

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 74-C-274

RONNIE GENE CHUMLEY, Plaintiff,
vs.
VAN'S CRANE SERVICE, a corporation, Defendant.

JUDGMENT FILED OCT 31 1975 Jack C. Silver, Clerk U. S. DISTRICT COURT

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

It is Ordered and Adjudged that the plaintiff take nothing and that the defendant, Van's Crane Service, a corporation, recover of the plaintiff, Ronnie Gene Chumley, its costs of action.

Dated at Tulsa, Oklahoma, this 31st day of October, 19 75.

Handwritten signature of Jack C. Silver, Clerk of Court

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

CHARLES HARRIS,

Plaintiff,

vs.

THE DRACKETT PRODUCTS CO. and  
SKAGGS-ALBERTSONS CORPORATION,

Defendants,

and

THE DRACKETT COMPANY, and  
DRACKETT, INC.,

Additional Party Defendants.

No. 74-C-145

**FILED**

OCT 30 1975

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

ORDER OF DISMISSAL

This matter came on for consideration on this 30<sup>th</sup> day of October, 1975, upon the Joint Application For Dismissal With Prejudice filed herein. The Court being duly advised in the premises, finds that said application for dismissal is in the best interests of justice and should be approved, and the above styled and numbered cause of action dismissed with prejudice to a refiling.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Joint Application For Dismissal With Prejudice by the parties be and the same is hereby approved and the above styled and numbered cause of action and complaint is dismissed with prejudice to a refiling.

*W. J. Westbrook*

UNITED STATES DISTRICT JUDGE

APPROVED:

*Dale F. McDaniel*  
Dale F. McDaniel, Attorney For  
Plaintiff Charles Harris

  
Russell B. Holloway, Attorney For  
Defendants The Drackett Products Co.,  
The Drackett Company and Drackett,  
Inc.

  
Donald Church, Attorney For The  
Defendant Skaggs-Albertsons Corporation.

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

RAYMOND (BILL) McCLURE,  
Plaintiff,

vs.

CITATION MANUFACTURING CO., INC.,  
M. L. CLEMENT d/b/a M. L. CLEMENT  
SALES AND SERVICE, and WEBSTER  
AUTO SUPPLY, INC.  
Defendants.

No. 74-C-374

FILED  
OCT 30 1975  
Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER

Now on this 15th day of October, 1975, this matter was set for hearing on attorney fees of David L. Sobel and Frank W. Booth and on the cross-claim of Defendant, M. L. Clement d/b/a M. L. Clement Sales and Service, against Defendant, Citation Manufacturing Co., Inc.

The Court after hearing statements and arguments of counsel, David L. Sobel and John R. Richards, finds and it is the judgment of this Court that the following Order should be entered:

That David L. Sobel, local counsel for Defendant, M. L. Clement d/b/a M. L. Clement Sales and Service, represented and performed his duties as attorney for the said Defendant diligently, ethically and competently.

That David L. Sobel be granted a judgment against Defendant, Citation Manufacturing Co., Inc., in the sum of Two Hundred Fifty Dollars and no/100 (\$250.00) as a reasonable attorney fee and that the request of Frank W. Booth for an attorney fee is denied.

That Defendant, M. L. Clement d/b/a M. L. Clement Sales and Service, cross-claim against the Defendant, Citation Manufacturing Co., Inc., be and the same is hereby dismissed with prejudice.

Each party herein is granted an objection to each

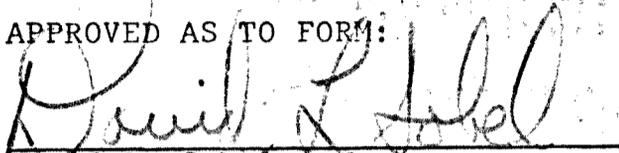
adverse ruling by the Court.

Entered this 30 day of October, 1975.

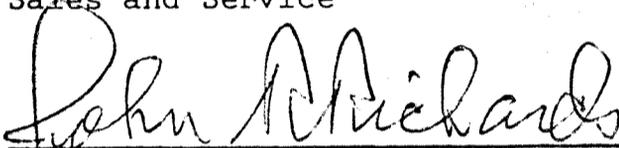


ALLEN E. BARROW  
CHIEF UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:



David L. Sobel  
Local Counsel for Defendant,  
M. L. Clement d/b/a M. L. Clement  
Sales and Service



John R. Richards  
Attorney for Citation Manufacturing  
Co., Inc.

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 GLADYS WALKER, now WRIGHT, )  
 WALTER C. WRIGHT, and JO ANNA )  
 RIDER, )  
 )  
 ) Defendants. )

CIVIL ACTION NO. 75-C-357 ✓

**FILED**  
OCT 30 1975

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 30<sup>th</sup>  
day of October, 1975, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney, and the Defendants,  
Gladys Walker, now Wright, Walter C. Wright, and Jo Anna Rider,  
appearing not.

The Court being fully advised and having examined the  
file herein finds that Defendant, Jo Anna Rider, was served with  
Summons and Complaint on August 12, 1975; and that Defendants,  
Gladys Walker, now Wright, and Walter C. Wright, were served  
with Summons and Complaint on August 19, 1975; all as appears  
from the United States Marshal's Service herein.

It appearing that Defendants, Gladys Walker, now Wright,  
Walter C. Wright, and Jo Anna Rider, 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-four (34), in Block One (1),  
DEVONSHIRE PLACE FOURTH ADDITION, to the  
City of Tulsa, Tulsa County, Oklahoma,  
according to the recorded plat thereof.

THAT the Defendant, Gladys Walker, did, on the 16th  
day of March, 1971, execute and deliver to the Administrator of  
Veterans Affairs, her mortgage and mortgage note in the sum of

\$8,000.00 with 7 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendant, Gladys Walker, now Wright, 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 \$7,817.12 as unpaid principal with interest thereon at the rate of 7 1/2 percent per annum from October 1, 1974, 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, Gladys Walker, now Wright, in personam, for the sum of \$7,817.12 with interest thereon at the rate of 7 1/2 percent per annum from October 1, 1974, 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 for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment, in rem, against Defendants, Walter C. Wright and Jo Anna Rider.

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, shall 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, or 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



restraining order.

Defendants' main thrust on the standing and capacity question is premised on a fairly recent Supreme Court decision cited as *Wrath v. Seldin* (June 25, 1975) 43 LW 4906, \_\_\_\_\_ U.S. \_\_\_\_\_. It is noted that this is a split decision, with Justice Powell delivering the majority opinion, concurred in by Justices Burger, Stewart, Blackmun and Rehnquist. Justice Douglas filed a dissenting opinion. Justice Brennan filed a dissenting opinion, in which Justices White and Marshall joined. This Court will quote, at length, the discussion on standing, as follows:

"We address first the principles of standing relevant to the claims asserted by the several categories of petitioners in this case. In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. This inquiry involves both constitutional limitations on federal court jurisdiction and prudential limitations on the exercise. E.g., *Barrows v. Jackson*, 346 U.S. 249, 255-256 (1953). In both dimensions it is founded in concern about the proper---and properly limited---role of the courts in a democratic society. See *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 166, 188-197 (1974) (Powell, J., concurring).

In its constitutional dimension, standing imports justiciability: whether the plaintiff has made out a 'case or controversy' between himself and the defendant within the meaning of Art. III. This is the threshold question in every federal case, determining the power of the court to entertain the suit. As an aspect of justiciability the standing question is whether the plaintiff has 'alleged such a personal stake in the outcome of the controversy' to warrant his invocation of federal court jurisdiction and to justify exercise of the court's remedial powers on his behalf. *Baker v. Carr*, 369 U.S. 186, 204 (1962). The Art. III judicial power exists only to redress or otherwise to protect against injury to the complaining party, even though the court's judgment may benefit others collaterally. A federal court's jurisdiction therefore can be invoked only when the plaintiff himself has suffered 'some threatened or actual injury resulting from the putatively illegal action ...' *Linda R.S. v. Richard D.*, 410 U.S. 614, 617 (1973). See *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 151-154 (1970).

"Apart from this minimum constitutional mandate, this Court has recognized other limits on the class of persons who may invoke the courts' decisional and remedial powers. First, the Court has held that when the asserted harm is a 'generalized grievance' shared in substantially equal measure by all or a large class of citizens, that harm alone normally does not warrant exercise of jurisdiction. E.g., *Schlesinger v. Reservists Comm. to Stop the War*, supra; *United States v. Richardson*, supra; *Ex parte Levitt*, 302 U.S. 633, 634 (1937). Second, even when the plaintiff has alleged injury sufficient to meet the 'case or controversy' requirement, this Court has held that the plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties. E.g., *Tilleston v. Ullman*, 318 U.S. 44 (1943). See *United States v. Raines*, 362 U.S. 17 (1960); *Barros v. Jackson*, supra. Without such limitations---closely related to Art. III concerns but essentially matters of judicial self-governance---the courts would be called upon to decide abstract questions of wide public significance even though other governmental institutions may be more competent to address the questions and even though judicial intervention may be unnecessary to protect individual rights. See, e.g., *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S., at 222.

"Although standing in no way depends on the merits of the plaintiff's contention that particular conduct is illegal, e.g., *Flast v. Cohen*, 392 U.S. 83, 99 (1969), it often turns on the nature and source of the claim asserted. The actual or threatened injury required by Art. III's minimum requirements, serve to limit the role of the courts in resolving public disputes. Essentially, the standing question in such cases is whether the constitutional or statutory provision on which the claim rests properly can be understood as granting persons in the plaintiff's position a right to judicial relief. In some circumstances, countervailing consideration may outweigh the concerns underlying the usual reluctance to exert judicial power when the plaintiff's claim to relief rests on the legal rights of third parties. See *United States v. Raines*, 362 U.S., at 22-23. In such instances, the Court has found, in effect, that the constitutional or statutory provision in question implies a right of action in the plaintiff. See *Pierce v. Society of Sisters*, 268 U.S. 510 (1925); *Sullivan v. Little Hunting Park, Inc.*, 396 U.S. 229, 237 (1969). See generally Part IV, infra. Moreover, Congress may grant an express right of action to persons who otherwise would be barred by prudential standing rules. Of course Art. III's requirement: the plaintiff still must allege a distinct and palpable injury to himself, even if it is an injury shared by a large class of other possible litigants. E.g., *United States v. SCRAP*, 412 U.S. 669 (1973). But so long as this requirement is satisfied, persons to whom Congress has granted a right of action, either expressly or by clear

implication, may have standing to seek relief on the basis of the legal rights and interests of others, and, indeed, may invoke the general public interest in support of their claim. E.g., *Sierra Club v. Morton*, 405 U.S., at 737; *FCC v. Sanders Bros. Radio Station*, 309 U.S. 470, 477 (1940).

"One further preliminary matter requires discussion. For purposes of ruling on a motion to dismiss for want of standing, both the trial and reviewing courts must accept as true all material allegations of the complaint, and must construe the complaint in favor of the complaining party. E.g., *Jenkins v. McKeithern*, 395 U.S. 411, 421-422 (1969). At the same time, it is within the trial court's power to allow or to require the plaintiff to supply, by amendment to the complaint or by affidavits, further particularized allegations of fact deemed supportive of plaintiff's standing. If, after this opportunity, the plaintiff's standing does not adequately appear from all materials of record, the complaint must be dismissed."

In the same case, in discussing standing to sue of a petitioner in intervention, the Court had this discussion:

"Petitioner Home Builders, in its intervenor-complaint, asserted standing to represent its member firms engaged in the development and construction of residential housing in the Rochester area, \*\*\*. Home Builders alleged that the Penfield zoning restrictions, together with refusals by the town officials to grant variances and permits for the construction of low-and moderate-cost housing, had deprived some of its members of 'substantial business opportunities and profits'. Home Builders claimed damages of \$750,000 and also joined in the original plaintiffs' prayer for declaratory and injunctive relief.

"As noted above, to justify any relief the association must show that it has suffered harm, or that one or more of its members are injured. E.g., *Sierra Club v. Morton*, supra. But apart from this, whether an association has standing to invoke the court's remedial powers on behalf of its members depends in substantial measure on the nature of the relief sought. If in a proper case the association seeks a declaration, injunction or some other form of prospective relief, it can reasonably be supposed that the remedy, if granted, will inure to the benefit of those members of the association actually injured. Indeed, in all cases in which we have expressly recognized standing in associations to represent their members, the relief sought has been of this kind. E.g., *National Motor Freight Traffic Assn., supra*. See *Association of Data Processing Service Organizations, Inc. v. Camp* 397 U.S. 150 (1970). Cf. *Fed. Rule Civ. Proc. 23 (b) (2)*. "

The Court then goes on to say:

"Home Builders' prayer for prospective relief fails for a different reason. It can have standing as the representative of its members only if it has alleged facts sufficient to make out a case or controversy had the members themselves brought suit. \*\*\*."

Keeping in mind the above cited case, the Court has reviewed the complaint in intervention, the exhibits as to member banks of the IBAO, and the deposition of Mr. Amis taken on August 26, 1975. A brief summary of pertinent facts contained in Mr. Amis' deposition is as follows:

Mr. Amis is the President of IBAO, having been elected in November of 1974, for an approximate period of one year. He testified that the IBAO has a total membership of 117 banks, represented by 52 National Banks and 65 State Banks. He further testified that the decision to intervene was made at an informal meeting with the officers of the Association and had not been put to a general vote of the membership. The Executive Committee is made up of the four officers of the IBAO. Of the four members, three are bankers (one is a state banker; two are national bankers; one is an attorney). He further testified that of the members listed on Exhibit "A" to the IBAO's complaint, no banks in the City of Tulsa are members, but that there were some in the suburban area to Tulsa. In answer to the question: "I believe that you indicated earlier that the basis of the injury to the, the injury alleged in your complaint is that the operations of these type of facilities constitutes unfair and illegal competition?"--- Mr. Amis answered---"YES, SIR." He further testified that the basic membership of the IBOA was rural banks and that 16 banks in the Oklahoma City area were members.

At page 39 of his deposition the following questions and answers are found:

- Q. Now let me go back to some testimony you gave, I think in response to questions from both other sets of counsel in this case, with respect to unfair and illegal competition. Could you tell me against (sic) in your own words, how you view the use and operation of the machines in question in these cases as unfair and illegal competition?
- A. Unfair and illegal competition.
- Q. Yes sir. I understand from previous answer that is what you say the injury flowing from the use of these machines will be?
- A. Well obviously, the smaller banks in the state of

Oklahoma cannot economically justify the extremely expensive equipment to compete with those who are wanting to put it in.

Attached to the brief of the defendant, Bank of Oklahoma, is an Exhibit "A", consisting of two items, one a letter of transmittal and the other a document styled "Meeting of Executive Committee" dated July 23, 1975. The letter transmitting the document to Mr. Edward Jiran, Office of the Comptroller of the Currency, dated August 28, 1975, states the following:

"Enclosed please find the document you requested during Mr. Amis' deposition and which I inadvertently comingled with other papers and did not produce.

"This is a memorandum of our Executive Committee meeting dated July 23, 1975."

The body of the document reads as follows:

"Jim Robinson will prepare an application to intervene in the Utica National and the Bank of Oklahoma cases, respectively. The application will request that we be allowed to present witnesses, evidence and arguments.

"Jim and Don will appear at the hearing on the 4th of August and also on the 7th of August in both cases. If the court does not grant the request, the I.B.A.O. will file its own lawsuit, but it is our opinion that we have no standing to sue the banks and the Comptroller of Currency." (Emphasis supplied)

Attached to the brief of the IBAO is a Resolution passed on September 6, 1975, at the Second Annual Convention, which states, in pertinent part:

"D. We support the Independent Bankers Association of America lawsuit against the Comptroller of the Currency now on appeal in the Court of Appeals for the District of Columbia, and we support the lawsuits filed in the United States District Court for the Northern District of Oklahoma by the Attorney General of the State of Oklahoma on behalf of the State of Oklahoma, ex rel., State Banking Board and Harry Leonard, State Bank Commissioner and Chairman of the State Banking Board, against the Bank of Oklahoma and the Utica National Bank and Trust Company, Tulsa, and further support the decision of the Executive Committee of the I.B.A.O. to intervene and become a party plaintiff in said lawsuits."

This Court is of the opinion that there has been no showing of actual injury to the IBAO or its membership by the use of the CBCT's by the defendant banks. In fact, this Court feels that the irreparable harm alleged by the IBAO is mere conjecture. The Court finds that there is no showing to at least one of the members of the IBAO of any injury in the instant litigation.

At this juncture there is no evidence to sustain the allegation in Intervenor's Complaint that the activity of the defendant banks "\*\*\*causes irreparable harm to the Independent Bankers Association of Oklahoma and its member banks \*\*\* (and) will destroy the dual banking system in the State of Oklahoma by forcing state banks to convert to national banks \*\*\*." The Court indeed doubts if such injury is capable of proof.

The Court feels that there is a possibility of conflict of interest among the membership of the IBAO, as said membership is composed of not only state but national banks.

The Court finds, that under all the circumstances and facts in the instant litigation, that the Intervenor, IBAO, lacks standing and capacity in the present conflict.

The Court notes that the parties heretofore indicated that it was imperative that the Court determine the standing and capacity of the intervenor prior to trial and asked that the Court determine the matter as a question of law, upon the simultaneous filing of briefs by all the parties.

IT IS, THEREFORE, ORDERED that the Complaint in Intervention of the Independent Bankers Association of Oklahoma be and the same is hereby dismissed.

ENTERED this 30th day of October, 1975.



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CHIEF UNITED STATES DISTRICT JUDGE



FILED

United States District Court

OCT 29 1975

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

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

CIVIL ACTION FILE NO. 75-C-107

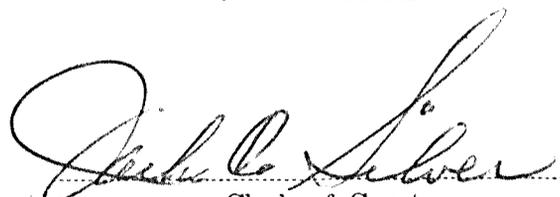
Bruce E. Dedmon,  
Plaintiff,  
vs.  
Mullins Manufacturing Corporation,  
Defendant.

JUDGMENT

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

It is Ordered and Adjudged that the Plaintiff take nothing and that the defendant recover of the plaintiff its costs of action.

Dated at Tulsa, Oklahoma, this 29th day  
of October, 1975.

  
Clerk of Court

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

THE SQUAW TRANSIT COMPANY, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 UNITED STATES OF AMERICA, and )  
 INTERSTATE COMMERCE COMMISSION, )  
 )  
 Defendants. )

CIVIL ACTION  
NO. 75-C-82 ✓

FILED

OCT 29 1975 *mm*

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

CONCURRING OPINION

I concur in full with the Opinion filed herein and its resultant holding.

In addition to the statements contained in said opinion, I would add an additional statement resulting from the actions of the Commission in accepting the application filed by the Squaw Transit Company.

The Commission received the application of Squaw and, though it was not in full compliance with pertinent CFR regulations, accepted the application as tendered and filed it together with the tendered filing fee. Thereafter the Commission forwarded various communications to Squaw which clearly led Squaw to believe the application was being processed. At a later date, the Commission, without notice, peremptorily dismissed the application stating as its reason that the application was not properly filed, in that Squaw failed to comply with 49 CFR 1065 by not attaching the required supporting documents to the application.

It is my opinion that having accepted the filing and having treated the application as properly before the Commission on its merits, it was incumbent upon the Commission to give reasonable notice to Squaw of its intended action to dismiss the application. Such notice would be required in order to

comply with the minimal requirements of due process. See. Hess & Clark Division of Rhodia, Inc., v. Food & Drug Admn, 495 F.2d 975 (D.C.Cir.1974); Florida Citrus Commission v. United States, 144 F.Supp. 517 (N.D.Fla.1956) aff'd 352 U.S. 102 (1957); Jones Truck Lines Inc., v. United States, 146 F.Supp. 697 (W.D.Ark.1956); Pinkett v. United States, 105 F.Supp. 67 (D.Md.1952).

The failure of the Commission to provide reasonable notice of its intended actions to dismiss and reasons for such dismissal and thereafter the failure to permit Squaw to comply with such requirements, in light of its previous actions, I believe, constitute arbitrary and capricious conduct by the Commission which would require that the Commission consider on its merits Squaw's subsequent petition for reconsideration.

In all other matters, I concur in the Opinion filed herein.

  
H. DALE COOK  
United States District Judge

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

TOMMIE M. THOMAS, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 BRADEN STEEL CORPORATION, )  
 )  
 Defendant. )

No. 75-C-332 ✓

FILED

OCT 29 1975 *g*

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

O R D E R

The defendant, Braden Steel Corporation, has filed a Motion to Dismiss the Complaint in the above-styled action pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure, for the reason that the Complaint fails to state a claim against the defendant upon which relief can be granted.

The Complaint alleges that the defendant has violated the nondiscrimination requirements of Title VII of the Civil Rights Act of 1964, 42 U.S.C., § 2000e et seq. Plaintiff, Tommie M. Thomas, seeks compensatory and punitive damages for willful discrimination against the plaintiff and other members of plaintiff's sex by defendant's refusal to hire plaintiff because of the length of his hair, thereby depriving plaintiff of employment opportunities.

Section 703 of the Civil Rights Act of 1964, 42 U.S.C., § 2000e-2 provides in pertinent part:

"(a) It shall be an unlawful employment practice for an employer --

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . sex . . . ; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's . . . sex . . . "

As stated in Bujel v. Borman Food Stores, Inc., 1975 CCH Empl. Prac. Dec. ¶ 9996 (E.D. Mich. 1974), the proper approach to determine the issue under this statute is to ascertain if the defendant's grooming requirements adversely affect, as described in the statute, the employment of men or women. Only if the grooming requirements are used as a device to prevent or hinder employment, or the enjoyment thereof of one sex group over the other as set forth in the statute, should the defendant be held to discriminate on the basis of sex as proscribed by 42 U.S.C., § 2000e-2. It is not necessary to determine if the provisions of the grooming code are "a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise" [42 U.S.C., § 2000e-2] unless and until discrimination on the basis of sex has been found. Morris v. Texas & Pacific Ry. Co., 387 F.Supp. 1232 (M.D. La. 1975).

In support of his allegations of discrimination, plaintiff cites Phillips v. Martin Marietta Corporation, 400 U.S. 542 (1971); Aros v. McDonald Douglas Corporation, 348 F.Supp. 661 (D.C. Col. 1972); and Willingham v. Macon Telegraph Publishing Company, 482 F.2d 535 (1973).

In Willingham, supra, plaintiff brought an action in 1971 alleging that the defendant's hiring policy unlawfully discriminated on the basis of sex. On April 17, 1972, the district court granted summary judgment in favor of the defendant. Upon Willingham's appeal from the district court decision, a panel of the circuit reversed, finding the presence of a prima facie case of sexual discrimination and remanded the case. (This is the proceeding cited by plaintiff.) However, upon an en banc consideration of the issue, the court vacated the remand order of the original panel and affirmed the district court's grant of a summary judgment. Willingham v. Macon Telegraph Publishing Co., 507 F.2d 1084 (5th Cir. 1975).

In its decision the Willingham court considered the holdings of Phillips v. Martin Marietta Corp., supra, and Aros v. McDonnell Douglas Corp., supra, cited by plaintiff, in determining whether a particular grooming regulation applicable to men only constitutes "sex plus" discrimination within the meaning of 2000e-2. (In general, the concept of "sex plus" involves the classification of employees on the basis of sex plus one other ostensibly neutral characteristic.)

The court in Willingham quoted from Dodge v. Giant Food, Inc., 488 F.2d 1333 (D.C. 1973) wherein the court held that hair length regulations "are classifications by sex . . . which do not represent any attempt by the employer to prevent the employment of a particular sex, and which do not pose distinct employment disadvantage for one sex. Neither is sex elevated by these regulations to an appreciably higher occupational level than the other. We conclude that Title VII never was intended to encompass sexual classifications having only an insignificant effect on employment opportunities."

The court in Willingham went on to hold that distinctions in employment practices between men and women on the basis of something other than immutable or protected characteristics do not inhibit employment opportunity in violation of 2000e-2. As stated by the court: "Congress sought only to give all persons equal access to the job market, not to limit an employer's right to exercise his informed judgment as to how best to run his shop."

The following recent cases have applied similar reasoning in determining that the imposition of grooming standards is not violative of Title VII and does not discriminate against individuals on the basis of sex within the meaning of the law:

Jahns v. Missouri Pacific R.R. Co., 391 F.Supp. 761 (E.D. Mo. 1975); Knott v. Missouri Pacific R.R. Co., 389 F.Supp. 856 (E.D. Mo. 1975); Thomas v. Firestone Rubber Co., 392 F.Supp.

373 (N.D. Tex. 1975); Baker v. California Land Title Co., 507  
F.2d 895 (9th Cir. 1974); Bujel v. Borman Food Stores, Inc.,  
supra.

It is therefore the determination of the Court that the  
defendant's Motion to Dismiss the Complaint should be and hereby  
is sustained.

It is so Ordered this 29<sup>th</sup> day of October, 1975.



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H. DALE COOK  
United States District Judge

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

GEORGE C. RUSSELL and )  
MELBA I. RUSSELL, )  
 )  
Plaintiffs, )

-vs-

No. 75-C-386

ED BELLAMY, HENRY C. LYNCH, )  
JR., and LEE PACE d/b/a )  
KEYSTONE LAND AND CATTLE )  
COMPANY, )

Defendants. )

FILED

OCT 28 1975

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

JUDGMENT BY DEFAULT

THIS CAUSE CAME ON FOR HEARING at this term on the Motion of George C. Russell and Melba I. Russell, plaintiffs in the above-entitled cause, for default judgment, pursuant to Rule 55b(2), Federal Rules of Civil Procedure, and it appearing to the Court the Complaint in the above cause was filed in this Court on the 20th day of August, 1975, and that Summons and Complaint were duly served on the defendant, Henry C. Lynch, Jr., on the 23rd day of September, 1975, and that no Answer or other defense has been filed by said defendant, and that default was entered on the \_\_\_ day of October, 1975, in the office of the Clerk of this Court, and that no proceedings have been taken by said defendant since said default was entered.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the said plaintiffs do, have and recover from said defendant, Henry C. Lynch, Jr., the sum of \$1,841.30, with interest thereon at the rate of 10% per annum from the date of judgment until paid, together with said plaintiffs' costs, and that the plaintiffs have execution therefor.

DATED THIS 27 day of October, 1975.

*H. Dale Cook*

H. DALE COOK, DISTRICT JUDGE

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

DENNIS FRENCH, )  
 )  
 ) Plaintiff, )  
 )  
 vs. ) Civil Action No. 75-C-369  
 )  
 Secretary of Defense, )  
 JAMES R. SCHLESINGER; )  
 Secretary of Army, )  
 HOWARD "BO" CALLOWAY; )  
 Commander of Ft. Polk, )  
 Louisiana, GENERAL HALDANE; )  
 CAPTAIN THOMAS MANCINO, )  
 Oklahoma National Guard, )  
 )  
 Defendants. )

**FILED**  
OCT 28 1975  
Jack C. Silver, Clerk  
U.S. DISTRICT COURT

JUDGMENT

This action came on for hearing before the Court, the Honorable H. Dale Cook, District Judge, presiding on September 3, 1975. The issues having been duly heard and briefs in support of the respective parties having been received and carefully considered, the following Order is entered.

IT IS ORDERED AND ADJUDGED that the plaintiff's request for a permanent injunction be denied and judgment be entered on behalf of the defendants.

Dated at Tulsa, Oklahoma, this 27<sup>th</sup> day of October, 1975.

  
H. DALE COOK  
United States District Judge

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

**FILED**

OCT 24 1975

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

THE SQUAW TRANSIT COMPANY,

Plaintiff,

v.

UNITED STATES OF AMERICA, and  
INTERSTATE COMMERCE COMMISSION,

Defendants.

CIVIL ACTION  
NO. 75-C-82

Mickey D. Wilson, Tulsa, Oklahoma; Sayers, Scurlock, Binion and Brackett, Fort Worth, Texas, for Plaintiff, Squaw Transit Company

Nathan G. Graham, United States Attorney, Tulsa, Oklahoma, (Thomas E. Kauper, Assistant Attorney General, and John H. D. Wigger, Attorney, Department of Justice, Washington, D. C., on brief) for Defendant, The United States of America

James T. Proctor, Attorney, Interstate Commerce Commission, Washington, D. C., and Peter A. Fitzpatrick, Attorney, Interstate Commerce Commission, Washington, D. C. (Fritz R. Kahn, General Counsel, Interstate Commerce Commission, Washington, D. C., on brief) for Defendant, Interstate Commerce Commission

Before HOLLOWAY, Circuit Judge, BARROW, Chief Judge of the Northern District of Oklahoma, and COOK, District Judge

BARROW, Chief Judge, USDC

## O P I N I O N

A statutory three-judge court was convened in the instant litigation, pursuant to 28 U.S.C. §§1336, 2325 and 2284, to review the decision of the Interstate Commerce Commission in connection with the denial of the application of Squaw Transit Company (hereinafter referred to as "Squaw") filed pursuant to 49 CFR 1065, and the subsequent denial of its Petition for Reconsideration.

Squaw is an Oklahoma corporation and operates as a motor common carrier in interstate and foreign commerce transporting various commodities, and pipeline commodities, over numerous irregular routes to, from and between various states in the United States. Such operations are carried on by virtue of Certificate MC-119176 and Subs as issued by the ICC. The principal office of Squaw is in Tulsa, Oklahoma. Squaw additionally maintains and operates equipment and terminal facilities at Houston, Texas and North Lima, Ohio.

Squaw, prior to the enactment of certain rules and regulations by the ICC, on February 25, 1974, performed a transportation service for the public by "tacking" or joining certain of its authorities, which have been referred to in the vernacular of the trade as "gateways".

On February 25, 1974, the Commission adopted rules and regulations effecting the tacking of irregular route motor common carrier operating authorities. In general, these new rules provide a procedure by which "gateways" could be eliminated in operations provided by joinder of separate irregular route motor common carrier certificates. 49 CFR 1065, et seq.

Two types of applications were provided for in the new rules. The type which involved Squaw required the filing of a formal application (called an OP-OR-9) for the elimination of gateways in irregular route operations in those cases where the most direct highway distance between the points to be served is less than 80% of the highway distance between such points over the carrier's authorized routing through the gateway.

In order that 49 CFR 1065 be complied with, the application had to be filed by June 4, 1974. A completed filing, in accordance with the rules, included the application; the designated fee; copies of the carrier's appropriate tariff provisions and certificates; a verified statement in support; a traffic abstract, embracing shipment transported through the gateway over the two year period preceding November 23, 1973, or if the carrier relied on certificated authorities issued to it after November 23, 1973, but pending prior thereto, shipper verified statements in support of the application.

Squaw tendered its application to the ICC as reflected by a letter from Mr. Clayte Binion, its attorney, dated June 3, 1974, as well as a Cashier's Check in the amount of \$350.00. A copy of the application reveals that in Appendix I thereto, Squaw attempted to show that it sought to operate as a common carrier by motor vehicle, over irregular routes, in the transportation of certain commodities designated therein, between points in Michigan, Illinois, Indiana and Ohio, on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, Alabama, Georgia, and Florida. It is stated that the purpose of the application was to eliminate gateways in Oklahoma, Arkansas and Texas. In the letter transmitting the application, the attorney stated that he understood that such application called for the submission of evidence by applicant at the time the application was filed and that he was in the process of preparing it and that it would be promptly filed

when prepared. He requested that the Commission call him collect if this was not satisfactory.

On August 26, 1975, the attorney for Squaw received two form letters from the ICC. One letter requested a copy of the application be served on the appropriate State Board having regulatory jurisdiction in the State of Florida; and the other requested that an appropriate tariff establishing that the proposed services were offered on November 23, 1973, be submitted and that copies of all pertinent authority be sent.

It appears that these requests were not complied with until October 7, 1974, as revealed by the Exhibits to the file.

On November 14, 1974, the ICC entered its order dismissing the application of Squaw, with the finding that the "applicant has failed to adduce evidence in the proceeding as required by 49 CFR 1065."

By instrument and pleading dated December 13, 1975, Squaw filed its Petition for Reconsideration of Order of Commissioner Robert L. Murphy, and Petition for Extraordinary Relief pursuant to Rule 102, General Rules of Practice. Said instrument encompassed the following documents:

1. The Petition;
2. Appendix I, which is an affidavit of Counsel for Squaw stating reasons for non-compliance with the time requisites in the OP-OR-9 application.
3. Verified statement of E. W. Dalrymple, Vice President of Squaw, in support of the Gateway Elimination Application with supporting evidence: a) copy of prior irregular route certificate, b) balance sheet and income statement of the applicant for the latest available time period, c) list of Squaw Transit Company Terminal and Office Facilities, d) application to eliminate gateways in Oklahoma, Arkansas and Texas, e) summary of representative shipments handled within the involved territory, f) abstract of bills of Squaw for services rendered for supporting shippers.

4. Supporting shippers' statements.

Thereafter, on December 31, 1974, the Commission denied the Petition for Reconsideration on grounds that no sufficient or proper cause was shown for vacating its order of November 8, 1974, which dismissed the Squaw application for failure to adduce evidence as required by 49 CFR 1065. The order stated that Squaw still had available the recourse of filing a regular application for direct authority in which it could prove that public convenience and necessity require such service.

On January 19, 1975, Squaw filed its Petition for Stay of the Effective date of the Order of Division 1, acting as an Appellate Division, and for Extraordinary Relief Pursuant to Rule 102, General Rules of Practice.

The Commission denied Squaw's Petition for Stay and Extraordinary Relief on January 30, 1975, on the grounds that their prior order was entered in accordance with applicable law, and, thereby, the proceeding was rendered administratively final. The present litigation was commenced in this Court on February 28, 1975. After the convening of a statutory three-judge court, the matter was set down for hearing before the panel and on July 1, 1975, oral argument was heard and the matter was taken under advisement.

Squaw is not asking this Court to annul, set aside and enjoin the gateway rules and regulations themselves, nor is it asking the Court to direct the Commission to grant the OP-OR-9 gateway elimination application. The only relief Squaw seeks is for the Court to set aside the Commission's previous orders and direct the Commission by remand to consider the application and evidence submitted in support thereof.

Plaintiff contends the refusal of the Commission to accept tendered evidence (although late) and consider the application constituted an abuse of discretion and amounted to arbitrary and capricious action for the following reasons:

1. The Commission has in the past relaxed or modified its rules in other cases, and failure to accept the petition and tendered evidence is inconsistent with prior Commission actions in similar cases.

2. The Commission accepted the OP-OR-9 application and filing fee, accepted supplemental information leading Squaw's counsel to believe it could submit supporting evidence, but when such evidence was submitted, the same was erroneously rejected.

3. Plaintiff alleges on information and belief the Commission has in cases, governed by the same rules and regulations as in this case, allowed other applicant motor carriers to file evidence in such application after the required due date, which constitutes unfair and unjust treatment to plaintiff and denial of equal protection of the law.

4. The failure of the Commission to receive the tendered evidence and dismissing application deprives plaintiff of a valuable property right without due process of law.

5. The reasons given by counsel for Squaw for the late filing of evidence are substantial and constitute good cause for the receipt of tendered evidence.

6. The Commission abused its discretion in failing to grant the request of Squaw for receipt of tendered evidence, as Squaw complied with all applicable rules and regulations and the same were summarily denied by Commission without any basis in law or fact.

The Commission, on the other hand, contends that the only issue to be resolved is whether the Commission acted within its discretion in dismissing the gateway application which was admittedly filed without any supporting evidence as required by the rules. As to the allegations of Squaw that other applicants, similarly situated, were not dismissed because of late filing, the Commission in its Reply Brief of June 16, 1975, stated that an informed rebuttal regarding plaintiff's allegations of discriminatory

treatment in processing of approximately 22,000 letter notices and 573 applications filed under gateway rules is impossible in view of the total absence of any factual data supporting such claims in the record before the Commission or this Court. They further contend that Squaw has failed to specify a single instance where the Commission treated another applicant differently, and, moreover, such claims were never asserted before the Commission and cannot be the basis for reversal. If such allegations could be substantiated, the Commission states, Squaw's failure to raise these issues before the agency in the first instance by petition for reconsideration constitutes a bar to the raising of the claim here. They contend that an administrative agency must be provided an opportunity to consider all objections to its actions at a time appropriate under its rules.

Thereafter, in its reply brief, Squaw did give examples of other applicants and how they were treated by the Commission, to which the Commission responded by distinguishing said examples. Moreover, at oral argument before this court, at the request of the Commission, an affidavit, replete with examples of other applicants was permitted by this Court to be filed later. Therefore, any objection initially tendered by the Commission as to examination by this Court of the various applicants initial packets and subsequent additions thereto are deemed to have been waived. Due to the new nature of the regulations under consideration by this Court and their implementation by the Commission, this Court deems it proper to go into other applications. The Court is aware of the disdain with which the courts have looked upon litigation affidavits and have called them 'post hoc' rationalizations, see *Burlington Truck Lines v. U. S.*, 371 U.S. 156, 168-169 (1962); *SEC v. Chenery Corp.*, 318 U. S. 80, 87 (1943); *Citizens to Preserve Overton Park v. Volpe*, 401 U. S. 402 (1971). Such affidavits are deemed appropriate in this instance with new regulations and uncertain procedures. It is only through an

extensive and in depth examination of the applications and their dispositions furnished this Court that a clear picture can be perceived and a just result reached in this matter.

The Erenberg affidavit reflects that with the promulgation and enactment of 49 CFR 1065.1, an onslaught of applications arrived at the Commission's office on or about June 4, 1974. Mr. Erenberg states in his affidavit at page 14:

"A total of twenty four thousand, seven hundred and nine (24,709) applications have been submitted for filing pursuant to 49 CFR 1065, of which five hundred and seventy nine (579) are OP-OR-9 applications. A total of three hundred and twenty seven (327) OP-OR-9 applications have been decided."

It is without question that the time period of 60 days (i.e. the cut-off date of June 4, 1974) provided for by the adoption of 49 CFR 1065.1 resulted in an avalanche of applications and created not only problems for the Commission, but the applicants as well.

The new regulations were quite explicit as to the documentation necessary in submitting an OP-OR-9 applications seeking direct-service authority. It is thus apparent that when Squaw presented its OP-OR-9 application, the substantiation that necessarily should have accompanied the submission should have encompassed the following:

1. Submission of copies of appropriate tariff provisions showing that such through services were offered by the carrier on or before November 23, 1973.

2. An initial verified statement in support of the application which should include all of the evidence intended to be presented in the proceeding. Included in this submitted evidence should be applicant's record of past operations through the gateway for the 2 years prior to November 23, 1973. If relevant, copies of tariff provisions verifying that said through services were offered by the carrier on November 23, 1973 should be submitted.

3. Although not required, consideration would be given to evidence of supporting shippers.

The evidence is uncontroverted that the initial application of Squaw did not contain all of the documentation delineated above. Indeed the evidence adduced reflects that the submission contained only a list of the officers and directors, maps and a cover letter from Squaw's counsel.

The Commission contends that although the purpose of Squaw's application was the elimination of gateways in the States of Oklahoma, Arkansas and Texas there was no evidence in the applications submitted to indicate past operations between the points in issue nor evidence of shippers' needs for such services. The Court notes, however, that the lack of evidence of shippers' need for service (i.e. shippers' statements) are only suggested and not required by the regulations here involved. The Commission further contends that all other applicants who submitted OP-OR-9 applications similar to Squaw (lacking all of the required documentation) received the same treatment as did Squaw --- their applications were dismissed and/or their applications were denied. Inapposite to the Commission's contentions, Squaw argues that, although all required evidence was not submitted, others with similar initial applications were eventually granted their gateway relief. The result of such action by the Commission, congruent with the argument propounded by Squaw, is the demonstration of an arbitrary classification established by the Commission.

The diverging approaches which premise the parties' positions have in effect caused this Court to examine minutely the multitudinous examples, as to the treatment of other applicants, in an effort to ascertain if such examples support or contradict the contentions of the respective parties as to whether the action of the Commission in its treatment of Squaw constituted an abuse of discretion which amounted to arbitrary and capricious action. This Court was, as a result, faced with not only examining the application of Squaw, but a time consuming perusal of information

furnished by both parties concerning 53 applications, not counting multiple applications by some companies. The Court will not delineate all of the applications reviewed, but will confine its comments to the more relevant applications in order to present a comprehensive picture of the action taken by the Commission. This approach is taken in order that the proper determination can be made in exploring any aspect of an abuse of discretion on the part of the Commission and/or whether their action was arbitrary or capricious.

Before venturing forth on an analysis of the applications hereinabove cited, the Court will reiterate, for the benefit of all concerned, that it is aware of the short time limits, the vast amount of applications to be processed, and the limited man power the Commission had available to surmount the chaos created by the new regulation.

As developed in oral argument, and noted in the Erenberg affidavit, the Commission did accept applications filed after the cut-off date, if a good faith attempt was shown to meet the June 4, 1974 deadline. Mr. Erenberg stated in his affidavit at page 4:

"Respecting the June 4th deadline, the Commission has permitted disposition of some late-filed applications. In these cases, however, the applicant has demonstrated a good-faith attempt to comply with the June 4, 1974, deadline, as for example where the mailing was accomplished prior to June 4, 1974, but received for filing a date (sic) or so late. Therefore, it has not been our policy to deny an application solely for the reason that it was filed shortly after June 4, 1974, . . . ."

Reviewing the different applications this Court notes the following:

MC-21170, Sub 276G-285G, Bos Lines, Inc. was filed June 13, 1974, and accepted, but later dismissed for failure to submit required evidence;

MC-17600, Sub 4G, Paramount Moving and Storage Co., Inc. was filed June 26, 1975 (sic) and was dismissed for not being timely filed;

MC-114273, Sub 195G, Cedar Rapids Steel Transportation filed June 13, 1974, and later dismissed, on protestant's motion for failure to submit required evidence;

MC-109891, Sub 25G, Infinger Transporation, filed June 12, 1974 and dismissed for not being timely filed on April 2, 1975. The Infinger application was later reinstated May 7, 1975.

The Court has described the above applications to demonstrate that although reasonable time was given in some instances for late filings, one of the above cited cases was initially dismissed for not being timely filed (it should be noted that this particular case was filed one day prior to two of the above mentioned applications whose timeliness was never questioned). The Court has little doubt that the period in question was a hurried and hectic time for the Commission's mail room and in many instances applications were back-logged, due to the inability to process the tremendous response.

Of more concern to this Court than the "reasonable timeliness of the filing", is the Commission's decision as to whether or not the "initial" application was of a legally sufficient character to allow the agency to continue the administrative process of either granting or denying the OP-OR-9 request. Again, attention is directed to Mr. Erenberg's affidavit wherein it is stated at page 4:

" . . . but where such an application lacked the accompanying legal evidence heretofore discussed, our attorneys were instructed to dismiss or deny the application."

The evidence designated by the Commission as 'legal' is reflected at page 2 of Mr. Erenberg's affidavit:

"The evidence required to be submitted, having a legal bearing upon the disposition of the proceeding, consists of (1) a traffic abstract, embracing shipments transported through the gateway over the 2 year period preceding November 23, 1973, and/or (2) shipper verified statements in support of the application."

In this connection this Court notes that 49 CFR d 2 iii provides:

"An initial verified statement in support of the application. This should include all of the evidence applicant plans to present in the proceeding, . . ."

The regulations are clear and precise; not so as to their application by the Commission. It is understandable that many applications of varying quantity and quality of submitted evidence created problems for the Commission. The Court takes note of the probable discomposure caused the Commission during this period of

time, and, therefore, gives consideration for the occasions where the record reflects certain inconsistencies as to the treatment received by some of the applicants.

Mr. Erenberg stated in his affidavit at page 14:

"Unfortunately, however, in a few isolated instances, (I believe, three) applications have been approved following late filings, due to inadvertance (sic)."

The regulations contain no ambiguity, and the dictate contained therein, that the initial verified statement should include "all of the evidence applicant plans to present", is clear and unequivocal. This Court finds, however, that in more than three instances, applications have been approved following late filings. The Commission, itself, seems to point up the importance of the "all evidence" requirement. As noted on page 13 of Mr. Erenberg's affidavit, in discussing the Peerless Transportation Corp. application, MC-119689, Sub 12G, wherein applicant filed traffic abstracts covering the period 1969 and 1970, (which did not comply with 49 CFR 1065) and, thereafter tendered additional shipper statements in support, Mr. Erenberg stated:

"The late-tendered evidence was rejected inasmuch as the rules further stipulate that all of applicant's required evidence be submitted with its timely filed application."

See also MC-52861, Subs 34-35G, Wills Trucking, Inc. In MC-106373, Sub 34G, The Service Transport Co. was dismissed for failure to submit the required evidence. The order dismissing stated, "no supplementary evidence is being accepted in these proceedings." In MC-42537, Sub 31G, Cassens Transport Co., in denying the application, Mr. Erenberg's affidavit states at page 10:

"The petition was denied by order issued April 2, 1975, inasmuch as applicant failed to timely submit all of the required evidence, and acceptance of its supplemental filing would prejudicial (sic) to carriers which failed to file applications because sufficient supporting evidence could not be gathered by the established deadline."

Yet this Court finds other instances wherein all of an applicant's evidence was not submitted and yet a dismissal or denial did not occur.

In MC-117344, Sub 234G, Maxwell Co., supporting shippers' statements dated December 27, 1974 and January 6, 1975 were received and the application approved;

In MC-107993, Sub 34G, J. J. Willis Trucking Co., verified statements were submitted July 10, 1975.

In MC-46365, Sub 3G, P. W. Lincoln Horse Transp., Inc., verified statements in support were submitted July 9, 1975.

In MC-74169, Sub 6G, Chieftan Van Lines, verified statements of tacking were received August 3, 1974.

In defense of this late evidence, the Commission stated at page 3 of their Joint Memorandum, filed July 21, 1975:

"Unlike the Squaw application, the Chieftan application was substantially complete upon filing. However, upon the Commission's request, the applicant submitted, on August 3, 1974, a modification to Appendix H, which was attached to the application as originally filed."

The foregoing action tends to reflect a differing standard from one of "all evidence" to a "substantial compliance" requirements.

In MC-2473, Sub 16G, Billings Transfer Corp., Inc., the applicant was granted an extension of time to file his verified statement. As noted in the Commission's Joint Memorandum filed July 21, 1975, at page 3:

"Unlike the Squaw application which contained no affidavit when filed, the Billings application contained an affidavit of Mr. Albert, President of Billings, which explained that over 275 hours had been spent in a good faith attempt to prepare the required traffic abstract, yet the required abstract was not completed as of June 4, 1974 . . . Mr. Albert's affidavit contained a specific request that the Commission accept the application with the understanding that the required evidence would be filed 'as soon after June 4, 1974, as is physically possible'."

In that case all that was before the Commission was a verified extension of time. The Commission's records indicate that Billings submitted a 129 page traffic study on June 14, 1974 - - some 10 days late. As noted at page 5 of the Joint Memorandum;

"However, the late filing occurred only 10 days following the due date; 10 days with explanation as contrasted to six months without explanation clearly does not indicate that a carrier similarly situated was accorded different treatment."

In MC-76262, Sub 2G, Weir-Cove Moving and Storage, in denying the application for failing to file the required evidence, it is stated in Mr. Erenberg's affidavit, at page 11:

"Applicant stated (in its initial filing), that it needed additional time to prepare the evidence required by the regulations. However, as noted in the Commission order, it failed to tender any such evidence thereafter."

And in MC-47800, Sub 6G, Sudler Moving and Storage, d/b/a Allstates Van and Storage, as reflected in the Pyeatt affidavit at page 5, the initial application included an affidavit from the president of the company requesting an extension of time to file appropriate required evidence.

"The applicant filed on July 30, 1974, a verified statement by R. B. McMillan, President of the applicant, together with 10 exhibits including an abstract of traffic showing operations via the gateway for the two years preceding November 23, 1973."

The application was eventually granted.

It is apparent, therefore, that the Commission was establishing a "reasonable time limit" in filing the required evidence as opposed to the more strict "all evidence" requirement.

In MC-109689, Sub 274G, W. S. Hatch Co., and its application, the Court notes that initial application included an affidavit by a Mr. Nelson indicating a refusal to submit the traffic studies. Thereafter on March 28, 1975, the Commission sent a letter to Hatch, as was sent to Squaw, requesting additional evidence. As noted in the Joint Memorandum of Defendants of July 21, 1974, at page 4:

"As indicated in the affidavit of Mr. M. Erenberg which has been submitted to the Court as Exhibit I for Defendants, the mailing of the March 28, 1975, letter was contrary to specific instructions."

In the Pyeatt affidavit, filed on August 25, 1975, on behalf of Squaw, at page 4, in respect to a discussion of MC-115523, Sub 171G, and its Petition for Reconsideration:

"A petition for reconsideration was filed by the applicant on July 14, 1975. The petition for reconsideration recites that 'by letter of December 16, 1974, from the Office of Proceedings, the applicant was requested to submit a verified statement in support of the application and a traffic study showing operations via the gateway for the two years preceding November 23, 1973'."

Although the Hatch Co. application was later dismissed, as obviously was the above noted application, and even though said requests by the Commission are labeled as inadvertent, such a procedure enhances the concept that the regulations were new; the applicants multitudinous; and the procedures of the Commission not always precise.

In MC-52579, Sub 141G, Gilbert Camera Corp. submitted maps depicting the varying circuitry in its operations - - but failed to meet all the requisites of 49 CFR 1065. Mr. Erenberg, in his affidavit states at page 11:

"The denial was based in part on said failure, and also inasmuch as protestants' contentions respecting applicant's alleged gateway operations could not be contradicted without such evidence being made available."

A seemingly different standard is utilized once again - not all the evidence, but rather enough evidence to overcome any protestant's proof.

The prior comparisons are intended, in no way, to be viewed as the results of perusing all applications filed before the Commission. These only represent those applications made known to the Court by the parties.

Squaw's two-pronged attack on the Commission's action is directed toward the "double standard" utilized in the initial denial of the Squaw application, and the abuse of discretion utilized by the Commission in the denial of Squaw's Petition for Reconsideration.

Before considering the cases hereinafter cited, the Court feels that a qualifying comment must be made with reference to the tests promulgated and considered by the various Courts in considering appeals from rulings of the Interstate Commerce Commission.

As hereinafter stated, this Court feels that the instant question before the Court is one of first impression. All of the cases that this Court has thus been able to discover deal with rulings on applications for original authority. In the present

case we are dealing with an existing authority that is sought to be consolidated by new rules and regulations to eliminate "gateways". The basic premise of Squaw's attack, is thus directed to the manner in which the new regulations and rules were applied to Squaw and other carriers with existing authority.

The Court is cognizant of its limited review of agency action (Administrative Procedure Act in 5 U.S.C. § 706). Additionally, the Court is aware that normally the findings of the Interstate Commerce Commission should not be set aside, modified, or hampered by judicial review if they are supported by findings which have a rational basis and are supported by the record, and, moreover, are not arbitrary and capricious. *Allied Van Lines Co. v. U.S.*, 303 F.Supp. 742 (USDC C.D. Calif., 1969); *Baltimore and Ohio Railroad Co. v. U.S.*, 391 F.Supp. 249 (USDC E.D. Pa., 1975). The scope of review under an arbitrary and capricious standard is narrow. *American Fed. of Labor & Cong. of Ind. Org. v. Brennan* (USDC D.C., 1975) 390 F.Supp. 972; *Bowman Transp. v. Ark-Best Freight System*, 419 U.S. 281 (1974); *Citizens to Preserve Overton Park v. Volpe*, supra. The reason for the limited review is to give proper respect to the expertise of the administrative tribunal and to help promote the uniform application of agency rules. *R-C Motor Lines, Inc. v. U.S.*, 350 F.Supp. 1169, (USDC M.D. Fla., 1972), aff'd 411 U.S. 941 (1973).

Reiterating once more, the Commission simply contends that there was no arbitrary and capricious action on its part, in that Squaw's application was treated no differently than any other applicant similarly situated. As shown by the prior comparisons made by this Court of different applicants, this Court cannot agree with the Commission in this respect. But such a finding, in and of itself, does not necessarily show arbitrary and capricious action by the Commission. Inconsistency is not always equivalent to "arbitrary and capricious".

The position of Squaw is readily ascertainable in the special concurring opinion of Circuit Judge John R. Brown in *Mary Carter Paint Co. v. Federal Trade Commission*, 333 F.2d 654 (5th Cir., 1964) rev'd on other grounds, 382 U.S. 46 (1965). Judge Brown stated at page 660:

"Our complex society now demands administrative agencies. The variety of problems dealt with make absolute consistency, perfect symmetry, impossible. And the law reflects its good sense by not exacting it. But law does not permit an agency to grant to one person the right to do that which it denies to another similarly situated. There may not be a rule for Monday, and another for Tuesday, a rule for general application, but denied outright in a specific case."

Attention is again drawn to the case of *R-C Motor Lines v. U.S.*, supra, at 1172, wherein the Court states:

"Although the doctrine of stare decisis does not apply to decisions of administrative bodies, consistency of administrative rulings is essential, for to adopt different standards for similar situations is to act arbitrarily."

See also *Dixie Highway Express, Inc. v. U.S.*, 268 F.Supp. 239 (USDC S.D. Miss. 1967) reversed on other grounds 389 U.S. 409 (1967); *Baker v. U.S.*, 338 F.Supp. 331 (USDC E.D. Pa. 1972).

For cases delineating the need for explanation when an Agency deviates from its regulations or established general policies, see *NLRB v. Int. Union of Operating Eng. Local 925*, 460 F.2d 589 (5th Cir., 1972); *Melody Music Inc. v. F.C.C.* 345 F.2d 730 (CA, D.C. 1965); *Marriot In-Flite Serv. Div. of Marriott Corp. v. NLRB*, 417 F.2d 563 (5th Cir., 1969) U.S. cert.den. 397 U.S. 920 (1970); and, *Marco Sales Co. v. F.T.C.*, 453 F.2d 1 (2nd Cir., 1971).

This Court, while not holding that the action of the Commission was necessarily arbitrary, feels the matter should be remanded for reconsideration. An examination of Squaw's Petition for Reconsideration gives weight to said determination.

As alluded to earlier, upon the denial of its initial application, Squaw filed with the Commission, on December 13, 1974, a Petition for Reconsideration pursuant to Rules 101 and 102, General

Rules of Practice, codified 49 CFR §§ 1100.101 and 1100.102. Rule 101(b) provides in pertinent part:

"When in a petition filed under this section opportunity is sought to introduce evidence, the evidence to be adduced must be stated briefly, such evidence must not appear to be cumulative, and explanation must be given why such evidence was not previously adduced."

Rule 102 provides in pertinent part:

"When the subject matter of any desired relief is not specifically covered by the rules in this part, a petition seeking such relief, which relief shall be construed as including appropriate discovery procedures, and stating the reasons therefor may be served and filed."

It was pursuant to Rule 102 that Squaw sought the extraordinary relief.

Squaw's contention, in this regard, is that: (1) the evidence was produced; and (2) "sufficient and proper cause" was shown to reopen the proceedings. The Commission, on the other hand, maintains that reconsideration is addressed solely to the agency's discretion; that the application was not timely filed; that Squaw's counsel contemplated a late submission; and therefore, the Commission did not abuse its discretion in finding that the facts did not constitute "sufficient and proper cause". The Commission additionally advances the conception that Squaw has an additional remedy in an application seeking a Certificate of Public Convenience and Necessity. There is no controversy that Squaw's Petition for Reconsideration is guided by Rule 101(b), supra.

Indubiously, the present record contains more instances of inconsistency of action in the Commission's handling of the Gateway Eliminations than was known to the Commission or anyone else, including Squaw, at the time Squaw filed its Petition for Reconsideration. Notwithstanding that this Court has not found the inconsistent action on the part of the Commission to be arbitrary and capricious, such action should be kept in mind in the examination of the Petition for Reconsideration.

Attached to Squaw's Petition for Reconsideration, designated as Appendix I, is an affidavit of the attorney for Squaw Transit, endeavoring to establish "sufficient and proper cause" to justify reopening the Gateway Elimination application of Squaw. The Court will summarize the contents of the affidavit as follows:

1. Counsel was handling Gateway Elimination matters for other companies besides Squaw.

2. Counsel went to Squaw's Headquarters to set up procedures for preparation of paper work to support filings.

3. Three letter gateway elimination notices were prepared and timely filed as well as an OP-OR-9 gateway elimination which involved eliminating certain gateways in Oklahoma, Arkansas, and Texas.

4. Squaw had furnished counsel with information concerning shipments handled under involved authorities. Counsel was not able to put these in final form to submit with the initial application. Moreover, he was not able to prepare a verified statement with the required evidence to sustain applicant's burden of proof in gateway elimination in time to submit it with the application. Affidavits of two shippers were received by counsel on May 31, 1974, but it was counsel's decision not to submit them.

5. Quoting from the affidavit of counsel at page 2:

"I contemplated being able to promptly finalize a supporting statement and submit it along with the supporting shipper statements shortly after the filing of the application itself."

6. Thereafter, counsel relates his personal tragedy commencing June 13, 1974, in respect to his wife, and the eventual discovery and continued treatment of her for cancer through the remaining part of 1974.

7. He relates that he received two letters from the Commission in August and that such receipt propelled him into believing that the application was being processed; that he was not overly concerned about submission of the evidence in support of the application.

It should be reiterated that in the cover letter to Squaw's application of June 3, 1974, counsel for Squaw informed the Commission:

"As I understand it, these gateway elimination rules call for the submission of evidence by applicant at the time the application is filed. I am in the process of preparing such evidence and the same will be promptly filed when it is prepared. If there is any objection to this practice, I would appreciate someone with the Commission calling me collect."

The case law is replete that rehearings before administrative bodies are addressed to their discretion and only a clear abuse of said discretion will allow a reversal of their decision. U. S. v. Pierce Auto Lines, 327 U.S. 515 (1946); Northern Lines Merger Cases, 396 U.S. 491 (1970).

The Court acknowledges standards have been set up by the case law for remanding a matter to the Commission for reopening of proceedings. See Bowman Transportation v. Ark-Best Freight System, supra, at 295-296; Interstate Commerce Commission v. Jersey City, 322 U.S. 503 (1944); Cedar Rapids Steel Transportation, Inc. v. I.C.C., 391 F.Supp. 181 (D.C., N.D. Ia., 1975).

It is certain that the Squaw situation is not one of a new circumstance, a new trend, or a new fact discovered. See Interstate Commerce Commission v. Jersey City, supra, at 514. It is a request to reconsider the dismissal by one of many applicants who were caught up in a hurried race to the Commission's office and which onslaught evidently caused certain inadvertent errors by the Commission and certain inconsistent rulings. The evidence before this Court indicates that this was an application by a carrier whose offices were diligent in getting the required material to counsel, and that counsel failed to file it timely due to personal tragedy. It is true that the initial cover letter of counsel and the affidavit attached to the Petition for Reconsideration show there was no intention to meet the deadline on the 4th of June with all requisite evidence.

The Court, however, finds that, including, but not limited to, the lack of any response from the Commission in respect to his initial cover letter requesting a collect call from the Commission should things not be proper; two letters in August of 1974, from the Commission requesting additional information; and knowledge of the physical plight of his wife as early as June 13, 1974; constituted delaying, intervening facts in the record which added to the plight and delay of counsel.

Under the existing circumstances, this Court is not criticizing the Commission for its inconsistent actions; nor is it imposing blame on Squaw's counsel.

In looking at the respective postures of the parties, it is apparent that the only party hurt by the action of the Commission is Squaw. There is no showing that the Commission will suffer any harm by reconsidering the matter, nor are there any protestants, shown in the record, who will be adversely affected. The Court notes there are two supporting shippers' statements, M. W. Kellogg Company and Bethlehem Steel Corporation, which relate the detrimental effect and harm they would suffer should Squaw be forced to cease operations.

The Commission, as noted in the December 31, 1974, order denying reconsideration, promoted the idea that Squaw still has a viable alternative remedy in seeking a Certificate of Public Convenience and Necessity (49 CFR § 1100.247). Assuming arguendo, that such an alternative is available, such a remedy is not a counterpart with the gateway elimination procedure as to time and cost. As found in Gateway Elimination, 119 MC 530:

"The principal difference between such a gateway elimination application and the usual one will be that the former will be assigned priority and be determined as expeditiously as possible given the severe strains now upon our staff and budgetary resources."

The matter as presented is a case of first impression with reference to the procedures utilized in processing applications pursuant to the regulations. To read the regulations involved, 49 CFR 1065.1 et seq., one could not foresee the occurrences which have occurred in this case. Had Squaw been the only applicant to fail to meet the "all evidence" rule, or had all who had so failed been denied their application, this Court should possibly have a different view toward the dismissal of Squaw's Petition for Reconsideration by the Commission. However, all who had failed to submit timely all of the evidence were not denied their respective applications.

Unexpected, superseding problems encountered by counsel for Squaw, (as set forth above) aided in causing the delay. Additionally, the multitude of applications; the shortness of the time period provided; and the lack of a definite program to administer the applications caused inadvertent and inconsistent actions on behalf of the Commission. The ultimate cause and result, although unfortunate, can be attributed to no specific or single act by either party, but more to a number of occasions that combined and comingled to cause the situation now before this Court.

Mindful of the circumstances of all parties, attention is directed toward the thoughts of the Court in *James J. Williams, Inc. v. U.S.*, 241 F.Supp. 535 (USDC E.D. Wash., 1965) at 538:

"Administrative boards and commissions owe as much duty to so conduct their hearings and proceedings as to secure a just result as is the case in respect to proceedings in court."

The Williams Court, *supra*, continues by quoting from *Ford Motor Co. v. National Labor Relations Board*, 305 U.S. 364, 373 (1939):

"The purpose of the judicial review is consonant with that of the administrative proceeding itself, - - to secure a just result with a minimum of technical requirements'."

In discussing other jurisdictions' responses to 'just results' the Williams Court continues:

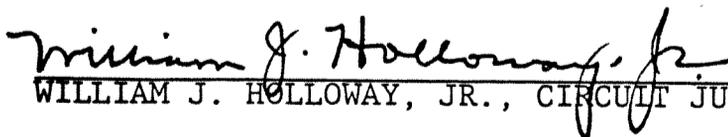
"This power to order a remand to an administrative body to enable that body to take into consideration oversights which may have crept into the decision of the board or commission by reason of mistake or inadvertence was recognized and exercised in Fleming v. Federal Communications Commission, 96 U.S.App. D.C. 223, 225 F.2d 523, 526 . . . 'These principles are not limited to cases in which an agency has made inadequate findings. They extend to cases where even without fault of the agency, the state of the record may preclude a 'just result.' The court further cited National Labor Relations Board v. Jones and Laughlin Co., 331 U.S. 416, 428 . . . , which stated the following: 'When circumstances do arise after the Board's order has been issued which may affect the propriety of enforcement of the order, the reviewing court has discretion to decide the matter itself or to remand it to the Board for further consideration.'"

After hearing all the evidence in this case; considering all of the briefs; affidavits; exhibits filed; the arguments of counsel, and considering the mitigating circumstances, the Court finds that the Commission should have granted Squaw a rehearing. The denial of a rehearing under the circumstances surrounding this case, as elicited at the trial, constituted an abuse of discretion by the Commission.

From all the evidence and circumstances surrounding this case, the Court finds that there was no showing of injury to the Commission; there was a strong showing of injury to the plaintiff Squaw Transit Company. Therefore, this matter should be remanded to the Commission for reconsideration in light of this opinion.

IT IS, THEREFORE, ORDERED that this case be remanded to the Interstate Commerce Commission with directions that the Petition for Reconsideration be granted in light of this opinion.

ENTERED this 24<sup>th</sup> day of October, 1975.

  
WILLIAM J. HOLLOWAY, JR., CIRCUIT JUDGE

  
ALLEN E. BARROW, CHIEF UNITED STATES  
DISTRICT JUDGE

H. DALE COOK, UNITED STATES DISTRICT JUDGE



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

ALMEDA SLOAN,

Plaintiff,

vs.

PEABODY COAL COMPANY,

Defendant.

)  
)  
) 75-C-168 ✓  
)  
)  
)  
)  
)  
)

**FILED**

OCT 23 1975 *g*

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

JUDGMENT

Based on the order entered in this cause this date,

IT IS, THEREFORE, ORDERED that judgment is hereby entered  
in favor of the defendant, Peabody Coal Company, and against  
the plaintiff, Almeda Sloan.

ENTERED this 23rd day of October, 1975.

*Cecilia E. Barron*

CHIEF UNITED STATES DISTRICT JUDGE

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

JAMES RAY HEAD, )  
)  
Plaintiff, )  
vs. )  
)  
)  
SOUTHWESTERN BELL TELEPHONE )  
COMPANY, a corporation, )  
)  
Defendant. )

75-C-116  
No. CT-73-736

FILED

OCT 23 1975

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

J U D G M E N T

This cause came on to be heard on motion of the Defendant to dismiss the complaint against Southwestern Bell Telephone Company for the reasons and upon the grounds that the Plaintiff's cause of action is barred by the statute of limitations, the Plaintiff, James Ray Head, appeared by and through his attorney, Terry L. Meltzer and confessed the motion to dismiss and conceded that the Plaintiff's cause of action is barred by the statute of limitations and the Court having been fully advised, it is

ORDERED, that Plaintiff's complaint <sup>and cause of action</sup> be and same ~~is~~ <sup>are</sup> hereby dismissed with prejudice and that judgment is granted in favor of the Defendant, Southwestern Bell Telephone Company.

Dated this 23 day of October, 1975.

*Allen E. Brown*

United States District Judge

FILED

OCT 22 1975

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

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

LAVERNE BUTTERFIELD, )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 CASPAR WEINBERGER, Secretary )  
 of Health, Education, and )  
 Welfare, )  
 )  
 Defendant. )

No. CIVIL ACTION 75-C-202

ORDER REMANDING CASE

This matter coming on for hearing on the Motion to Remand filed herein by the defendant and the Reply to Motion to Remand filed herein by the plaintiff in which the plaintiff admits that the defendant has the right under the law (Social Security Act as amended 42 U.S.C. 405 (g)) to have the case remanded to the Secretary for further action by the Secretary.

It is therefore the order of the Court that the above entitled case and the same is hereby remanded to the Secretary of Health, Education, and Welfare, for further administrative action.

Dated this 2nd day of October, 1975.

Allen E. Burrow  
DISTRICT JUDGE

Approved:

Carl W. Longmire  
Attorney for Plaintiff

Robert R. Smith  
Attorney for Defendant.

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

AIR-EXEC., INC., a  
Colorado corporation,  
  
Plaintiff,  
  
-vs-  
  
LARRY L. LEFFINGWELL,  
  
Defendant.

FILED

OCT 22 1975

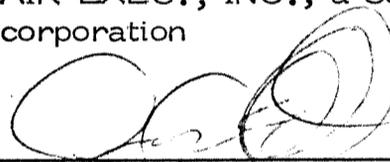
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 75-C-213

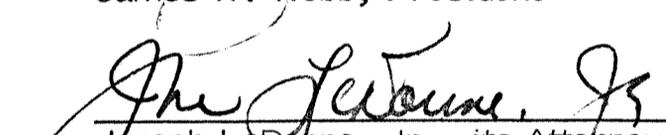
STIPULATION AND ORDER

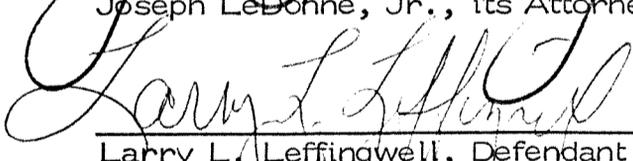
It is hereby stipulated by Air-Exec, Inc., a Colorado corporation,  
its Attorney, Joseph LeDonne, Jr., Larry L. Leffingwell and his Attorney,  
J. Peter Messler, that the above entitled action be dismissed with prejudice,  
all at the cost of the Plaintiff herein.

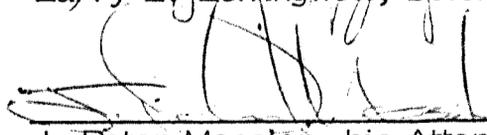
AIR-EXEC., INC., a Colorado  
corporation

By: 

James W. Webb, President

  
Joseph LeDonne, Jr., its Attorney

  
Larry L. Leffingwell, Defendant

  
J. Peter Messler, his Attorney

ORDER

On the above Stipulation filed herein on October 21<sup>st</sup>, 1975,  
it is so ordered.

Dated October 21<sup>st</sup>, 1975.



Judge of the District Court of the  
United States

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

FILED  
OCT 21 1975

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

MARVIN LAMBERT, individually, )  
ESTELLE LAMBERT, individually, )  
and ESTELLE LAMBERT as legal )  
guardian of DANIEL RAY McPHERSON, )  
Plaintiffs, )  
vs. )  
ERNEST C. HILL, )  
Defendant. )

No. CIV 75-C-123 ✓

ORDER OF DISMISSAL

ON this 21 day of October 1975, upon the written application of the parties for A Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint 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 defendant be and the same hereby is dismissed with prejudice to any future action.

IT IS FURTHER ORDERED AND DECREED that said, Estelle Lambert, as the natural mother and next friend of Daniel Ray McPherson, a minor, is appointed legal guardian of said minor and as such is ordered and directed to protect said funds received on behalf of said minor in all respects as provided by law; that said guardian is ordered to deposit ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00) of said funds in the registry of this Court, said monies of be withdrawn only upon Order of this Court.

Floyd L. Walker  
Floyd L. Walker, attorney for  
the plaintiffs

Alfred B. Knight  
Alfred B. Knight, attorney for  
the defendant

Allen E. Benson  
JUDGE, DISTRICT COURT OF THE UNITED  
STATES, NORTHERN DISTRICT OF OKLAHOMA

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

STATE MUTUAL LIFE ASSURANCE )  
COMPANY OF AMERICA, a )  
corporation, )  
 )  
Plaintiff )  
 )  
vs. )  
 )  
HAROLD COBY, MARY JANE MOTE, )  
LEWIS S. COBY, CECIL I. SEXTON, )  
BANK OF CARTHAGE, as Executor )  
of the Estate of William Lester )  
Coby, Deceased, FIRST BAPTIST )  
CHURCH OF CARTHAGE, MISSOURI, )  
 )  
Defendants )

NO. 74-C-591 ✓

FILED  
OCT 20 1975  
HAROLD COBY  
U.S. DISTRICT COURT

JUDGMENT

NOW on this 20<sup>th</sup> day of October, 1975, there comes on for hearing the applications of the Defendants herein for entry of an agreed Judgment. Defendant, Harold Coby's attorney, Darell R. Matlock, Jr., appeared and presented to the Court an agreed stipulation enter into by all the named Defendants. The stipulation is attached hereto and made a part of this Judgment. The Court after reviewing the agreed to stipulation of the Defendants, the pleadings herein, hearing statements by Defendant, Harold Coby's counsel, and being fully advised in the premises, enters the following judgment:

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the agreed to stipulation of the Defendants attached hereto is a fair and equitable settlement of the issues in this case and judgment is hereby entered in the amount of Six Hundred Twenty-Four and <sup>17</sup>~~36~~/100 Dollars (\$624.<sup>19</sup>~~36~~) for each of the following: Harold Coby; Mary Jane Mote; Lewis S. Coby; Cecil A. Sexton; and the First Baptist Church of Carthage, Missouri, to be paid from the funds paid into Court by the Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that Lewis S. Coby is to be reimbursed for funeral expenses for William Lester Coby, deceased, in the amount of One Thousand Seven Hundred

Dollars (\$1,700.00), to be paid from the funds paid into Court  
by the Plaintiff.

  
\_\_\_\_\_  
JUDGE OF THE UNITED STATES  
DISTRICT COURT

STATE MUTUAL LIFE ASSURANCE  
COMPANY OF AMERICA, Plaintiff

VS.

HAROLD COBY, MARY JANE MOTE,  
LEWIS S. COBY, CECIL I. SEXTON,  
BANK OF CARTHAGE, as Executor  
of the Estate of William Lester  
Coby, Deceased, FIRST BAPTIST  
CHURCH OF CARTHAGE, MISSOURI,  
Defendants

UNITED STATES DISTRICT

COURT FOR THE NORTHERN

DISTRICT OF OKLAHOMA

AGREED STIPULATION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the Defendants in the above styled and numbered proceeding and stipulate as follows:

I.

That the balance of money left with the Court after the Interpleader's attorney's fees were paid should be divided as follows:

1. \$1,700.00 should be returned to Lewis S. Coby, for the expenses he personally incurred in paying for the funeral of William Lester Coby, Deceased.

2. The remaining monies will be divided equally between Harold Coby, Mary Jane Mote, Lewis S. Coby, Cecil I. Sexton and the First Baptist Church of Carthage, Missouri.

II.

That the Clerk of the United States District Court for the Northern District of Oklahoma has our consent to prepare an order in accordance with the above stipulation.

WHEREFORE, these Defendants pray that this Court accept this stipulation herein, that an order be entered in conformity with this stipulation, and that the Defendants be granted such other and further relief to which they might be entitled.

*Harold S. Coby*  
HAROLD COBY

*Mary Jane Mote*  
MARY JANE MOTE

Lewis S. Coby  
LEWIS S. COBY

Cecil I. Sexton  
CECIL I. SEXTON

BANK OF CARTHAGE, as Executor of the  
Estate of William Lester Coby, Deceased

By [Signature]

FIRST BAPTIST CHURCH OF CARTHAGE,  
MISSOURI

By [Signature]  
President and Chairman Board of Trustees

STATE OF Missouri  
COUNTY OF Saline

BEFORE ME, the undersigned authority, on this day personally  
appeared HAROLD COBY, known to me to be the person whose name is  
subscribed to the annexed or foregoing instrument, and acknowledged  
to me that he executed the same for the purposes and consideration  
therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 11th day  
of July, 1975.

*My Commission expires:  
July 29, 1978*

[Signature]  
Notary Public, Saline County,

STATE OF Ohio  
COUNTY OF Deer

BEFORE ME, the undersigned authority, on this day personally  
appeared MARY JANE MOTE, known to me to be the person whose name is  
subscribed to the annexed or foregoing instrument, and acknowledged  
to me that she executed the same for the purposes and consideration  
therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 12 day  
of September, 1975.

[Signature]  
Notary Public, Deer County,

STATE OF TEXAS  
COUNTY OF Collin

RICHARD E. HOLE II, Attorney At Law  
Notary Public - State of Ohio  
My Commission has no expiration date  
Section 147.03 R. C.

BEFORE ME, the undersigned authority, on this day personally  
appeared LEWIS S. COBY, known to me to be the person whose name is  
subscribed to the annexed or foregoing instrument, and acknowledged  
to me that he executed the same for the purposes and consideration  
therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 19 day  
of July, 1975.

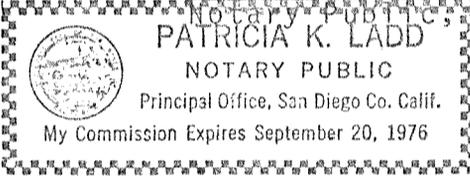
Howard Shapiro  
Notary Public, Collin County, TEXAS

STATE OF California  
COUNTY OF San Diego

BEFORE ME, the undersigned authority, on this day personally  
appeared CECIL I. SEXTON, known to me to be the person whose name is  
subscribed to the annexed or foregoing instrument, and acknowledged  
to me that she executed the same for the purposes and consideration  
therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 27th day  
of June, 1975.

Patricia K. Ladd  
Notary Public, San Diego County,  
STATE OF MISSOURI  
COUNTY OF JASPER



BEFORE ME, the undersigned authority, on this day personally  
appeared C. R. Carter, Exec. Vice Pres. & Trust  
Officer  
of the BANK OF CARTHAGE, a corporation, known to me to be the person  
whose name is subscribed to the foregoing instrument, and acknow-  
ledged to me that he executed the same for the purposes and consid-  
eration therein expressed, in the capacity therein stated and as the  
act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 7 day  
of July, 1975.

My Commission Exp.: 6-23-78

Levin M. Hoyle  
Notary Public, Jasper County,

STATE OF Missouri  
COUNTY OF Jasper

BEFORE ME, the undersigned authority, on this day personally  
appeared Carroll D. Hendrickson, President and Chairman of  
Board of Trustees  
of the FIRST BAPTIST CHURCH OF CARTHAGE, MISSOURI, known to me to be  
the person whose name is subscribed to the foregoing instrument, and  
acknowledged to me that he executed the same for the purposes and  
consideration therein expressed, in the capacity therein stated and  
as the act and deed of said church.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 7<sup>th</sup> day  
of July, 1975.

My Commission  
Expires February 1976

Robert R. Burkhead  
Notary Public, WASHER County,



This order is made and entered on this 20<sup>th</sup> day of October,  
1975.

1st/4th Dale Cook  
JUDGE OF THE UNITED STATES DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:

THOMAS H. FLEEGER, Plaintiff

BY Richard T. Sonberg  
Richard T. Sonberg, his attorney

GENERAL INSURANCE COMPANY OF AMERICA,  
a corporation

BY Bert McElroy  
Bert McElroy, its attorney

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

MELVIN McDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 JAMES SPENCER LOVE, JR., )  
 )  
 Defendant. )

74-C-306

FILED  
OCT 17 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

Upon consideration of the plaintiff's filing his Dismissal with Prejudice on the 14th day of October, 1975, and upon reviewing the file in this matter and determining that the defendant has not filed a counter-claim, cross-claim or third party claim, it is hereby ORDERED that this action be and is hereby dismissed with prejudice.

Dated this 16<sup>th</sup> day of October, 1975.

J. H. Dale Cook  
United States District Judge

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

CHARLES LESLIE BARNHART, )  
#86657-132, )  
 )  
Petitioner, )  
 )  
v. ) NO. 75-C-468  
 )  
WARDEN, ET AL., )  
 )  
Respondents. )

FILED  
OCT 17 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

The above-named petitioner, a prisoner in the United States Penitentiary at Leavenworth, Kansas, has filed herein a Petition for Writ of Habeas Corpus attacking the validity of the judgment and sentence of this court in Case No. 71-CR-19. This court has no jurisdiction to issue a writ of habeas corpus because the petitioner's exclusive remedy is a motion to vacate his sentence pursuant to the provisions of 28 U.S.C.A. § 2255. The error of the petitioner in seeking habeas corpus relief, however, may be disregarded and the petition treated as if it were a motion made under § 2255 since this is the sentencing court. Ruiz v. United States, 328 F.2d 56 (CA9 1964). See also Andrews v. United States, 373 U.S. 334, 83 S.Ct. 1236, 10 L.Ed.2d 383 (1963) and Scarponi v. United States, 313 F.2d 950 (CA10 1963).

The court has examined the files and records of this court in petitioner's criminal case and the files and records of a prior 2255 proceeding in Case No. 73-C-79. It appears therefrom that after a trial by jury in which the petitioner was represented by privately retained counsel the petitioner was convicted of the offense of knowingly transporting in interstate commerce a falsely made security in violation of 18 U.S.C. § 2314. He was sentenced to 10 years imprisonment on February 17, 1971. His conviction was affirmed on appeal and a subsequent petition for rehearing was denied. United States v. Barnhart, 458 F.2d 1075 (CA10 1972). Thereafter, in Case No. 73-C-79 the petitioner contended the trial court had erred in failing to order a presentence report pursuant to Rule 32

Federal Rules of Criminal Procedure; that it was error for the government to cross-examine him about prior convictions; that it was error to admit evidence of other crimes. The trial court denied relief and was again affirmed on appeal.

Out of a myriad of bald conclusions, the petitioner's contentions essentially appear to be that there was a fatal variance between the date of the offense as alleged in the indictment and the proof, the evidence was insufficient, and he was denied the effective assistance of counsel. All are without merit.

It is the general rule that where time is not an essential element of the offense an error in the date the offense was allegedly committed may be disregarded so long as limitations are not involved. United States v. Davis, 436 F.2d 679 (CA10 1971). When the phrase "on or about" is used in an indictment in connection with a specific date which is intended to indicate the time the offense was committed, if the prosecution proves the offense was committed within a few weeks of the date, the proof will be deemed sufficient to hold defendant responsible for the charge. Kokotan v. United States, 408 F.2d 1134 (CA10 1969). Further, variance between allegations of an indictment and proof is a matter of error reviewable only on direct appeal and may not be raised in subsequent motions to vacate sentences under § 2255. Bram v. United States, 302 F.2d 58 (CA8 1962). See also Williams v. Rundle, 321 F.Supp. 412 (E.D. Pa. 1970).

The petitioner's claim that the evidence was insufficient to convict him is not subject to collateral review. Curry v. United States, 292 F.2d 576 (CA10 1961). In Lorraine v. United States, 444 F.2d 1, 2 (CA10 1971) it was pointed out:

"The question is not whether the evidence was sufficient, in a collateral attack, but whether the verdict of guilty was so devoid of evidentiary support as to raise a due process issue."

The Court of Appeals has already determined that there was ample evidentiary support in considering petitioner's direct appeal.

The petitioner's condemnation of counsel also fails to entitle him to relief. He criticized counsel for failing to cross-examine prosecution witnesses. The same claim of inadequate

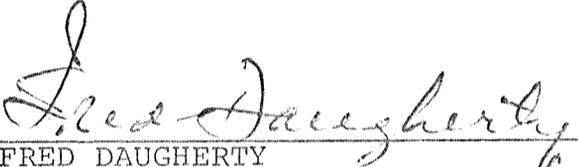
representation was included in his direct appeal. See p. 4 Appellant's Brief and p. 18 Appellant's Brief on Petition for Rehearing. The appellate court rejected his contention. United States v. Barnhart, 458 F.2d at 1076. The determination of this issue adversely to the petitioner on direct appeal precludes further review on collateral attack. Baca v. United States, 383 F.2d 154 (CA10 1967).

Since the application of the petitioner together with the files and records in his criminal case and the prior proceedings in this court show that the petitioner is entitled to no relief and there are no factual issues an evidentiary hearing is not required. Semet v. United States, 369 F.2d 90 (CA10 1966).

Accordingly, the petitioner's application for relief herein will be denied.

IT IS SO ORDERED.

Dated this 17<sup>th</sup> day of October, 1975.

  
FRED DAUGHERTY  
UNITED STATES DISTRICT JUDGE

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

FILED  
OCT 16 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

OPAL J. BANNON, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 BLAIS RAYMOND CAFFO, )  
 )  
 Defendant. )

NO. 75-C-209

ORDER OF DISMISSAL

ON this 14th day of October, 1975, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint 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 defendant be and the same hereby is dismissed with prejudice to any future action.

Jack C. Silver  
JUDGE, DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVALS:

VURAL L. GILLEY  
Vural L. Gilley  
Attorney for the Plaintiff

RAY H. WILBURN  
Ray H. Wilburn  
Attorney for the Defendant

FILED

OCT 15 1975

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

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

POLLY FOWLER, As Administratrix of )  
the estate of her husband, WINTON )  
J. FOWLER, Deceased, and POLLY FOWLER, )  
individually, on her own behalf )  
and on behalf of the minor children of )  
Winton J. Fowler, Deceased, )  
CLAYTON J. FOWLER, II., GREGORY )  
WYNN FOWLER, and KIM MARIE FOWLER, ) 72-C-300  
Plaintiffs, )  
vs. )  
AMOCO PRODUCTION COMPANY, Formerly )  
Pan American Petroleum Corporation, )  
a foreign corporation; and )  
COMMERCIAL SOLVENTS CORPORATION, )  
a foreign corporation, )  
Defendants. )

ORDER SUSTAINING PLAINTIFFS' APPLICATION FOR  
PERMISSION TO DISMISS WITHOUT  
PREJUDICE

The Court has for consideration the Application for Permission to Dismiss Without Prejudice filed by the plaintiffs, the Brief in Response to Application of Plaintiff for Permission to Dismiss Without Prejudice filed by the defendant, Commercial Solvents Corporation, and, having carefully perused the entire file, and, being fully advised in the premises, finds:

In its response, the Defendant, Commercial Solvents Corporation, prays that said application be denied, with the further proviso that "if such be the intention of the Court to grant it, that a hearing date be fixed that evidence be introduced as to the amount the defendant should be awarded for costs and attorney's fees".

In this connection attention is called to Rule 14(a) of the Rules of the United States District Court for the Northern District of Oklahoma, which provides, in part:

"No answer brief is required nor is oral argument necessary unless requested by the Court."

The Court, will, therefore, deny Commercial Solvents Corporation's request for oral hearing and argument.

The Court will now consider the Application of Plaintiffs to Dismiss Without Prejudice.

Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, the Court will grant Plaintiffs' Application to Dismiss Without Prejudice on the following condition.

That within ten (10) days from this date, plaintiffs pay to the attorneys for Commercial Solvents Corporation the sum of One Thousand and no/100 (\$1,000.00) Dollars, to be considered as payment of costs in this matter.

IT IS, THEREFORE, ORDERED that Commercial Solvents Corporation's request for oral argument and hearing be and the same is hereby denied.

IT IS FURTHER ORDERED that Plaintiffs' Application to Dismiss Without Prejudice be and the same is hereby granted, conditioned upon plaintiffs paying to defendant's attorneys the sum of One Thousand and no/100 (\$1,000.00) Dollars within ten (10) days from this date. Upon receipt of such payment this cause of action and complaint are ORDERED dismissed without prejudice.

ENTERED this 15<sup>th</sup> day of October, 1975.



---

CHIEF UNITED STATES DISTRICT JUDGE

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

BRYAN KELLY ROGERS,  
a minor, by and through his  
father and next friend,  
GARY L. ROGERS,

Plaintiff,

vs.

VICTOR STANZEL CO. and  
OTASCO STORES, a division  
of McCORRY CORPORATION,

Defendants.

No. 74-C-322

FILED

OCT 15 1975

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

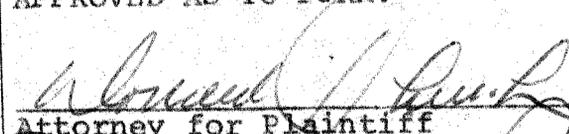
JOURNAL ENTRY OF JUDGMENT

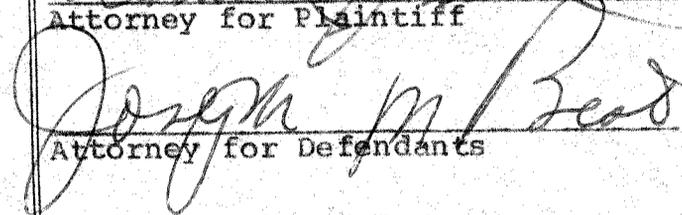
This cause came on to be heard on this 15<sup>th</sup> day of  
October, 1975, plaintiff appearing in person and by his attorney,  
Don Church, the defendants appearing by their attorney, Joseph  
M. Best, and both parties announcing ready for trial and a  
jury being waived, evidence was introduced, and the Court  
being fully advised on consideration finds that plaintiff has  
sustained the allegations of his Petition and is entitled  
to judgment accordingly.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the  
Court that the plaintiff have and recover of said defendants  
the sum of \$20,000.00, and for his costs herein expended.

  
JUDGE

APPROVED AS TO FORM:

  
Attorney for Plaintiff

  
Attorney for Defendants

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

MELVIN McDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 J. S. LOVE & COMPANY, INC., )  
 et al., )  
 )  
 Defendants. )

71-C-259 **FILED**  
**OCT 15 1975**  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

Upon consideration of the Stipulation by and between the plaintiff and the defendants Dudley D. Morgan, Jr., and A. C. Hays, it is this 15<sup>th</sup> day of October 1975, ORDERED that:

1. The above-captioned <sup>cause of</sup> action <sup>and complaint</sup> insofar as it is brought against the defendants Dudley D. Morgan, Jr., and A. C. Hays shall be and hereby <sup>are</sup> ~~is~~ dismissed, with prejudice;

2. The clerk shall not tax the plaintiff or said defendants for each other's costs.

  
United States District Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America, )  
 )  
 Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 73-C-296  
 )  
 27.50 Acres of Land, More or ) Tract No. 1344M  
 Less, Situate in Nowata County, )  
 State of Oklahoma, and Zella )  
 Lois Reed, et al., and )  
 Unknown Owners, )  
 )  
 Defendants. )

FILED

OCT 14 1975

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

J U D G M E N T

1.

NOW, on this 14<sup>th</sup> day of October, 1975, 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 9, 1975, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds that:

2.

This judgment applies to the entire estate taken in Tract No. 1344M, as such estate and tract are described in the Amended Complaint filed in this case.

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 tract.

5.

The Acts of Congress set out in paragraph 2 of the Amended Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on September 4,

1973, the United States of America filed its Declaration of Taking of a certain estate in such tract of land, and on August 23, 1974 filed an Amendment to Declaration of Taking, and title to the estate described in such Amendment should be vested in the United States of America, as of the date of filing such Amendment.

6.

Simultaneously with filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on June 9, 1975, is accepted and adopted as a finding of fact as to subject tract. The amount of just compensation as to the estate taken in subject tract as fixed by the Commission is set out below in paragraph 12.

8.

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 Commission and the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 12.

9.

The defendants named in paragraph 12 as owners of the estate taken in subject tract are the only defendants asserting any interest in such estate. All other defendants having either disclaimed or defaulted, the named defendants were (as of the date of taking) the owners of the estate condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Amended Complaint filed herein, and such property, to the extent of the estate described in such Amended Complaint is condemned, and title thereto is vested in the United States of America, as of August 23, 1974, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that 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 12, and the right to receive the just compensation for such estate is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on June 9, 1975, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 1344M

Owners:

Zella Lois Reed -----	1/2	
The Prospect Company -----	1/4	
Ethel B. Johnson -----	1/4	
Award of just compensation -----	\$412.50	\$412.50
Deposited as estimated compensation -	\$120.00	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$412.50
Deposit deficiency -----	\$292.50	

---

13.

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 tract as shown in paragraph 12, in the total amount of \$292.50, together with interest on such deficiency at the rate of 6% per annum from August 23, 1974, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tract in this civil action.

After such deficiency deposit has been made, the Clerk of this Court shall disburse the entire sum then on deposit for the subject tract to the owners thereof, paying each owner that part of the total deposit as indicated by the fraction following such owner's name in paragraph 12.

/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

FILED

OCT 14 1975

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

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 74-C-568
	)	
7.00 Acres of Land, More	)	Tracts Nos. 2302ME-1 and
or Less, Situate in Osage	)	and 2302ME-2
County, State of Oklahoma,	)	
and Osage Tribe of Indians,	)	(All interests in estate taken)
	)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #317-496)

J U D G M E N T

1.

NOW, on this 14<sup>th</sup> day of October, 1975, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.

This judgment applies to the entire estate condemned in the tracts listed in the caption hereof, as such estate and tracts are described in the Complaint filed in this action.

3.

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

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of 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 estate described in said Complaint. Pursuant thereto, on December 13,

1974, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

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

7.

On the date of taking in this action, the owner of the estate taken in subject property was the defendant whose name is shown below in paragraph 12. Such named defendant is the only person asserting any interest in the estate taken in such tracts. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject property and the amount fixed by the Stipulation As To Just Compensation; and the amount of such deficiency should be deposited for the benefit of the owner. Such deficiency is set out below in paragraph 12.

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 property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint, is condemned, and title to such described estate is vested in the United States of America as of December 13, 1974, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking the owner of the estate condemned herein in subject property was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation for the estate taken herein in this property is vested in the party so named.

12.

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

TRACTS NOS. 2302ME-1 and 2302ME-2

OWNER: Osage Tribe of INDIANS

Award of just compensation pursuant to Stipulation -----	\$315.00	\$315.00
Deposited as estimated compensation -----	\$131.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		<u>\$315.00</u>
Deposit deficiency -----	\$184.00	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court, in this Civil Action, to the credit of subject property,

the deficiency sum of \$184.00, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$315.00.

/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

FILED  
OCT 10 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

United States of America, )  
)  
Plaintiff, )  
)  
vs. ) CIVIL ACTION NO. 75-C-148  
)  
)  
4.20 Acres of Land, More or ) Tracts Nos. 304, 304E-1  
Less, Situate in Washington ) and 304E-2  
County, State of Oklahoma, )  
and Charles Abner Stratton, )  
et al., and Unknown Owners, ) (Included in D.T. Filed  
) in Master File #400-7)  
Defendants. )

J U D G M E N T

1.

NOW, on this 10<sup>th</sup> day of October, 1975, 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 September 25, 1975, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds that:

2.

This judgment applies to the entire estates condemned in Tracts Nos. 304, 304E-1 and 304E-2, as such estates and tracts 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.

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 April 16,

1975, the United States of America filed its Declaration of Taking of certain estates in such tracts of land, and title to such property should be vested in the United States of America as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the estates taken in the subject tracts a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on September 25, 1975, is accepted and adopted as findings of fact as to subject tracts. The amount of just compensation for the estates taken in the subject tracts, as fixed by the Commission, is set out below in paragraph 12.

8.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the estates taken in subject tracts and the amount fixed by the Commission and the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 12.

9.

The defendants named in paragraph 12 as owners of the estates taken in subject tracts are the only defendants asserting any interest in such estates. All other defendants having either disclaimed or defaulted, the named defendants were (as of the date of taking) the owners of the estates condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tracts, as such tracts are

described in the Complaint filed herein, and such property, to the extent of the estates described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of April 16, 1975, and all defendants herein and all other persons are forever barred from asserting any claim to such estates.

11.

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

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on September 25, 1975, 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:

TRACTS NOS. 304, 304E-1 and 304E-2

Owners:

Charles Abner Stratton and  
Hazel Monk Stratton

Award of just compensation pursuant to Commissioners' Report -----	\$4,000.00	\$4,000.00
Deposited as estimated compensation	\$2,555.00	
Disbursed to owners -----		<u>2,555.00</u>
Balance due to owners -----		\$1,445.00 plus interest
Deposit deficiency -----	\$1,445.00	

13.

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 in paragraph 12, in the total amount

of \$1,445.00, together with interest on such deficiency at the rate of 6% per annum from April 16, 1975, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tracts in this civil action.

After such deficiency deposit has been made, the Clerk of this Court shall disburse the entire sum then on deposit for the subject tracts, jointly,

To - Charles Abner Stratton and  
Hazel Monk Stratton.

/s/ H. Dale Cook

---

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

FILED

OCT 10 1975

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

ROBERT L. CANNON, ET AL, )  
 )  
 Plaintiffs )  
 )  
 vs. )  
 )  
 TOM N. KELTNER, ET AL, )  
 )  
 Defendants )

ORIGINAL

NO. 75-C-412 ✓

COPY

ORIGINAL

ORDER

This matter coming to be heard before H. Dale Cook, United States District Judge for the Northern District of Oklahoma, and the plaintiffs appearing by their attorney, David Sanders, and the defendants, Tom N. Keltner and Spencer W. Lynn, appearing on behalf of themselves and David Sugarman appearing on behalf of the defendants, Dennis Johnson, Ron T. Rauz, Frank Childs, and Johnie Rains. And the Court thereupon heard argument from both sides at the conclusion of which the Court makes the following finds of fact and conclusion of law.

THE COURT FINDS that this is a case brought by the plaintiffs, alleging ownership of property and alleging that rights of plaintiff have been violated, under Title 42, Section 1983, which provides that every person who, under color of any statute, ordinance, regulation, custom or usage of any state or territory, subjects or causes to be subjected any citizen of the United States or any person within the jurisdiction thereof to be deprived of any rights, privileges or immunities secured by the Constitution laws, shall be liable to the other party injured in an action of lawsuit or equity or other proceedings for redress.

THE COURT FURTHER FINDS that Section 1985 is invoked as to the second cause of action, which deals with the same general deprivations but also deals with conspiracies to deprive.

THE COURT FURTHER FINDS that both causes of action and the substantive rights under those causes of action are actually not before the Court at this time. What's before the Court at this time is an application by the plaintiff for a preliminary injunction.

THE COURT FURTHER FINDS that from the evidence and statements of counsel, that there is property here for which the plaintiff, Robert L. Cannon, and Eunice Cannon, his wife, husband and wife, held two mortgages and bought in a third, and so to both properties here subject to this litigation, they held first mortgages upon the property.

THE COURT FURTHER FINDS that there is no claim or assertion that the use of the property, from 1971 to present, is not in furtherance of that highway program. In other words, it's not a diversion or use that is foreign to the purposes and authorizations that have been made by the State of Oklahoma and authorized by the Highway Department.

THE COURT FURTHER FINDS that this is a tangled situation in regard to the litigation, but there is also no question but there seems to be an adequate amount of litigation now pending in regard to the property and the rights therein.

THE COURT FURTHER FINDS that the matter before the Court at this time is an application for preliminary injunction. Various elements must be determined by the Court before a preliminary injunction can be entered. First, it should be considered as to whether there is other adequate remedy at law. It would appear that there are other cases pending. Mr. Sanders takes the position that those cases pending in the Supreme Court would not be determinative of the particular rights, and he may be very well correct in that, but the Court does not understand why there would not be an appropriate remedy at law in the state courts to enforce

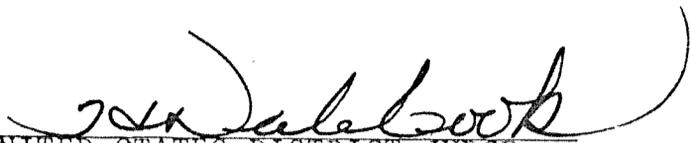
a final judgment, if there be one, as he states, to reacquire possession.

IN THE OPINION OF THE COURT maintenance of the status quo is one of the objectives of preliminary injunctions, to prevent irreparable damage or injury, pending the determination of the rights of parties. In this particular instance, it would appear as though the status quo has been that the state has had possession, and has had possession the majority of the time if not the preponderance of the time since 1971; it is being and has been for some time used as a fly-by or pass road during the construction period, and so the status quo would be such that that could not be determined.

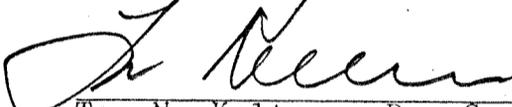
THE COURT FURTHER FINDS that if not now, then at some appropriate time the State of Oklahoma will be allowed to go forward with the construction and complete its project. The Court feels that if the state is restrained at this time -- and the State of Oklahoma is not a party to this action- then it would be the state whose costs would be increased if a continuation of the on going project is interrupted. Therefore, the Court feels that to so restrain the State of Oklahoma would be adverse to the public interest.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, by the Court that the application for preliminary injunction will be denied. The denial of the application for injunction in no way affects the rights of the plaintiff to proceed in this case for under the statutes it may very well be determined in the future this plaintiff is entitled to judgment against these defendants if they are guilty of violating plaintiff's constitutional rights but it seems clear to the Court here that this particular project is a project of the State of Oklahoma and is a project that should not be enjoined. To order such an injunction would have the effect

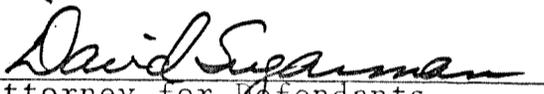
of enjoining the State and Highway Department from pursuing a legitimate highway project.

  
UNITED STATES DISTRICT JUDGE

  
Attorney for Plaintiff

  
Tom N. Keltner, Pro Se

  
Spencer W. Lynn, Pro Se

  
Attorney for Defendants  
Dennis Johnson, Ron T. Rauz,  
Frank Childs, and Johnie Rains

FILED

OCT 9 - 1975

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

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

IN THE MATTER OF:	)	In Proceedings for
	)	The Reorganization
GUARANTEE ACCEPTANCE CORPORATION,	)	Of Corporations
	)	
Debtor.	)	No. 75-B-941 ✓

ORDER AMENDING ORDER DISMISSING PETITION

On Motion of Debtor, Guarantee Acceptance Corporation, to amend Order Dismissing Petition filed in this cause on October 6, 1975, the Court finds that said Order should be amended as prayed.

IT IS BY THE COURT, THEREFORE, ORDERED That the Order of October 6, 1975, dismissing Debtor's Petition be and the same is hereby amended as follows:

ORDERED that the Petition of Guarantee Acceptance Corporation, the above named Debtor, be and it is hereby dismissed; without prejudice, however, to the right of the Debtor to file a Petition for Reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Central District of California.

  
H. DALE COOK,  
United States District Judge

FILED

OCT 8 1975

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

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 )  
 THE LANDSCAPERS, INC., )  
 CARL R. MILLER and MAE MARIE )  
 MILLER, husband and wife, )  
 HAROLD O. SCOTT and SUE ELLEN )  
 SCOTT, husband and wife, )  
 HAROLD D. STEPHENS and SADIE A. )  
 STEPHENS, husband and wife, )  
 SOUTHERN LUMBER COMPANY, )  
 EASTERN RAINBIRD SALES, INC., )  
 OKLAHOMA NATURAL GAS COMPANY, a )  
 Corporation, HILLSIDE NURSERY, )  
 JATASCO, INC., TEALE and )  
 COMPANY, ANCHOR CONCRETE )  
 COMPANY, NORTEX WHOLESALE )  
 NURSERY, INC., COUNTY TREASURER, )  
 Tulsa County, Oklahoma and BOARD )  
 OF COUNTY COMMISSIONERS, Tulsa )  
 County, Oklahoma, )  
 )  
 Defendants. )

CIVIL ACTION NO. 75-C-48

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 8th  
 day of October, 1975, the Plaintiff appearing by Robert  
 P. Santee, Assistant United States Attorney, the Defendants,  
 County Treasurer, Tulsa County, and Board of County Commissioners,  
 Tulsa County, appearing by their attorney, Gary J. Summerfield,  
 Assistant District Attorney, having filed their Answers herein  
 on February 24, 1975; the Defendant, Teale and Company, appearing  
 by its attorney, James L. Sneed, having filed its Answer and  
 Counterclaim herein on February 24, 1975; the Defendant, Oklahoma  
 Natural Gas Company, appearing by its attorney, John M. Sharp,  
 having filed its Answer herein on March 11, 1975; the Defendant,  
 Nortex Wholesale Nursery, Inc., appearing by its attorney,  
 Russell H. Harbaugh, Jr., having filed its Answer herein on  
 March 17, 1975; the Defendant, Hillside Nursery, appearing by  
 its attorney, Richard W. Riddle, having filed its Disclaimer

herein on March 5, 1975; and the Defendants, The Landscapers, Inc., Carl R. Miller, Mae Marie Miller, Harold O. Scott, Sue Ellen Scott, Harold D. Stephens, Sadie A. Stephens, Southern Lumber Company, Eastern Rainbird Sales, Inc., Jatasco, Inc., and Anchor Concrete Company, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, County Treasurer, Tulsa County, and Board of County Commissioners, Tulsa County, were served with Summons and Complaint on February 5, 1975; that Defendants, Harold O. Scott, Sue Ellen Scott, Southern Lumber Company, Oklahoma Natural Gas Company, Jatasco, Inc., Teale and Company, and Anchor Concrete Company, were served with Summons and Complaint on February 6, 1975; that Defendants, The Landscapers, Inc., Carl R. Miller, Mae Marie Miller, Harold D. Stephens, and Sadie A. Stephens, were served with Summons and Complaint on February 7, 1975; that Defendant, Nortex Wholesale Nursery, Inc., was served with Summons and Complaint on February 10, 1975; that Defendant, Eastern Rainbird Sales, Inc., was served with Summons and Complaint on February 12, 1975; and that Defendant, Hillside Nursery, was served with Summons and Complaint on February 18, 1975, all as appears from the United States Marshal's Service herein.

An entry of default has been entered against Defendants, The Landscapers, Inc., Carl R. Miller, Mae Marie Miller, Harold O. Scott, Sue Ellen Scott, Harold D. Stephens, Sadie A. Stephens, Southern Lumber Company, Eastern Rainbird Sales, Inc., Jatasco, Inc., and Anchor Concrete Company, for failure to plead or otherwise defend.

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

The South 330 feet of Lot One (1), (NW/4) of Section Thirty (30), Township Eighteen (18) North, Range Thirteen (13), LESS the East 660 feet thereof.

THAT the Defendant, The Landscapers, Inc., did, on the 19th day of February, 1971, execute and deliver to the Bank of Commerce in Tulsa, Oklahoma, its mortgage and promissory note in the sum of \$60,000.00 with 9 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

THAT the Defendants, Carl R. Miller, Mae Marie Miller, Harold O. Scott, Sue Ellen Scott, Harold D. Stephens and Sadie A. Stephens, guaranteed said promissory note aforesaid.

THAT said guaranteed promissory note and mortgage was assigned to the Small Business Administration by the Bank of Commerce in Tulsa, Oklahoma, on January 31, 1973.

The Court further finds that the Defendants, The Landscapers, Inc., Carl R. Miller, Mae Marie Miller, Harold O. Scott, Sue Ellen Scott, Harold D. Stephens and Sadie A. Stephens, made default under the terms of the aforesaid promissory 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 \$36,819.73 as unpaid principal, plus interest accrued thereon in the sum of \$352.86 through September 13, 1973, plus interest accruing thereafter at the rate of \$7.0571 per day until paid, and the cost of this action accrued and accruing.

The Court further finds that this action in no way affects the validity of a condemnation proceeding brought by the Board of County Commissioners of Tulsa County, Oklahoma, No. C-72-1681, which proceeding affects the West 50 feet of the subject property.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendants, The Landscapers, Inc., Carl R. Miller, Mae Marie Miller, Harold O.

Scott, Sue Ellen Scott, Harold D. Stephens and Sadie A. Stephens, the sum of \$1,342.00 plus interest according to law for personal property taxes for the years 1972 and 1973 and that Tulsa County should have judgement, in rem, for said amount, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT the Plaintiff have and recover judgment against Defendants, The Landscapers, Inc., Carl R. Miller, Mae Marie Miller, Harold O. Scott, Sue Ellen Scott, Harold D. Stephens and Sadie A. Stephens, for the sum of \$36,819.73 as unpaid principal, plus interest accrued thereon in the sum of \$352.86 through September 13, 1973, interest accruing thereafter at the rate of \$7.0571 per day until paid, and the cost of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the County of Tulsa have and recover judgment, in rem, against Defendants, The Landscapers, Inc., Carl R. Miller, Mae Marie Miller, Harold O. Scott, Sue Ellen Scott, Harold D. Stephens and Sadie A. Stephens, for the sum of \$1,342.00 of the date of this judgment plus interest thereafter according to law for personal property taxes, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

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, is to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT this action in no way affects the validity of a condemnation proceeding brought by the Board of County Commissioners of Tulsa County,

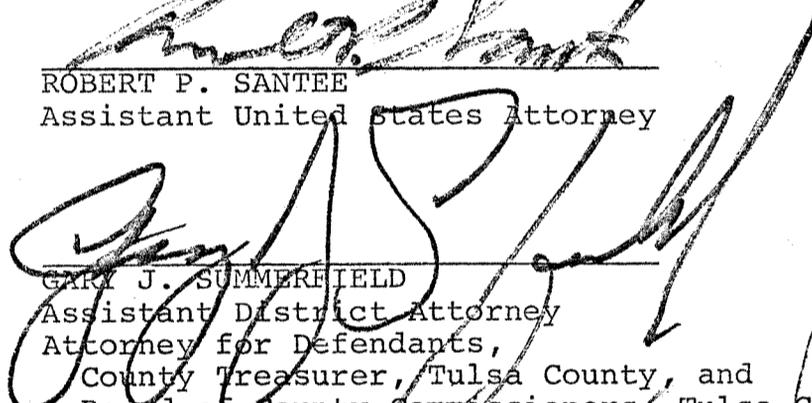
Oklahoma, No. C-72-168, which proceeding affects the West 50 feet of the subject property.

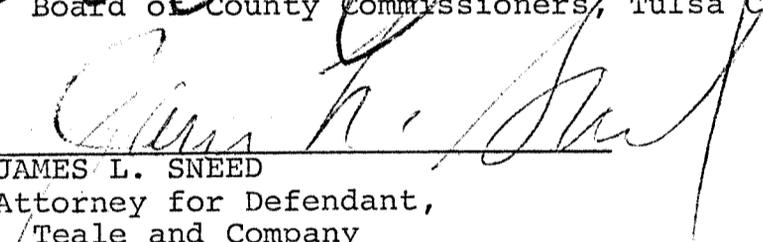
IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and each of them and all persons claiming under them since the filing of the Complaint herein be and they are forever barred and foreclosed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

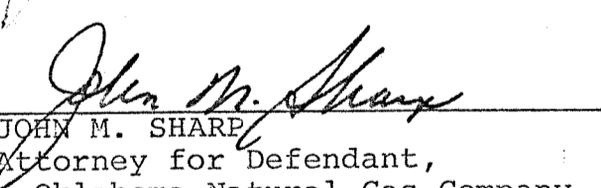
  
UNITED STATES DISTRICT JUDGE

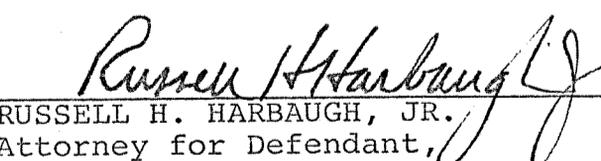
APPROVED:

  
ROBERT P. SANTEE  
Assistant United States Attorney

  
GARY J. SUMMERFIELD  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer, Tulsa County, and  
Board of County Commissioners, Tulsa County

  
JAMES L. SNEED  
Attorney for Defendant,  
Teale and Company

  
JOHN M. SHARP  
Attorney for Defendant,  
Oklahoma Natural Gas Company

  
RUSSELL H. HARBAUGH, JR.  
Attorney for Defendant,  
Nortex Wholesale Nursery, Inc.

RICHARD L. HUDSON

Plaintiff

VS

SWAN ENGINEERING & SUPPLY COMPANY, INC.,  
a Kansas Corporation;  
SEALCO, INC., an Oklahoma Corporation;  
H. A. SMITH and EUGENE P. MITCHELL

Defendants

NO. 75-C-151

FILED

OCT 6 1975

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

ORDER

After reviewing the file and record in this cause, the recommendation of the Magistrate is hereby approved, and

IT IS THEREFORE ORDERED that the plaintiff's Motion to Remand with respect to Sealco, Inc., an Oklahoma Corporation, be and the same is hereby sustained.

IT IS THEREFORE ORDERED that the plaintiff's Motion to Remand with respect to the defendants Swan Engineering & Supply Company, Inc., a Kansas Corporation, H. A. Smith and Eugene P. Mitchell, be and the same is hereby denied.

The Clerk of the Court shall forward by mail a copy of this Order to each of the attorneys for the above named plaintiff and defendants.

Dated this 6<sup>th</sup> day of October, 1975.



United States District Court for the  
Northern District of Oklahoma

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

RAY TAYLOR, JR., STANFORD DANIEL )  
and CHARLES D. HOLLOWAY, )

Plaintiffs, )

-vs- )

No. 75-C-98

TULSA CITY-COUNTY HEALTH DEPARTMENT, )  
a division of the municipal corpora- )  
tion of the City of Tulsa and of Tulsa )  
County, a political subdivision of the )  
State of Oklahoma, et al., )

Defendants. )

FILED

OCT 6 1975

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

ORDER

After reviewing the file and record in this cause, the recommendation of the Magistrate is hereby approved, and

IT IS, THEREFORE, ORDERED that (1) the defendants' Motion to Dismiss the Complaint of plaintiff as against all defendants except Dr. George W. Prothro be and the same is hereby sustained; (2) the Motion to Dismiss of Dr. George W. Prothro be and the same is hereby dismissed if the plaintiffs have not issued another summons within five days; (3) the Motion to Dismiss of defendant Floyd H. Oakley be and the same is hereby sustained; and (4) the defendants Motion to Strike of all defendants except Dr. George W. Prothro be and the same is hereby overruled, as premature, without prejudice.

The Clerk of the Court shall forward by mail a copy of this Order to each of the attorneys for the above named plaintiffs and defendants.

Dated this 6<sup>th</sup> day of October, 1975.

*Allen E. Bennett*  
CHIEF JUDGE, UNITED STATES DISTRICT  
COURT FOR THE NORTHERN DISTRICT OF  
OKLAHOMA.

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

ROBERT O. McBRIDE, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DEAN BAILEY OLDSMOBILE, INC. )  
 An Oklahoma Corporation, )  
 )  
 Defendant. )

No. 74-C-470 ✓

**FILED**  
OCT 6 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

ON this 6th day of October, 1975 upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint 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 hereby is dismissed with prejudice to any future action.

W. Dale Cook  
JUDGE, DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVAL:

JIM FRASIER

By: Jim Frasier  
Attorney for the Plaintiff,

ALFRED B. KNIGHT

Alfred B. Knight  
Attorney for the Defendant.

copy K. M.

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

CORY FOOD SERVICES, INC., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FORRESTINE FARTHING, )  
 )  
 Defendant. )  
 )  
 CORY FOOD SERVICES, INC., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DELMAR D. FARTHING, )  
 )  
 Defendant. )

No. 75-C-339 ✓

FILED  
OCT 6 1975  
mm  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 75-C-340

D I S M I S S A L

Come now the defendants, Forrestine Farthing and Delmar D. Farthing, by and through their attorneys, and hereby voluntarily dismiss their counterclaim for damages against the plaintiff in the above styled consolidated suit, without prejudice to the refileing thereof.

EDGAR, MANIPELLA & HINDS

By James L. Edgar

James L. Edgar  
Attorney for Defendants  
Suite 423 Skyline East  
6111 East Skelly Drive  
Tulsa, Oklahoma 74135  
(918) 664-7020

CERTIFICATE OF MAILING

I, James L. Edgar, hereby certify that on the 6 day of October, 1975, I mailed a true and correct copy of the above and foregoing Dismissal, with proper postage thereon fully prepaid, to:

Mr. R. Dobie Langenkamp and  
Mr. Sam G. Bratton, II  
1200 Atlas Life Building  
Tulsa, Oklahoma 74103

James L. Edgar  
James L. Edgar



Richard W. Jones  
Richard W. Jones  
Plaintiff

Don I. Nelson  
Don I. Nelson  
Attorney for Defendant

E. O. Bellamy  
E. O. Bellamy  
Defendant

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

FILED  
OCT 3 1975  
MM  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

BERTEA CORPORATION, a California )  
corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
HATHAWAY INDUSTRIES, INC., )  
 )  
Defendant. )

74-C-166 ✓

O R D E R

Upon consideration of the Stipulation by the Defendant,  
dated September 30, 1975, it is this 3<sup>rd</sup> day of October, 1975,  
ORDERED THAT:

1. The counter-claim being asserted by Hathaway Industries, Inc. in the above-captioned action shall be and is hereby dismissed, with prejudice.
2. The clerk shall not tax the parties for each other's costs.

*W. Dale Book*  
United States District Judge

FILED

OCT 3 1975

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

*mm*  
Jack G. Silver, Clerk  
U. S. DISTRICT COURT

BERTEA CORPORATION, a California )  
corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
HATHAWAY INDUSTRIES, INC., )  
 )  
Defendant. )

74-C-166 ✓

O R D E R

Upon consideration of the Stipulation by and between the plaintiff and the defendant, dated September 30, 1975, it is this 3<sup>rd</sup> day of October, 1975, ORDERED that:

1. The above-captioned action insofar as it is brought against the defendant shall be and hereby is dismissed, with prejudice;

2. The clerk shall not tax the plaintiff or said defendant for each other's costs.

*W. Dalebook*  
United States District Judge



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

CITIES SERVICE COMPANY )  
CITIES SERVICE OIL COMPANY )  
 )  
Plaintiffs )  
 )  
v. )  
 )  
ATLANTIC RICHFIELD COMPANY )  
 )  
Defendant )

**FILED**  
**OCT 2 1975**  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 75 - C - 398

NOTICE OF DISMISSAL WITHOUT PREJUDICE

Come now the Plaintiffs and hereby dismiss their action against the Defendant, without prejudice to the bringing of another action for the same, hereby showing the Court that in the opinion of counsel for Plaintiffs said action is presently moot.

Plaintiffs further show the Court that they have not been served with an answer by the Defendant, and under the provisions of Rule 41(a)(1), they are entitled to dismiss this action as a matter of right.

Thomas R. Brett and Jack R. Givens of  
JONES GIVENS BRETT GOTCHER DOYLE & BOGAN, INC.

By *Jack R. Givens*  
Suite 400, 201 West Fifth Street  
Tulsa, Oklahoma 74103

OF COUNSEL  
Charles V. Wheeler  
General Counsel  
Cities Service Oil Company

Jack W. Wertz  
General Counsel  
Cities Service Oil Company

Certificate of Mailing

I hereby certify that a true and correct copy of the above and foregoing "Notice . . ." was mailed, postage prepaid, this 2nd day of October, 1975, to:

R. Dobie Langenkamp  
Doerner, Stuart, Saunders, Daniel & Langenkamp  
1200 Atlas Life Building  
Tulsa, Oklahoma 74103

  
\_\_\_\_\_

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

UNITED STATES OF AMERICA and )  
JERRY MITCHELL, Revenue Officer )  
of the Internal Revenue Service, )  
Plaintiffs, )  
vs. )  
HARVEY L. HUNTER, President of )  
HARVEY HUNTER, INC., )  
Defendant. )

FILED  
OCT 1 1975

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

Case No. 75-C-226 ✓

ORDER OF DISMISSAL

Now on this the 1st day of October, 1975  
pursuant to a Motion to Dismiss the above styled and numbered  
cause filed on behalf of the Defendant; it appearing by virtue  
of the approval of said Motion by the Assistant United States  
District Attorney, that the same should be sustained;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this  
Court that the above styled and numbered cause be and the same  
is hereby dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the  
Court that the Defendant, Harvey L. Hunter, is hereby released  
from the jurisdiction of this Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any  
and all bonds or other guarantees of appearance executed by or  
on behalf of said Defendant are hereby exonerated.

Allen E. Dawson  
JUDGE OF THE DISTRICT COURT

CERTIFICATE OF MAILING

The Federal District Court Clerk hereby certifies that  
on this 2nd day of October, 1975, he mailed a true,  
exact and correct copy of the above and foregoing instrument to  
James R. Elder, Attorney for Defendant, 1107 Petroleum Club  
Building, Tulsa, Oklahoma 74119 and Kenneth Snoke, Assistant  
United States Attorney, Tulsa, Oklahoma, with proper postage  
thereon fully prepaid.

Ch. Deputy M. Garrison  
CLERK OF THE FEDERAL DISTRICT  
COURT

MOREHEAD, SAVAGE, O'DONNELL,  
McNULTY & CLEVERDON  
ATTORNEYS & COUNSELORS  
1107 PETROLEUM CLUB BUILDING  
TULSA, OKLAHOMA 74119  
918 - 584-4716



that, based upon such finding, the Defendants are willing to admit the Plaintiff EASILEY to Carver immediately. With reference to the Plaintiff TROUPE, the Court finds from the statement of counsel for the Plaintiff TROUPE that the Plaintiff TROUPE is willing to reapply for readmittance to Carver at the commencement of the second semester of the 1975-76 school year and that the Defendant School Board is willing to have the bi-racial screening committee at Carver consider his new application at said time based upon the Plaintiff TROUPE's grades, discipline record and other relevant factors during the first semester of the 1975-76 school year at his present school. Based upon the foregoing statement of the parties by their respective counsel, the Court finds that there are no issues to be litigated in this case at the present time.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That the Plaintiff BARRE may exercise his right to apply for admission to the 9th grade at Washington High School and that if the Plaintiff BARRE exercises such right, the Defendant School Board shall convene the bi-racial committee for Washington High School within three (3) weeks from receipt of such application and shall review such application in the same manner and with the same criteria that it customarily uses for other applications.

2. The Plaintiff EASILEY shall be admitted to Carver Middle School forthwith.

3. The Plaintiff TROUPE shall have the right to reapply for admission to Carver at the end of the first semester of the 1975-76 school year and in the event such application is received, the bi-racial screening committee at Carver shall review such application based upon the Plaintiff TROUPE's grades, discipline record and

other relevant factors at the school of his attendance during the first semester of the 1975-76 school year. If the Plaintiff TROUPE is again rejected for admittance to Carver at such time, the Plaintiff TROUPE shall have the right to reopen this case if he deems that such rejection has been in violation of his rights under 42 U.S.C. §1983.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this case shall be closed, subject to the right of the Plaintiff TROUPE to reopen this case as stated above.



ALLEN E. BARROW, UNITED STATES  
DISTRICT JUDGE

APPROVED:



Gordon D. McAllister, Jr.,  
Attorney for Plaintiffs



David L. Fist,  
Attorney for Defendants

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
OCT 1 1975

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

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. ) CIVIL ACTION NO. 75-C-149  
 )  
30.00 Acres of Land, More or ) Tract No. 403  
Less, Situate in Washington )  
County, State of Oklahoma, )  
and David Crittenden, et al., )  
and Unknown Owners, ) (Included in D.T. filed in  
 ) Master File #400-7)  
Defendants. )

J U D G M E N T

1.

NOW, on this 30 day of September, 1975, this matter comes on for disposition on application of the parties, for entry of judgment on a stipulation of the parties agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds:

2.

This judgment applies to the entire estate condemned in Tract No. 403, as such estate and tract are described in the Complaint filed in this civil 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.

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 estate described above in paragraph 2. Pursuant thereto, on April 16, 1975, the United States of America filed its Declaration of Taking of such

described property and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of a certain estate in subject tract a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On September 12, 1975, after due and proper notice to all defendants in this case, a hearing was held before this Court upon the question of ownership of the subject property. Thereafter, on September 26, 1975 an Order Determining Ownership was entered by this Court. The names of the owners of subject property, as determined by the Court in said Order, are set forth below in paragraph 12, and such persons are entitled to receive the just compensation awarded by this judgment.

8.

The owners of the estate taken in subject tract and the United States of America have executed and filed herein a Stipulation As To Just Compensation, wherein they have agreed that just compensation for the estate condemned in subject tract is in the amount shown as compensation in paragraph 12, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for the estate taken in subject tract and the amount fixed by the Stipulation As To Just Compensation, and the amount of such deficiency should be deposited for the benefit of the owners. Such deficiency is set out below in paragraph 12.

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 Tract No. 403, as such tract is particularly described in the Complaint filed herein; and such tract, 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 April 16, 1975, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owners of the estate condemned herein in subject tract were the parties whose names appear below in paragraph 12, and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

12.

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

TRACT NO. 403

Owners:

Claire Louise Wallingford ----- 1/4  
 Earle G. Wallingford, III ----- 1/4  
 George Walter Wallingford ----- 1/4  
 Thomas Connelly Wallingford ----- 1/4

Award of just compensation		
pursuant to Stipulation -----	\$14,850.00	\$14,850.00
Deposited as estimated compensation -----	6,990.00	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		\$14,850.00
Deposit deficiency -----	\$ 7,860.00	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court in this civil action, to the credit of subject tract, the deposit deficiency in the sum of \$7,860.00, and the Clerk of this

Court then shall disburse the deposit for such tract as follows:

To -- Claire Louise Wallingford -----	\$3,712.50
Earle G. Wallingford, III -----	\$3,712.50
George Walter Wallingford -----	\$3,712.50
Thomas Connelly Wallingford -----	\$3,712.50

/s/ H. Dale Cook

---

UNITED STATES DISTRICT COURT

APPROVED:

/s/ Hubert A. Marlow

---

HUBERT A. MARLOW  
Assistant United States Attorney

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

BOARD OF TRUSTEES, PIPELINE )  
INDUSTRY BENEFIT FUND, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WHC, INCORPORATED, )  
A Louisiana Corporation, )  
 )  
Defendant. )

EILED  
OCT 1 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

NO. 75-C-428 ✓

ORDER OF DISMISSAL

NOW on this 1st day of October, 1975, Plaintiff's  
Motion For Dismissal coming on for consideration and counsel  
for Plaintiff herein representing and stating that all issues,  
controversies, debts and liabilities between the parties have  
been paid, settled and compromised.

IT IS THE ORDER OF THIS COURT that said action be, and  
the same is, hereby dismissed with prejudice to the bringing  
of another or future action by the Plaintiff herein.

W. Dale Book  
• District Judge

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

FILED  
OCT 1 1975

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

THE EQUITABLE LIFE ASSURANCE )  
SOCIETY OF THE UNITED STATES, )  
a foreign insurance corporation, )

Plaintiff )

vs. )

No. 75-C-42 )

SHARON KAY COOK, )  
JERRY GLENN COOK, Administrator of the )  
Estate of Harvey Glenn Cook, dec.; )  
JAMES HARVEY COOK; )  
PATSY ANN COOK GRAHAM; )  
JERRY GLENN COOK; )  
TOMMY LEE COOK; )  
SAMMY EUGENE COOK, age 16; )  
GLENDA FAYE COOK, age 14; )  
KEVIN EARL COOK, age 7; )  
SHARON KAY COOK, mother and legal )  
guardian of Kevin Earl Cook, age 7; )  
DARRELL DEAN COOK, age 6; and )  
SHARON KAY COOK, mother and legal )  
guardian of Darrell Dean Cook, age 6, )

Defendants )

DEFAULT JUDGMENT IN FAVOR OF PLAINTIFF AGAINST DEFENDANTS  
JERRY GLENN COOK, ADMINISTRATOR OF THE ESTATE OF HARVEY  
GLENN COOK, DECEASED; JAMES HARVEY COOK, PATSY ANN COOK  
GRAHAM, JERRY GLENN COOK AND TOMMY LEE COOK

This cause comes on to be heard this 24th day of September, 1975 on the Court's disposition docket and the Court, being fully advised in the premises and on consideration of the court file herein, finds that the defendants Jerry Glenn Cook, Administrator of the Estate of Harvey Glenn Cook, deceased, James Harvey Cook, Patsy Ann Cook Graham, Jerry Glenn Cook, (one and the same person as Jerry Glenn Cook, Administrator, above named) and Tommy Lee Cook were each personally served with process by the United States Marshal and said defendants ordered and required to answer the complaint of plaintiff not later than March 6, 1975, but that from and after said date have wholly failed to plead or answer in this cause and, therefore,

said defendants are in default, and the Court ordered that the cause be set down for hearing on default judgment on September 30, 1975.

Now on this 30th day of September, 1975, this cause comes on for hearing on plaintiff's motion for default judgment against said defendants. Plaintiff appeared by its attorneys, Green, Feldman & Hall by John R. Woodard III and said defendants above named appeared not but made default. The Court finds that said defendants were given notice of plaintiff's motion for default judgment and the hearing date of September 30, 1975 by mailing a copy of plaintiff's motion for default judgment and said hearing date, postage prepaid, to said defendants at their last known address on September 25, 1975.

The Court, pursuant to Rule 55 of the Rules of Civil Procedure, therefore ordered said defendants to be in default and rendered judgment as follows:

BE IT, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the defendants Jerry Glenn Cook, Administrator of the Estate of Harvey Glenn Cook, deceased, James Harvey Cook, Patsy Ann Cook Graham, Jerry Glenn Cook, and Tommy Lee Cook, and each of them, be and the same are hereby ordered to be in default and judgment rendered in favor of the plaintiff and against said defendants, and said defendants are adjudged to have no right, claim, title or interest in and to the Eleven Thousand Dollar (\$11,000) life insurance proceeds heretofore paid into the court by plaintiff under its first cause of action in interpleader.

BE IT FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff is discharged from any further liability as to said defendants concerning said life insurance proceeds.

BE IT FURTHER ORDERED, ADJUDGED AND DECREED that said defendants above named are permanently enjoined and restrained from instituting or prosecuting any proceedings in any state or United States court affecting the \$11,000 life insurance proceeds involved herein.

BE IT FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff have its costs herein against said named defendants, including a reasonable attorneys' fee, payable from the sums deposited into court, said costs assessment to be deferred by the Court for hearing at a later date.

BE IT FURTHER ORDERED, ADJUDGED AND DECREED by the Court that said defendants hereinabove named have no right, claim, title or interest in and to the Fifty-five Hundred Dollar (\$5500) accidental death proceeds referred to in plaintiff's second cause of action for declaratory judgment.



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United States District Judge

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the attached and foregoing Default Judgment in Favor of Plaintiff was mailed, postage prepaid, to the following persons on this \_\_\_\_\_ day of October, 1975:

Mr. Thomas W. Brown  
Attorney for Sharon Kay Cook  
Garrison & Brown  
415 S. E. 5th  
Bartlesville, Oklahoma

Mr. J. Douglas Lane  
Guardian Ad Litem for the  
minor defendants:  
Kevin Earl Cook, Sammy Eugene Cook  
Darrell Dean Cook and  
Glenda Faye Cook  
210 South Keeler  
Bartlesville, Oklahoma

Mr. Jerry Glenn Cook  
Individually and as Administrator  
of the Estate of Harvey Glenn Cook  
15 Robin Lane  
Fenton, Missouri

Mr. James Harvey Cook  
816 South Chickasaw  
Bartlesville, Oklahoma

Mr. Tommy Lee Cook  
1231 North Cascade  
Colorado Springs, Col. 80903

Patsy Ann Cook Graham  
15 Robin Lane  
Fenton, Missouri



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Wm. S. Hall