of Service herein, and

It appearing that the said defendants have failed to 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 following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Fourteen (14), in Block Eight (8), in SHARON HEIGHTS ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the defendant, Joseph Simmons, a single person, did, on the 1st day of July, 1971, execute and deliver to Administrator of Veterans Affairs, his mortgage and mortgage

note in the sum of \$11,000.00 with 7 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendant, Joseph Simmons, made default under the terms of the aforesaid mortgage note by reason of his failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendant is now indebted to the plaintiff in the sum of \$10,944.02 as unpaid principal, with interest thereon at the rate of 7 1/2 percent interest per annum from July 1, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendant, Joseph Simmons, for the sum of \$10,944.02 with interest thereon at the rate of 7 1/2 percent interest per annum from July 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendant to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement the 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, all of 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.

H. Luther Behrens
United States District Judge

APPROVED.



ROBERT P. SANTEE
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 10.00 Acres of Land, More or)
 Less, Situate in Nowata County,)
 State of Oklahoma, and Robert)
 M. Hawkins, et al., and Unknown)
 Owners,)
)
 Defendants.)

CIVIL ACTION NO. 70-C-367
Tract No. 1041M
(All interests)

FILED

SEP 17 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 17 day of September, 1973, 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 June 18, 1973, 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 entire estate condemned in Tract No. 1041M, as such estate and tract are described in the Complaint 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 property.

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 property described above in paragraph 3. Pursuant thereto, on November 25, 1970, the United States of America filed its Declaration of Taking of

such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

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

7.

The Report of Commissioners filed herein on June 18, 1973, 1973, hereby is approved, and adopted as a finding of fact as to subject tract. The amount of just compensation for the estate taken in the subject tract, as fixed by the Commission, is set out below in paragraph 11.

8.

The defendants named in paragraph 11 as owners are the only defendants asserting any interest in the estate condemned herein. All other defendants having either disclaimed or defaulted as of the date of taking, the named defendants were the owners of the estate condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

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 subject tract, as such tract is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of November 25, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

10.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the subject property were the defendants whose names appear below in paragraph 11, and the right to receive the just compensation for the taking of such property is vested in the parties so named.

11.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on June 18, 1973, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the taking of the subject property, as shown by the following schedule:

TRACT NO. 1041M

Owners:

Lessor interest (mineral interest):

Joe Levine ----- 1/2
Kenneth L. Stainer, Administrator
of the Estate of Harold Levine,
deceased ----- 1/2

Royalty interest:

Joe Levine and
Kenneth L. Stainer, Administrator
of the estate of Harold Levine,
deceased ----- 1/2
Maggie L. Bishop ----- 1/2
(for herself and as successor
to John L. Bishop, deceased)

Leasehold interest:

Robert M. Hawkins

Award of just compensation:

For Lessor interest -----	\$25.00	
For Royalty interest -----	\$13.00	
For Leasehold interest -----	<u>\$113.00</u>	
Total award -----	\$151.00	\$151.00
Deposited as estimated compensation	<u>\$151.00</u>	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$151.00

12.

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

To: Joe Levine -----	\$ 15.75
Kenneth L. Stainer, Administrator of the estate of Harold Levine, deceased	15.75
Maggie L. Bishop -----	6.50
Robert M. Hawkins -----	113.00.

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

/s/ Allen E. Barrow
UNITED STATES DISTRICT JUDGE

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

DARROLD STEEVES,

Plaintiff,

vs.

J. W. LEWIS TRUCKING COMPANY
and JERRY E. BEAN,

Defendants.

NO. 72-C-373

ORDER OF DISMISSAL

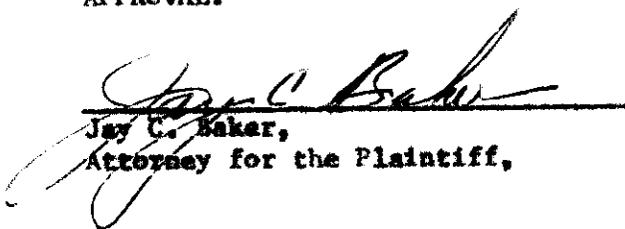
NOW on this 18th day of September, 1973, upon written application of the parties to dismiss with prejudice the Complaint and all causes of action, the Court having examined said Application, finds that said parties have entered into a compromise agreement covering all claims involved in the Complaint and any and all other claims and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises finds that said Complaint should be dismissed pursuant to said Application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that the Complaint and all causes of action of the plaintiff filed herein against the defendants be and the same is hereby dismissed with prejudice to any future action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendants deposit with the Clerk of the Northern District of the State of Oklahoma, USA, the total sum of \$40,000.00 in full, final and complete settlement of all claims and that such deposit constitutes a complete and final discharge of all claims of all parties against the defendants herein and the cause is dismissed with prejudice.


ALLEN E. BARROW, DISTRICT JUDGE

APPROVAL:


Jay C. Baker,
Attorney for the Plaintiff,

Alfred B. Knight
Attorney for the Defendants.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
)
 vs.) CIVIL ACTION NO. 73-C-14
)
 20.00 Acres of Land, More or) Tract No. 1647M
 Less, Situate in Nowata County,)
 State of Oklahoma, and Levi) (All interests)
 Hogner, et al., and Unknown)
 Owners,)
)
 Defendants.)

FILED
SEP 17 1973
JUL 2 1973
U.S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 17 day of September, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to the entire estate condemned in Tract No. 1647M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of 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 property.

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 property described above in paragraph 2. Pursuant thereto, on January 17, 1973, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested

in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial conference was held by the parties to this action on August 14, 1973. Mr. Charlie Miller, Office of the Regional Solicitor, has received from each individual Indian owner in this case written authorization to represent such Indian owner in this action. Mr. Miller appeared at the pre-trial conference representing the said Indian owners. The Plaintiff, United States of America, appeared at such pre-trial conference by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. No other persons or attorneys appeared.

8.

At the said pre-trial conference Mr. Miller advised the Court that in the event of trial the owners' evidence would be based upon a sale of comparable property and that such evidence would show the subject property had a market value of \$700.00.

Counsel for Plaintiff advised the Court that in the event of a trial its evidence would be the testimony of J. H. Wanenmacher, Jr., Petroleum Engineer, to the effect that the market value of subject property was \$60.00.

Neither party requested a trial. Based upon the pre-trial statements of the parties, the Court concludes that a trial is not necessary or advisable and that the sum of \$500.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the estate

taken in subject tract and the amount fixed by 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 below in paragraph 13.

10.

The defendants named in paragraph 13 as the owners of the estate taken in the subject tract 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 such property, as of the date of taking, and, as such, are entitled to receive the just compensation awarded by this judgment.

11.

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 Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned and title thereto is vested in the United States of America, as of January 17, 1973, and all defendants herein and all other persons are forever barred from asserting any claim to such property.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the estate taken herein in subject tract were the defendants whose names appear below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$500.00 hereby is adopted as the award of just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 1647M

Owners:

Levi Hogner -----	1/6
Flora Hogner Fourkiller -----	1/6
Mary Hogner Fourkiller -----	1/6
Tressie Hogner Hokit -----	1/6
Aggie Hogner Hummingbird -----	1/6
Tonnett Hogner Reavis -----	1/18
Jeannette Hogner Teehee -----	1/18
Jerry H. Hogner -----	1/18

Award of just compensation		
pursuant to Court's findings -----	\$500.00	\$500.00
Deposited as estimated compensation -----	\$180.00	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$500.00
Deposit deficiency -----	\$320.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency shown in paragraph 13 above, in the amount of \$320.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse the deposit for the subject tract as follows:

To: Levi Hogner -----	\$83.34
Flora Hogner Fourkiller -----	\$83.33
Mary Hogner Fourkiller -----	\$83.33
Tressie Hogner Hokit -----	\$83.34
Aggie Hogner Hummingbird -----	\$83.33
Tonnett Hogner Reavis -----	\$27.78
Jeannette Hogner Teehee -----	\$27.78
Jerry H. Hogner -----	\$27.77

ALLEN T. MARLOW

UNITED STATES DISTRICT JUDGE

APPROVED:

HUBERT A. MARLOW

HUBERT A. MARLOW
Assistant U. S. Attorney

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
VOLUME 457, PAGES 1-10

THE TELEX CORPORATION and
TELEX COMPUTER PRODUCTS, INC.,

Plaintiffs,

vs.

No. 72-2410

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

No. 72-2409
(Consolidated)

Defendant.

JUDGMENT AND DECREE

The issues having been duly tried to the court, findings of fact having been made, and conclusions of law having been entered; now, accordingly,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That plaintiffs, The Telex Corporation and Telex Computer Products, Inc., have and recover judgment of and from the defendant International Business Machines Corporation in the sum of \$352.5 million, after the Court actual damages have been trebled as required by law, together with costs and attorneys' fees, the amount of such attorneys' fees to be reserved for future determination.

2. International Business Machines Corporation is hereby permanently enjoined from refusing or withholding any contractually specified penalty payments which it is lawfully

is entitled to collect damages of ten million more ninety days' notice of any lease term lease agreement heretofore entered into between IBM and any of its end-user customers, including but not limited to IBM's Fixed Term Plan leases, Extended Term Plan Leases and Term Lease Plan leases. For a period of three years from and after the date of this judgment International Business Machines Corporation is enjoined and prohibited from including in any lease agreement for electronic data processing products for terms in excess of 90 days any provision requiring payment of any liquidated damages or penalty because of the customer's earlier termination of said lease agreement.

3. At the time of a product announcement concerning any EDP product, or at the time of release of such product for manufacturing and production, whichever first occurs, International Business Machines Corporation is enjoined and required to publicly describe and disclose the design of the electronic interface for such product in sufficient detail as to enable the reproduction of such interface by other qualified manufacturers and within 60 days from the entry of this judgment, International Business Machines Corporation shall similarly describe and disclose the details of the design of the electronic interface for each System 370/308 peripheral product then in development.

4. International Business Machines Corporation is enjoined and prohibited from circumventing or evading any of its securities with its System 370 central processor units. Also, it is prohibited from charging a single price for both a central processor unit

International Business Machines Corporation shall not be held liable for any damage or loss of data or information resulting from the use of its products or services. International Business Machines Corporation shall not be held liable for any damage or loss of data or information resulting from the use of its products or services. International Business Machines Corporation shall not be held liable for any damage or loss of data or information resulting from the use of its products or services.

5. International Business Machines Corporation is enjoined and required to separately price its functionally different products, including but not limited to central processing units (CPU's), memories, tape products and their controllers, disk products and their controllers, printer products and their controllers and communications controllers regardless of whether it elects to place such products in single cabinets or in multiple boxes or cabinets. International Business Machines is further enjoined and required to set its prices for all such functionally different IBM products by using or applying a substantially uniform percentage markup over actual designing, manufacturing and marketing costs as between such integrated and separately boxed products.

6. International Business Machines Corporation is enjoined from adopting, implementing or carrying out predatory pricing, leasing or other anti-competitive practices or strategies with the intent to obtain or maintain monopoly in the market for IBM peripheral equipment plus compatible to its CPU's, or any relevant substitute thereof.

7. International Business Machines Corporation shall not be held liable for any damage or loss of data or information resulting from the use of its products or services. International Business Machines Corporation shall not be held liable for any damage or loss of data or information resulting from the use of its products or services. International Business Machines Corporation shall not be held liable for any damage or loss of data or information resulting from the use of its products or services.

all the material of its confidential nature.

2. Other proprietary and Telex Transfer Products Patent material are enjoined:

a. To return to IBM all IBM documents and all Telex documents containing IBM confidential information which are in Telex's custody or under its control, and to destroy all copies of Telex manuals under its control or in its custody which infringe IBM copyrighted manuals.

b. To refrain from hiring or soliciting any IBM employee for a period of two years without approval from the court.

c. To refrain from copying any IBM copyrighted materials.

d. To refrain from soliciting or using any IBM confidential or proprietary information.

e. To refrain from assigning any former IBM employee employed now or in the future by Telex to the development or manufacture of products functionally equivalent or similar to those on which such employee worked at IBM for a period of not less than two years following the termination of his employment with IBM.

9. Except for the fixing of the amounts of attorneys' fees and costs to which the respective parties are entitled, the court pursuant to rule 54(b) Fed. R. Civ. P. determines that there is no just cause for delay in the entry of this judgment, and do hereby direct Telex to enter final judgment in accordance with the foregoing distribution of all issues except as to the amount of the attorneys' fees, which shall be awarded as summarized.

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

LEONARD RYDER,)
)
 Petitioner,)
)
 vs.)
)
 PARK ANDERSON, WARDEN,)
)
 Respondent.)

73-C-288 FILED

SEP 17 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THE COURT, having examined the files and records of this proceeding together with the Initial Report of the United States Magistrate concerning the same and being fully advised in the premises, FINDS:

That the petition filed herein asserts only bald conclusions unsupported by allegations of fact, and therefore, is legally insufficient and should be denied. Martinez vs. United States, 344 F.2d 325, 10th Cir. 1965, and Atkins vs. State of Kansas, et al, 386 F.2d 819, 10th Cir. 1967.

IT IS, THEREFORE, ORDERED:

That the Petition for Writ of Habeas Corpus is denied and the case is dismissed.

That a copy of this Order be mailed by the Clerk of this Court to the petitioner together with a copy of the Initial Report of the United States Magistrate.

Dated this 17th day of September, 1973.



CHIEF JUDGE, UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA.

in his first application and did not, by provisions of T. 22 O.S. 1970, § 1086.

4. That although the petitioner has not had a hearing and adjudication on the merits as it is indicated should be provided in Chessman v. Teets, 350 U. S. 3 (1955); Winhoven v. United States, 201 F.2d 174 (9th Cir. 1952); Smith v. United States, 216 F.2d 724 (5th Cir. 1954); Johnson v. United States, 225 U. S. 405 (1912); and United States v. LaVallee, 319 F.2d 308, 312 (2d Cir. 1963), there is no showing in the record that petitioner appealed pursuant to 22 O.S.A. § 1087 the judgment of the trial Court on his second application for post conviction relief; and, the time for such appeal has now expired. However, petitioner still has open to him in the State of Oklahoma the provisions of 12 O.S.A. §§ 1331, et seq., and the privilege of Habeas Corpus is guaranteed by Article 2, Section 10, of the Oklahoma State Constitution and is therefore not suspended by the provisions of 22 O.S. Supp. 1970, § 1080. Lamb v. Page, Okl. Cr., 482 P.2d 615 (1971). Also see, Campbell v. State, Okl. Cr., 500 P.2d 303 (1972). It is usually true that resort to the Oklahoma Habeas Corpus statute is not required, for a State prisoner claiming violation of his Federal constitutional rights, to petition the Federal Courts when the State Court of Criminal Appeals has had the opportunity to adjudicate the claims. However, limited to the facts of the instant cause, and on the present state of the record, the Court finds that the State remedies have not been exhausted prior to an adjudication by the high Court of Oklahoma, and that such habeas corpus procedure permitting the said Court an opportunity to act is still open to the Petitioner. Further, petitioner appears to be presenting his allegations piecemeal, one petition following another, instead of asserting all of his claims in a single petition. Such procedure is disfavored in both State and Federal law.

5. That State remedies will not be deemed to have been exhausted within the meaning of 28 U.S.C. § 2254 if failure to obtain a final State adjudication was due to inexcusable noncomformity with State procedural requisites, Chavez v. Dickson, 280 F.2d 727 (9th Cir. 1960), and there is no showing in the record that the failure to appeal was due to excusable noncomformity with State procedural requisites or that such procedure is in any way faulty under the United States Constitution. Petitioner alleges

nothing to disclose his reason for not proceeding immediately with his appeal, except that there are indications in the record that he does not believe he will receive a full and fair adjudication in the State Courts, and such is not sufficient as it has been repeatedly held that the probability of success is not the criterion of the adequacy of State remedies, and that their ineffectiveness may not be established if no attempt is made to obtain relief thereunder. Daegele v. Crouse, 429 F.2d 503 (10th Cir. 1970) cert. denied 400 U. S. 1010; Boyd v. State of Oklahoma, 375 F.2d 481 (10th Cir. 1967).

6. That, based on the above, the Court finds no showing that State remedies have been exhausted or that such remedies are unavailable or ineffective to adjudicate the constitutional claim presented to this Court, and therefore, on the principle of comity, this petition for writ of habeas corpus of William Joseph Lee should be denied and dismissed, without prejudice.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of William Joseph Lee be and it is hereby denied and dismissed without prejudice.

Dated this 17th day of September, 1973, at Tulsa, Oklahoma.


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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

SEP 11 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 180.00 ACRES OF LAND, MORE OR)
 LESS, SITUATE IN NOWATA COUNTY,)
 STATE OF OKLAHOMA, AND FRED C.)
 SUMMERS, INC., ET AL., AND)
 UNKNOWN OWNERS,)
)
 Defendants.)

CIVIL ACTION NO. 71-C-102 ✓

Tract Nos. 1404M, 1406M,
1407M, 1408M,
1409M, and
1414M

WORKING INTEREST ONLY

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 60.00 ACRES OF LAND, MORE OR)
 LESS, SITUATE IN NOWATA COUNTY,)
 STATE OF OKLAHOMA, AND FRED)
 SUMMERS, INC., ET AL., AND)
 UNKNOWN OWNERS,)
)
 Defendants.)

CIVIL ACTION NO. 71-C-103

Tract Nos. 1411M and 1412M

WORKING INTEREST ONLY

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 60.00 ACRES OF LAND, MORE OR)
 LESS, SITUATE IN NOWATA COUNTY,)
 STATE OF OKLAHOMA, AND YETTA)
 ROSENBLOOM, ET AL., AND)
 UNKNOWN OWNERS,)
)
 Defendants.)

CIVIL ACTION NO. 71-C-104

Tract No. 1413M

WORKING INTEREST ONLY

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 60.00 ACRES OF LAND, MORE OR)
 LESS, SITUATE IN NOWATA COUNTY,)
 STATE OF OKLAHOMA, AND AARON)
 GLADYS CLAGGETT, ET AL., AND)
 UNKNOWN OWNERS,)
)
 Defendants.)

CIVIL ACTION NO. 71-C-105

Tract No. 1416M

WORKING INTEREST ONLY

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 71-C-106
)	
40.00 ACRES OF LAND, MORE OR)	Tract No. 1417M
LESS, SITUATE IN NOWATA COUNTY,)	
STATE OF OKLAHOMA, AND MAX)	WORKING INTEREST <u>ONLY</u>
RANDALL, ET AL., AND UNKNOWN)	
OWNERS,)	
)	
Defendants.)	

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 71-C-107
)	
130.00 ACRES OF LAND, MORE OR)	Tract No. 1418M
LESS, SITUATE IN NOWATA COUNTY,)	
STATE OF OKLAHOMA, AND FRED C.)	WORKING INTEREST <u>ONLY</u>
SUMMERS, INC., ET AL., AND)	
UNKNOWN OWNERS,)	
)	
Defendants.)	

J U D G M E N T

1.
 Now, on this 11th day of September 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Amended Report of Commissioners filed herein on August 20, 1973, 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 estate taken in Tract Nos. 1404M, 1406M, 1407M, 1408M, 1409M, 1414M, 1411M, 1412M, 1413M, 1416M, 1417M, and 1418M as such estate and tracts are described in the Complaints filed in these cases.

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 the subject tracts.

5.

The Acts of Congress set out in paragraph 2 of the Complaints filed herein give the United States of America the right, power and authority to condemn the subject property for public use. Pursuant thereto, on April 2, 1971, the United States of America filed its Declaration of Taking of a certain estate in such tracts of land, which was the date of taking thereof. Simultaneously therewith, Plaintiff deposited \$8,234.00 in the Registry of this Court as estimated compensation for the working interest in the estate taken, part of which has been disbursed. Therefore, title to such property should be vested in the United States of America as of April 2, 1971.

6.

The Amended Report of Commissioners filed herein on August 20, 1973, is hereby accepted and adopted as findings of fact as to the subject tracts, wherein the amount of just compensation as to the working interest in the estate taken therein is fixed by the Commission at \$21,000.00.

7.

The Defendants named in paragraph 11 as owners of the working interest in the estate taken in the subject tracts are the only Defendants asserting any interest in such estate; all other Defendants having either disclaimed or defaulted. The Court further finds that there was a subsisting oil and gas lease on these tracts on the date of taking. Said named Defendants were the owners of the working interest in the estate condemned herein as of the date of taking and, as such,

3.

are entitled to receive the just compensation awarded by this judgment according to their respective interests as set out below in paragraph 11.

8.

This judgment creates a deficiency between the amount deposited as estimated just compensation for the working interest in the estate taken in the subject tracts and the amount fixed by the Commission and adopted by the Court as just compensation; therefore, a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 11.

9.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that the United States of America has the right, power and authority to condemn for public use the subject tracts, as they are described in the Complaints filed herein, and such property, to the extent of the working interest in the estate described in such Complaints, is condemned and title thereto is vested in the United States of America, as of April 2, 1971, which was the date of taking thereof, and all Defendants herein and all other persons are forever barred from asserting any claim to such estate.

10.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that on the date of taking in these cases, the owners of the working interest in the estate taken herein in the subject tracts were the Defendants whose names appear below in paragraph 11 with the interest owned by each also shown therein and the right to receive the just compensation for such estate is vested in the parties so named; and, there was a subsisting oil and gas lease on these tracts on the date of taking.

4.

11.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that the Amended Report of Commissioners filed herein on August 20, 1973, is hereby confirmed and the \$21,000.00 therein fixed is adopted as the award of just compensation for the working interest in the subject tracts, which is allocated and should be disbursed according to the following schedule:

OWNEP: Fred Summers, Inc., a/k/a Fred C. Summers, Inc.

AWARD OF JUST COMPENSATION PURSUANT TO COMMISSIONERS' REPORT	\$21,000.00	\$21,000.00
DEPOSIT OF ESTIMATED COMPENSATION	\$ 8,234.00	
DISBURSED TO OWNERS		<u>8,234.94</u>
BALANCE DUE TO OWNER		<u>\$12,765.06</u>
DEPOSIT DEFICIENCY\$12,766.00	Plus 6% Interest from April 2, 1971.

12.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency for the subject tracts as shown herein in the amount of \$12,766.00 together with interest on such deficiency at the rate of 6% per annum from April 2, 1971, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for the subject tracts in this action.

13.

IT IS FURTHER ORDERED that when the deposit required by paragraph 11 above has been made by the Plaintiff, the Clerk of this Court shall then disburse, from the deposit in these cases, the balance due the respective owners with all accrued interest, according to the schedule in paragraph 11 above.

APPROVED:

Jack M. Short

JACK M. SHORT
Assistant United States Attorney

Lisa S. [Signature]

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
) Plaintiff,)
)
 vs.) CIVIL ACTION NO. 72-C-207
)
) Tract No. 558M
 40.00 Acres of Land, More or)
 Less, Situate in Rogers County,) (All interests except the
 State of Oklahoma, and Mildred) lessor interest)
 E. Viles, et al., and Unknown)
 Owners,)
)
) Defendants.)

FILED

SEP 11 1973

Jack C. Sibley, Jr. C. L.
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 10 day of September, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to all interests except the lessor interest in the estate condemned in Tract No. 558M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of 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 property.

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 property described above in paragraph 2. Pursuant thereto, on June 9, 1972, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

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

7.

A pre-trial hearing in this case was set by the Court for February 9, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma.

The defendant, Rodney Bell, appeared by his attorney, Rick Loewenherz. No other defendants appeared either in person or by attorney.

8.

The Court has been advised by counsel for Plaintiff that in the event of a trial, Plaintiff's evidence would show that the sums shown in paragraph 11 below were the values of the respective interests taken in this case. These sums are based upon an appraisal made by J. M. Wanenmacher; and, the owner who appeared at the pre-trial is willing to accept the sum allocated to him as compensation. Therefore, such sums should be adopted as the awards of just compensation for the subject property.

9.

The defendants named in paragraph 11 as owners of all interests except the lessor interest in the estate taken in the subject tract 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 such property, as of the date of taking 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 Complaint filed herein, and such property, to the extent of all interests except the lessor interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 9, 1972, and all defendants herein and all other persons are forever barred from asserting any claim to such interests.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the subject property were the defendants whose names appear in the schedule shown below, and the right to receive the just compensation awarded by this judgment is vested in the parties so named. The sums shown in such schedule are adopted as the awards of just compensation for the respective interests in the estate herein taken in subject tract, and the awards are allocated among the owners, as follows, to-wit:

TRACT NO. 558M

(All interests except lessor interest)

1. Working interest:

Owner: Rodney Bell

Award of just compensation pursuant to Court's findings -----	\$10.00	\$10.00
Deposited as estimated compensation ---	<u>\$10.00</u>	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$10.00

2. Overriding royalty interest and leasehold interest from base of Bartlesville sand down:

Owner: Atlantic Richfield Company

Award of just compensation pursuant to Court's findings -----	\$6.00	\$6.00
Deposited as estimated compensation ---	<u>\$6.00</u>	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$6.00

3. Oil Production payment interest:

Owners:

Wilburn Oil Company -----	2/5	
Consumers Cooperative Electric Company --	1/5	
Virginia M. Hester -----	1/10	
Linda C. Radke -----	1/10	
Polly Ann McAbee -----	1/5	
Award of just compensation pursuant to Court's findings -----	\$4.00	\$4.00
Deposited as estimated compensation ---	<u>\$4.00</u>	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$4.00

12.

It Is Further ORDERED that the Clerk of this Court now shall disburse from the deposit for the subject tract the balances due to the owners as follows:

To:

Rodney Bell -----	\$10.00
Atlantic Richfield Company -----	\$6.00
Wilburn Oil Company -----	\$1.60
Consumers Cooperative Electric Company -----	.80
Virginia M. Hester -----	.40
Linda C. Radke -----	.40
Polly Ann McAbee -----	.80

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.) CIVIL ACTION No. 72-C-206
)
 40.00 Acres of Land, More or) Tract No. 557M
 Less, Situate in Rogers County,)
 State of Oklahoma, et al., and) (All interests except lessor)
 P.I.C. Management Co., Inc.,)
 and Unknown Owners,)
)
 Defendants.)

FILED

SEP 11 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 10 day of September, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to all interests except the lessor interest in the estate condemned in Tract No. 557M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of 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 property.

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 property described above in paragraph 2. Pursuant thereto, on June 9, 1972, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

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

7.

A pre-trial hearing in this case was set by the Court for February 9, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma.

The defendant, Rodney Bell, appeared by his attorney, Rick Loewenherz. No other defendants appeared either in person or by attorney.

8.

The Court has been advised by counsel for Plaintiff that in the event of a trial, Plaintiff's evidence would show that the sums shown in paragraph 11 below were the values of the respective interests in this case. These sums are based upon an appraisal made by J. M. Wanenmacher; and, the owner who appeared at the pre-trial is willing to accept the sum allocated to him as compensation. Therefore, such sums should be adopted as the awards of just compensation for the subject property.

9.

The defendants named in paragraph 11 as owners of all interests except the lessor interest in the estate taken in the subject tract 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 such property, as of the date of taking 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 Complaint filed herein, and such property, to the extent of all interests except the lessor interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 9, 1972, and all defendants herein and all other persons are forever barred from asserting any claim to such interests.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the subject property were the defendants whose names appear in the schedule shown below, and the right to receive the just compensation awarded by this judgment is vested in the parties so named. The sums shown in such schedule are adopted as the awards of just compensation for the respective interests in the estate herein taken in subject tract, and the awards are allocated among the owners, as follows, to-wit:

TRACT NO. 557M

(All interests except lessor interest)

1. Working interest:

Owner: Rodney Bell

Award of just compensation pursuant to Court's findings -----	\$17.00	\$17.00
Deposited as estimated compensation -	<u>\$17.00</u>	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$17.00

2. Overriding royalty interest:

Owner: Atlantic Richfield Company

Award of just compensation pursuant to Court's findings -----	\$8.00	\$8.00
Deposited as estimated compensation --	<u>\$8.00</u>	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$8.00

3. Oil Production payment interest:

Owners:

Wilburn Oil Company -----	2/5	
Consumers Cooperative Electric Company --	1/5	
Virginia M. Hester -----	1/10	
Linda C. Radke -----	1/10	
Polly Ann McAbee -----	1/5	
Award of just compensation pursuant to Court's findings -----	\$5.00	\$5.00
Deposited as estimated compensation ---	<u>\$5.00</u>	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$5.00

12.

It Is Further ORDERED that the Clerk of this Court now shall disburse from the deposit for the subject tract the balances

due to the owners as follows:

To - Rodney Bell -----	\$17.00
Atlantic Richfield Company -----	8.00
Wilburn Oil Company -----	2.00
Consumers Cooperative Electric Company -----	1.00
Virginia M. Hester -----	0.50
Linda C. Radke -----	0.50
Polly Ann McAbee -----	1.00

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

Approved:

/s/ 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,)
)
 vs.) CIVIL ACTION NO. 72-C-205
)
 230.00 Acres of Land, More or) Tract No. 556M
 Less, Situate in Rogers County,)
 State of Oklahoma, and Rodney)
 Bell, et al., and Unknown)
 Owners,)
)
 Defendants.)

FILED

SEP 11 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 10 day of September, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies to the entire estate condemned in Tract No. 556M, as such estate and tract are described in the Complaint filed in this action.

3.

The Court has jurisdiction of the parties and the subject matter of 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 property.

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 property described above in paragraph 2. Pursuant thereto, on June 9, 1972, the United States of America filed its Declaration of Taking of

such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estate taken in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was set by the Court for February 9, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Rick Loewenherz, Attorney, appeared for Mr. Rodney Bell. No other defendants appeared either in person or by attorney.

8.

At the said pre-trial conference the parties present stated their respective opinions as to the value of the working interest in the estate taken in subject tract. Neither party requested a trial. Based upon the pre-trial statements of the parties, the Court concludes that a trial is not necessary or advisable, and that the sum of \$723.00 should be adopted as the award of just compensation for the said working interest.

As to all other interests in subject property, the Court is advised that in the event of a trial the Plaintiff's evidence would show that the sums shown below in paragraph 13 were the values of such interests at the time they were taken in this case. Such values are based upon an appraisal made by J. M. Wanenmacher and the owners have not appeared to make any objection to such valuation. Therefore, such sums should be adopted as the awards of just compensation for the respective interests.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the estate taken in

subject tract and the amount fixed by 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 below in paragraph 13.

10.

The defendants named in paragraph 13 as owners of the estate taken in the subject tract 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 such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this judgment.

11.

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 Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 9, 1972, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the estate taken herein in subject tract were the defendants whose names appear below in paragraph 13, and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sums shown in the schedule which follows below hereby are adopted as the awards of just compensation for the respective interests in the estate taken in subject tract, and such awards are allocated among the owners as follows, to-wit:

TRACT NO: 556M

(All Interests)

1. Lessor interest:

Owner: Atlantic Richfield Company

Award of just compensation
pursuant to Court's findings ---- \$2,344.00 \$2,344.00

Deposited as estimated compensation - \$2,344.00

Disbursed to owner ----- None

Balance due to owner ----- \$2,344.00

2. Working interest:

Owner: Rodney Bell

Award of just compensation
pursuant to Court's findings ----- \$723.00 \$723.00

Deposited as estimated compensation -- \$528.00

Disbursed to owner ----- None

Balance due to owner ----- \$723.00

Deposit deficiency _____ \$195.00

3. Oil production payment interest:

Owners:

Wilburn Oil Company ----- 2/5
Consumers Cooperative
Electric Company ----- 1/5
Virginia M. Hester ----- 1/10
Linda C. Radke ----- 1/10
Polly Ann McAbee ----- 1/5

Award of just compensation
pursuant to Court's findings ----- \$140.00 \$140.00

Deposited as estimated compensation --- \$140.00

Disbursed to owners ----- None

Balance due to owners ----- \$140.00

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in

paragraph 13 above, in the amount of \$195.00, together with interest thereon, computed at the rate of 6% per annum from June 9, 1972, to the date of such payment, and such sum shall be placed in the deposit for the subject tract in this civil action.

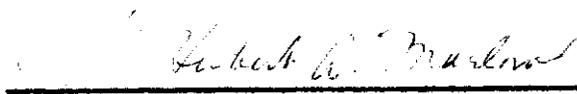
Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract as follows:

To:

Atlantic Richfield Company -----	\$2,344.00
Rodney Bell -----	\$723.00, plus all of the accrued interest included in the aforesaid deficiency deposit.
Wilburn Oil Company -----	\$56.00
Consumers Cooperative Electric Company -----	\$28.00
Virginia M. Hester -----	\$14.00
Linda C. Radke -----	\$14.00
Polly Ann McAbee -----	\$28.00


UNITED STATES DISTRICT JUDGE

APPROVED:


HUBERT A. MARLOW
Assistant United States Attorney

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

JACK EDGAR McBRIDE,)
)
 Petitioner,)
)
vs.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

72-C-359

FILED

SEP 10 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THE COURT, having examined the files and records in this proceeding, together with the Second Report of the United States Magistrate concerning the same, and being fully advised in the premises, FINDS:

1. That the petitioner has failed to sustain the burden of his charge of knowingly using perjured testimony. Conclusionary allegations to this effect are not sufficient.

2. That even if the FBI was aware that Cumbey would utter perjured testimony, and this Court does not so find, such knowledge would not be imputed to the United States Attorney.

3. That petitioner's motion pursuant to Title 28 U.S.C. § 2255 should be overruled and the cause of action dismissed.

IT IS, THEREFORE, ORDERED:

1. That the motion for relief pursuant to Title 28 U.S.C. § 2255 be and the same is hereby overruled and the cause of action is dismissed.

2. That a copy of this Order be mailed by the Clerk of this Court to the petitioner together with a copy of the Second Report of the United States Magistrate.

3. That the Clerk of this Court furnish to respondent a copy of this Order, together with a copy of the Second Report of the United States Magistrate, by mailing same to the United States Attorney for the Northern District of Oklahoma.

Dated this 10th day of September, 1973.

Cecil F. Barrow

CHIEF JUDGE, UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA.

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

HAZEL EARNHARDT, Guardian of the)
Person and Estate of DAVID RALPH)
BRYSON, a Minor and Incompetent)
Person,)
)
Plaintiff,)
)
vs.)
)
CONSOLIDATED PIPE & TUBE CO.,)
d/b/a BOSS IRRIGATION, and ANGEL H.)
RODRIQUEZ,)
)
Defendants.)

No. 73-C-183

FILED

SEP 10 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

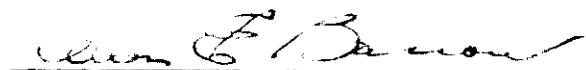
ORDER REMANDING

SUA SPONTE, IT IS ORDERED that this cause be remanded to the State Court from which removed, for the following reasons.

In the original Complaint and the Petition for Removal, it is alleged that the Plaintiff is a resident of the State of Oklahoma. An allegation as to the residence of a party is not tantamount to an allegation of his citizenship, and is a defective pleading of jurisdiction based on citizenship. Sun Printing & Publishing Co. v. Edwards, 194 U.S. 377; Mantin v. Bradcase Music, 244 F.2d 204.

Accordingly, sua sponte, the Court must and does hereby remand this case to the State Court from which removed. McMahon v. Fontenot, 212 F.Supp. 812. The Clerk is directed to take the necessary action to remand this case.

ENTERED this 4 day of September, 1973.



ALLEN E. BARROW
Chief United States District Judge

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

FILED

SEP 10 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 72-C-201 ✓

RALPH WEBB, GARY WILLIAMS and)
EARL UMHOLTZ,)
)
Plaintiffs,)
)
vs.)
)
GENE LONGAN, d/b/a MIAMI SERVICE)
SHOP,)
)
Defendant.)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

STATEMENT OF CASE

This cause came on for hearing on the 28th day of August, 1973, before the Court without jury, and upon evidence submitted on behalf of the plaintiffs herein and on behalf of the defendant, the Court having considered and understood the evidence in this case, the Court hereby makes and enters the following findings of fact and conclusions of law:

FINDINGS OF FACT

This is an action under the Fair Labors Standard Act of 1938, as amended, whereby plaintiffs seek to recover overtime compensation and attorney's fees. Plaintiffs' case is based upon the failure of the defendant to pay overtime compensation in the total amount of Nine Hundred Seventy-Eight Dollars and Four Cents (\$978.04) or more particularly described as Four Hundred Thirty-nine Dollars and Five Cents (\$439.05) to Ralph Webb, Two Hundred Ninety-six Dollars and Thirty-three Cents (\$296.33) to Earl Unholtz and Two Hundred Forty-two Dollars and Sixty-six Cents (\$242.66) to Gary Williams, representing overtime work for the defendant during a period from July 24, 1970 to October 29, 1971. There was no disagreement among the parties that the plaintiffs were employed by the defendant during the period of time, that they were paid straight time as reflected in the time cards of the defendant, which were admitted into evidence as plaintiffs' Exhibit 2 showing that the plaintiffs quite frequently worked in excess of forty (40) hours per week.

The issues presented upon trial of this action were whether the defendant fell within the coverage of the Fair Labor Standards Act of 1938, as amended, and whether the plaintiff Ralph Webb converted certain materials to his own use and benefit allegedly belonging to the defendant as alleged in defendant's cross-complaint.

II.

The defendant is an individual, doing business as Miami Service Shop, engaging in the business of air conditioning sub-contracting and contracting, plumbing sub-contracting and contracting, and the retail sale of electrical and plumbing supplies. The defendant was engaged in the construction business and was engaged in maintenance or repair of certain production facilities engaged in interstate commerce during certain weeks or parts of certain weeks and less than seventy-five percent (75%) of the annual volume of sales was in retail, and meets the enterprise coverage of the Fair Labor Standards Act allowing jurisdiction of the Court. That the plaintiffs were engaged in both covered and non-covered work during the period in question and said activities were regular and recurring and not isolated, sporadic or occasional.

III.

The evidence showed that the defendant's cross-complaint alleging conversion on the part of plaintiff Ralph Webb was completely without merit in that the defendant failed to show that the scrap wire was the property of the defendant or that title passed to the defendant from the owners of said property.

CONCLUSIONS OF LAW

I.

This Court has jurisdiction of this matter under Section Three S (3) of the Act in that ---

"enterprise engaged in commerce or the production of goods for commerce means an enterprise which has employees engaged in commerce or in the production of goods for commerce including

employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which is engaged in the business of construction or reconstruction, or both;"---

II.

Plaintiffs are entitled to recovery of unpaid overtime wages under Section 7 (a) 1, of the Act---

"No employer shall employ any employee who in any work week is engaged in commerce or the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce for a work week longer than forty (40) hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate of not less than one and a half times the regular rate at which he is employed. And Section 16 B of the Act that any employer violates provision of Section 6 and Section 7 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wage or their unpaid overtime compensation as the case may be and in additional equal amount as liquidated damage. Actions to recover such liability may be maintained in any Court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed with the Court in which suit action is brought. The Court in such action shall in addition to any judgment awarded to the plaintiff or plaintiffs will allow a reasonable attorney's fee to be paid by the defendant and costs of the action. "---

In accordance with said provision plaintiffs are entitled to recover against the defendant in the amount of Four Hundred Thirty-Nine Dollars and Five Cents (\$439.05) to Ralph Webb, Two Hundred Six Dollars and Thirty-three Cents (\$296.33) to Earl Umholtz and Two Hundred Forty-two Dollars and Sixty-six Cents (\$242.66) to Gary Williams for a total amount of Nine Hundred Seventy-eight Dollars and Four Cents (\$978.04), plus a reasonable attorney's fee in the amount of Five Hundred Dollars (\$500.00) and the cost of the action.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff, Ralph Webb have and recover the amount of Four Hundred Thirty-nine Dollars and Five Cents (\$439.05) that plaintiff Earl Umholtz have and recover the amount of Two Hundred Ninety-six Dollars and Thirty-three Cents (\$296.33) against the defendant, that plaintiff Gary Williams have and recover the amount of Two Hundred Forty-two Dollars and Sixty-six Cents (\$242.66) against the defendant for a total amount of Nine Hundred Seventy-eight Dollars and Four Cents (\$978.04) plus a reasonable attorney's fee in the amount of Five Hundred Dollars (\$500.00) to Jerry L. Smith, attorney for plaintiffs, plus cost of the action.

Luther Bohanon
LUTHER BOHANON
DISTRICT JUDGE

FILED

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

SEP 10 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CIVIL ACTION NO. 73-C-263

An Article of Food consisting of
291 unlabeled 14-pound blocks, more
or less, of a frozen combination of
fish and shrimp,

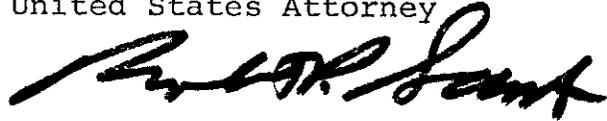
Defendant.

NOTICE OF DISMISSAL

COMES NOW the plaintiff, the United States of America,
by and through its attorney, Robert P. Santee, Assistant United
States Attorney, for the Northern District of Oklahoma, and
hereby gives notice of dismissal of the complaint for forfei-
ture previously filed herein on August 13, 1973.

UNITED STATES OF AMERICA

NATHAN G. GRAHAM
United States Attorney



ROBERT P. SANTEE
Assistant U.S. Attorney

IN THE UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF OKLAHOMA

ROSEMARY DE SALDANA, by and
through her next friend
RUTH SALDANA,

Plaintiff,

vs.

No. 72-0-372

IRVING GUILDOP and WILLIAM
HOWARDS, Co-Partners, d/b/a
EYECHE IMPRESSIONS, LUSTRUM
BROS., a Corporation and
HARRY CLARK,

Defendants.

FILED
SEP 10 1972

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

For good cause shown, this cause of action in the above
captioned case against the defendants Lustrum Bros and Harry
Clark is hereby dismissed without prejudice as to future action.

9/10/72

Ed Fred Dougherty
JUDGE

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

EMERSON ELECTRIC CO.,)
a corporation,)
)
Plaintiff,)
)
vs.)
)
ARDUN SUPPLY COMPANY,)
a corporation,)
)
Defendant.)

No. 73-C-262

FILED
SEP 7 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT
ENTERED UPON STIPULATION

This matter comes before the Court based upon the Stipulation for Entry of Judgment executed by the parties herein and filed with the Court on September 7, 1973. The Court having read and examined said Stipulation for Entry of Judgment, and having examined the file herein and being fully and duly advised in the premises, finds that judgment should be entered in favor of the plaintiff and against the defendant in accordance with said Stipulation for Entry of Judgment.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff, Emerson Electric Co., a corporation, recover of the defendant, Ardun Supply Company, a corporation, the sum of \$52,451.20, together with interest on said sum at the rate of 6% per annum from January 31, 1973, through the date of this judgment, together with interest on said sum at the rate of 10% per annum from this date forward until said judgment be fully paid and satisfied, and further together with reasonable attorneys' fees in the amount of \$10,000 and costs of suit.


Chief United States District Judge

Dated: September 7, 1973.

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

EMERSON ELECTRIC CO.,)
a corporation,)
)
Plaintiff,)
)
vs.)
)
ARDUN SUPPLY COMPANY,)
a corporation,)
)
Defendant.)

No. 73-C-262 **FILED**
SEP 7 1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

STIPULATION FOR ENTRY OF JUDGMENT

Come now the plaintiff and defendant above named, by and through their undersigned attorneys, and stipulate, consent and agree as follows:

1. That plaintiff by its Complaint duly filed and served herein has alleged that defendant is obligated to plaintiff for a sum of money in the amount of \$52,451.20, together with interest thereon at the rate of 6% per annum from and after January 31, 1973, to this date, interest on said sum at the rate of 10% per annum from this date forward, reasonable attorneys' fees in the amount of \$10,000, and costs of suit, all as more fully appears in said Complaint.

2. That defendant was duly served with process herein, and hereby enters a general appearance for all purposes in this action.

3. That plaintiff and defendant have agreed upon a basis for the adjustment of the matters alleged in the Complaint on file herein, and for the entry of judgment in this action, and specifically, plaintiff and defendant, by their undersigned counsel, stipulate, consent and agree that the Court may enter judgment in favor of the plaintiff and against the defendant

for the sum of \$52,451.20, together with interest thereon at the rate of 6% per annum from January 31, 1973, through the date of this Stipulation for Entry of Judgment, and together with interest at the rate of 10% per annum from this date forward until said judgment be paid, and further together with reasonable attorneys' fees in the amount of \$10,000, costs of suit, and such other and further relief as the Court determines plaintiff may be entitled.

Dated this 7th day of September, 1973.

EMERSON ELECTRIC CO., a corporation
Plaintiff

By: BRYAN, CAVE, MCPHEETERS & McROBERTS
VERYL L. RIDDLE
CHARLES G. SIEBERT
500 North Broadway
St. Louis, Missouri 63102

DOERNER, STUART, SAUNDERS, DANIEL
& LANGENKAMP
DICKSON M. SAUNDERS
WILLIAM C. ANDERSON
1200 Atlas Life Building
Tulsa, Oklahoma 74103

By William C. Anderson
William C. Anderson

Attorneys for Plaintiff

ARDUN SUPPLY COMPANY, a corporation
Defendant

By: BLACKSTOCK JOYCE POLLARD & McINERNEY
CRAIG BLACKSTOCK
13th Floor Petroleum Club Building
Tulsa, Oklahoma 74119

By Craig Blackstock
Craig Blackstock

Attorneys for Defendant

The Court concludes that Petitioner has not exhausted the remedies available to him in the State Courts of the State of Oklahoma. Unless there is a showing of unavailability or ineffectiveness of State procedures, a State prisoner is required to afford the State Courts the opportunity to consider and resolve claims of constitutional infirmity before raising these claims in Federal Court. 28 U.S.C. §2254 and Hoggatt v. Page, 432 F. 2d 41 (Tenth Cir. 1970). Because of the pendency of Petitioner's Application for post-conviction relief in the District Court of Tulsa County he is now precluded from Federal Habeas Corpus relief in this Court. Gordon v. Crouse, 357 F. 2d 174 (Tenth Cir. 1966). See also Denney v. State of Kansas, 436 F. 2d 587 (Tenth Cir. 1971); Kessinger v. Page, 369 F. 2d 799 (Tenth Cir. 1966). If the issues are determined adversely to the Petitioner in the sentencing Court, he will then be able to appeal to the Oklahoma Court of Criminal Appeals. 22 Oklahoma Statutes Annotated §1087. The Petitioner cannot willfully bypass this additional opportunity afforded to him to have his constitutional claims considered by the Oklahoma Courts. Kanan v. Denver District Court, Henry E. Santo, Judge, 438 F. 2d 521 (Tenth Cir. 1971).

Accordingly, the Petition for Writ of Habeas Corpus must be denied and this action dismissed because the Petitioner has not exhausted the remedies available to him in the Courts of the State of Oklahoma.

IT IS SO ORDERED.

Dated this 6th day of September, 1973.

Luther Robinson
UNITED STATES DISTRICT JUDGE

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff, Ralph Webb have and recover the amount of Four Hundred Thirty-nine Dollars and Five Cents (\$439.05) that plaintiff Earl Umholtz have and recover the amount of Two Hundred Ninety-six Dollars and Thirty-three Cents (\$296.33) against the defendant, that plaintiff Gary Williams have and recover the amount of Two Hundred Forty-two Dollars and Sixty-six Cents (\$242.66) against the defendant for a total amount of Nine Hundred Seventy-eight Dollars and Four Cents (\$978.04) plus a reasonable attorney's fee in the amount of Five Hundred Dollars (\$500.00) to Jerry L. Smith, attorney for plaintiffs, plus cost of the action.

Luther Bohanon
LUTHER BOHANON
DISTRICT JUDGE

FILED

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

SEP 10 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CIVIL ACTION NO. 73-C-263

An Article of Food consisting of
291 unlabeled 14-pound blocks, more
or less, of a frozen combination of
fish and shrimp,

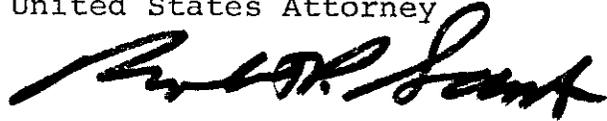
Defendant.

NOTICE OF DISMISSAL

COMES NOW the plaintiff, the United States of America,
by and through its attorney, Robert P. Santee, Assistant United
States Attorney, for the Northern District of Oklahoma, and
hereby gives notice of dismissal of the complaint for forfei-
ture previously filed herein on August 13, 1973.

UNITED STATES OF AMERICA

NATHAN G. GRAHAM
United States Attorney



ROBERT P. SANTEE
Assistant U.S. Attorney

IN THE UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF OKLAHOMA

ROSEMARY DE SALDANA, by and
through her next friend
RUTH SALDANA,

Plaintiff,

vs.

No. 72-0-372

IRVING GUILDOP and WILLIAM
HOWARDS, Co-Partners, d/b/a
EYECHE IMPRESSIONS, LUSTRUM
BROS., a Corporation and
HARRY CLARK,

Defendants.

FILED
SEP 10 1972

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

For good cause shown, this cause of action in the above
captioned case against the defendants Lustrum Bros and Harry
Clark is hereby dismissed without prejudice as to future action.

9/10/72

Ed Fred Dougherty
JUDGE

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

EMERSON ELECTRIC CO.,)
a corporation,)
)
Plaintiff,)
)
vs.)
)
ARDUN SUPPLY COMPANY,)
a corporation,)
)
Defendant.)

No. 73-C-262

FILED
SEP 7 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT
ENTERED UPON STIPULATION

This matter comes before the Court based upon the Stipulation for Entry of Judgment executed by the parties herein and filed with the Court on September 7, 1973. The Court having read and examined said Stipulation for Entry of Judgment, and having examined the file herein and being fully and duly advised in the premises, finds that judgment should be entered in favor of the plaintiff and against the defendant in accordance with said Stipulation for Entry of Judgment.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff, Emerson Electric Co., a corporation, recover of the defendant, Ardun Supply Company, a corporation, the sum of \$52,451.20, together with interest on said sum at the rate of 6% per annum from January 31, 1973, through the date of this judgment, together with interest on said sum at the rate of 10% per annum from this date forward until said judgment be fully paid and satisfied, and further together with reasonable attorneys' fees in the amount of \$10,000 and costs of suit.


Chief United States District Judge

Dated: September 7, 1973.

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

EMERSON ELECTRIC CO.,)
a corporation,)
)
Plaintiff,)
)
vs.)
)
ARDUN SUPPLY COMPANY,)
a corporation,)
)
Defendant.)

No. 73-C-262 **FILED**
SEP 7 1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

STIPULATION FOR ENTRY OF JUDGMENT

Come now the plaintiff and defendant above named, by and through their undersigned attorneys, and stipulate, consent and agree as follows:

1. That plaintiff by its Complaint duly filed and served herein has alleged that defendant is obligated to plaintiff for a sum of money in the amount of \$52,451.20, together with interest thereon at the rate of 6% per annum from and after January 31, 1973, to this date, interest on said sum at the rate of 10% per annum from this date forward, reasonable attorneys' fees in the amount of \$10,000, and costs of suit, all as more fully appears in said Complaint.

2. That defendant was duly served with process herein, and hereby enters a general appearance for all purposes in this action.

3. That plaintiff and defendant have agreed upon a basis for the adjustment of the matters alleged in the Complaint on file herein, and for the entry of judgment in this action, and specifically, plaintiff and defendant, by their undersigned counsel, stipulate, consent and agree that the Court may enter judgment in favor of the plaintiff and against the defendant

for the sum of \$52,451.20, together with interest thereon at the rate of 6% per annum from January 31, 1973, through the date of this Stipulation for Entry of Judgment, and together with interest at the rate of 10% per annum from this date forward until said judgment be paid, and further together with reasonable attorneys' fees in the amount of \$10,000, costs of suit, and such other and further relief as the Court determines plaintiff may be entitled.

Dated this 7th day of September, 1973.

EMERSON ELECTRIC CO., a corporation
Plaintiff

By: BRYAN, CAVE, MCPHEETERS & McROBERTS
VERYL L. RIDDLE
CHARLES G. SIEBERT
500 North Broadway
St. Louis, Missouri 63102

DOERNER, STUART, SAUNDERS, DANIEL
& LANGENKAMP
DICKSON M. SAUNDERS
WILLIAM C. ANDERSON
1200 Atlas Life Building
Tulsa, Oklahoma 74103

By William C. Anderson
William C. Anderson

Attorneys for Plaintiff

ARDUN SUPPLY COMPANY, a corporation
Defendant

By: BLACKSTOCK JOYCE POLLARD & McINERNEY
CRAIG BLACKSTOCK
13th Floor Petroleum Club Building
Tulsa, Oklahoma 74119

By Craig Blackstock
Craig Blackstock

Attorneys for Defendant

The Court concludes that Petitioner has not exhausted the remedies available to him in the State Courts of the State of Oklahoma. Unless there is a showing of unavailability or ineffectiveness of State procedures, a State prisoner is required to afford the State Courts the opportunity to consider and resolve claims of constitutional infirmity before raising these claims in Federal Court. 28 U.S.C. §2254 and Hoggatt v. Page, 432 F. 2d 41 (Tenth Cir. 1970). Because of the pendency of Petitioner's Application for post-conviction relief in the District Court of Tulsa County he is now precluded from Federal Habeas Corpus relief in this Court. Gordon v. Crouse, 357 F. 2d 174 (Tenth Cir. 1966). See also Denney v. State of Kansas, 436 F. 2d 587 (Tenth Cir. 1971); Kessinger v. Page, 369 F. 2d 799 (Tenth Cir. 1966). If the issues are determined adversely to the Petitioner in the sentencing Court, he will then be able to appeal to the Oklahoma Court of Criminal Appeals. 22 Oklahoma Statutes Annotated §1087. The Petitioner cannot willfully bypass this additional opportunity afforded to him to have his constitutional claims considered by the Oklahoma Courts. Kanan v. Denver District Court, Henry E. Santo, Judge, 438 F. 2d 521 (Tenth Cir. 1971).

Accordingly, the Petition for Writ of Habeas Corpus must be denied and this action dismissed because the Petitioner has not exhausted the remedies available to him in the Courts of the State of Oklahoma.

IT IS SO ORDERED.

Dated this 6th day of September, 1973.

Luther Robinson
UNITED STATES DISTRICT JUDGE

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

UNIT DRILLING COMPANY,

Plaintiff,

vs.

C. F. & I. STEEL CORPORATION, and
DIAMOND SHAMROCK CORPORATION,

Defendants.)

No. 71-C-178

FILED
SEPT 17 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

Upon the stipulation of the parties, duly approved by the
Court,

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff, Unit
Drilling Company, and the defendant Diamond Shamrock Corporation,
jointly have and recover of and from the defendant C. F. & I.
Steel Corporation the sum of One Hundred Thirty-two Thousand
Dollars (\$132,000.00).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plain-
tiff, Unit Drilling Company, take nothing upon its claim against
the defendant Diamond Shamrock Corporation, and that the de-
fendant Diamond Shamrock Corporation take nothing upon its counter-
claim against the said plaintiff, Unit Drilling Company.

Entered at Tulsa, Oklahoma, this 17th day of September,
1973.

Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED BOTH AS TO FORM
AND SUBSTANCE

Robert W. Blackstock
Robert W. Blackstock, Of
Counsel for Plaintiff

Dan A. Rogers
Dan A. Rogers, Attorney for
Defendant C. F. & I. Steel
Corporation

R. B. McDermott
R. B. McDermott, Of Counsel
for Defendant Diamond
Shamrock Corporation

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

FILED

SEP 4 1973

VIOLA HAMILTON,)
)
 Plaintiff,)
)
 vs.)
)
 REBECCA LYNN HAYS,)
)
 Defendant.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 73-C-142

ORDER SUSTAINING MOTION OF SOUTHWESTERN NATIONAL
INSURANCE COMPANY TO INTERVENE AS PARTY PLAINTIFF

The Court has for consideration the Motion of Southwestern National Insurance Company to intervene as a party plaintiff, the Brief in Support thereof, and being fully advised in the premises, finds:

That on July 17, 1973, Mr. William D. Borders, attorney for the Plaintiff, and Mr. Thomas L. Palmer, attorney for the Defendant, were, by Minute Order directed to respond to said Motion.

That on July 27, 1973, the Defendant, Rebecca Lynn Hays, filed her response that she had no objection to such intervention.

No response, nor request for extension of time in which to file a response has been filed by Mr. William D. Borders on behalf of the Plaintiff.

The Court has carefully considered the Motion and the Brief and finds that such intervention is proper.

IT IS, THEREFORE, ORDERED that the Motion to Intervene as a Party Plaintiff of Southwestern National Insurance Company be, and the same is, hereby sustained.

IT IS FURTHER ORDERED that Southwestern National Insurance Company file its Complaint in Intervention within 10 days of this date.

ENTERED this 4 day of Sept, 1973.



Allen E. Barrow
Chief United States District Judge

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

RUSSELL L. VINSON, On behalf of
himself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

GUARANTY NATIONAL BANK of Tulsa,
Oklahoma, and E. BRYSON d/b/a
Dales Used Cars,

Defendants.

No. 73-C-165 ✓

FILED
SEP 4 1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

The Complaint (Petition) was filed in this Court on May 24, 1973, wherein the plaintiff seeks judgment against the defendants, Guaranty National Bank of Tulsa, Oklahoma, and C. Bryson d/b/a Dales Used Cars in the amount of \$908.38; and as a class action asks for judgment for statutory damages twice the amount of the financial charge imposed in each respective transaction of not less than \$100 nor more than \$1,000 as to each defendant; that the defendant be enjoined from continuing to make consumer credit sales without complying with the disclosure requirements of the Federal Truth-in-Lending Act. Further plaintiff asks for costs of this action and a reasonable attorney's fee.

The defendant E. Bryson d/b/a Dales Used Cars, having answered denies that he has violated any part of the Truth-in-Lending Act and prays judgment in his favor.

The defendant Guaranty National Bank of Tulsa, filed its Motion under Rule 12(b) Federal Rules of Civil Procedure for dismissal of the action against it stating that plaintiff had failed to state a claim upon which relief can be granted.

The Motion to Dismiss of defendant Guaranty National Bank of Tulsa came on for hearing on August 27, 1973, at which time the Court heard argument of counsel, and plaintiff called to the Court's attention an Order entered by United States District Judge Charles A. Mayo, Jr. and further the Court, having reviewed the defendant Guaranty National Bank's Brief in support of said Motion; having read the Interrogatories propounded to said bank and the Answers to Interrogatories filed by said bank, and having read the brief filed by the defendant bank on August 28, 1973, finds, concludes and holds that the Motion to Dismiss the Complaint should be granted as to defendant Guaranty National Bank of Tulsa only, and

IT IS SO ORDERED.

Dated this 31st day of August, 1973.

Yvonne Bohannon
UNITED STATES DISTRICT JUDGE