

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 ) -v- )  
 )  
 ) JACKIE LEWIS BLOCKER, ET AL, )  
 )  
 ) Defendants. )

FILED

DEC 31 1975

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

Civil Action No. 75-C-527

JUDGMENT OF FORECLOSURE

THIS MATTER comes on for consideration this 31st  
day of December, 1975, the plaintiff appearing by  
Robert P. Santee, Assistant United States Attorney, the defen-  
dants, County Treasurer, Tulsa County; and Board of County  
Commissioners, Tulsa County, appearing by Gary J. Summerfield,  
Assistant District Attorney; and defendants Jackie Lewis Blocker  
and Mildred Blocker appearing not.

The Court, being fully advised and having examined  
the file herein, finds that Jackie Lewis Blocker and Mildred  
Blocker were served with Summons and Complaint on December 3,  
1975; and County Treasurer, Tulsa County, and Board of County  
Commissioners, Tulsa County, were served with Summons and Com-  
plaint on November 19, 1975; all as appears from the Marshal's  
Returns of Service filed herein.

It appears that the County Treasurer, Tulsa County,  
and Board of County Commissioners, Tulsa County, have duly  
filed their Answers herein on December 1, 1975; and that  
Jackie Lewis Blocker and Mildred Blocker 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 mort-  
gage 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 Ten (10), Block Thirty-Nine (39),  
Valley View Acres Second Addition to the  
City of Tulsa, Tulsa County, Oklahoma,  
according to the recorded plat thereof.

That the defendant, Jackie Lewis Blocker, did, on the 21st day of April, 1970, execute and deliver to the Administrator of Veterans Affairs, his mortgage and mortgage note in the amount of \$11,200.00, with 8-1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that the defendant, Jackie Lewis Blocker, made default under the terms of the aforesaid mortgage note by reason of his failure to make monthly installments due thereon for more than twelve months last past, which default has continued, and that by reason thereof, the above-named defendant is now indebted to the plaintiff in the sum of \$10,809.80 as unpaid principal, with interest thereon at the rate of 8-1/2 percent per annum from December 1, 1974, until paid, plus the cost of this action, accrued and accruing.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Jackie Lewis Blocker and Mildred Blocker, the sum of \$165.33 for real estate taxes for 1975, and that such judgment is superior to the first mortgage lien of the plaintiff herein; and the sum of \$17.00 for personal property taxes for 1973-1975, 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, Jackie Lewis Blocker and Mildred Blocker, in personam, for the sum of \$10,809.80, with interest thereon at the rate of 8-1/2 percent per annum from December 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 County of Tulsa have and recover judgment against the defendants, Jackie Lewis Blocker and Mildred Blocker, for the sum of \$165.33 as of the date of this judgment, plus interest thereafter according to law, and that such judgment is superior to the first mortgage lien of the plaintiff herein; and for the sum of \$17.00 as of the date of this judgment, plus interest thereafter according to law, but that such judgment is subject to and inferior to the first mortgage lien of the plaintiff herein.

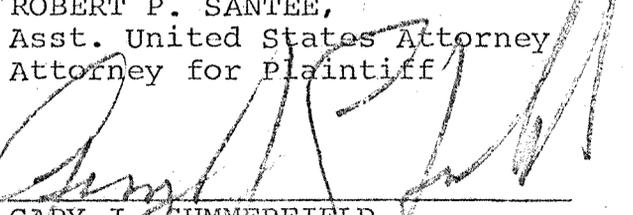
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment, which sale shall be subject to the tax judgment of Tulsa County, supra. 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, interest or claim in or to the real property or any part thereof.

APPROVED:

  
United States District Judge

  
ROBERT P. SANTEE,  
Asst. United States Attorney  
Attorney for Plaintiff

  
GARY J. SUMMERFIELD  
Asst. District Attorney  
Attorney for Co. Treasurer  
and Board of Co. Commissioners,  
Tulsa County

FILED

DEC 31 1975

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

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

JOHN F. FLIES, JR.,  
d/b/a UNI-WELD-FAB,

Plaintiff,

vs.

PETROTHERM ENGINEERING  
CORPORATION,

Defendant.

Civil Action No. 73-C-252

ORDER

NOW, on this 31st day of December, 1975, the captioned case comes on for disposition, and it appearing to the Court that on the date the case was set for trial the parties announced to the Court that the parties had agreed to settle the case by the defendant's paying the plaintiff the sum of \$8,000.00, which payment defendant agreed to make not later than November 18, 1974; that the defendant has paid plaintiff the sum of \$5,000.00 on the agreed settlement but has failed and refused to pay any additional sum on the settlement; that the defendant is presently proceeding with Chapter 11, Debtor in Possession, in the Bankruptcy Court for the Southern District of Texas; that this Court should enter an order dismissing this case without prejudice including protection for the plaintiff against the defense of the statute of limitations. It is therefore

ORDERED, ADJUDGED AND DECREED that this case be and it is hereby dismissed without prejudice; that if the \$8,000.00 settlement sum together with interest from November 18, 1974, is not paid by defendant to plaintiff, subject, however, to the Chapter 11 bankruptcy proceedings in which the defendant is now involved, that the plaintiff may refile its claim against defendant and the statute of limitations will not be a defense available to the defendant in any future action brought by plaintiff against defendant in connection with the claim which is the subject matter of this action.

*Allen E. Barrow*  
United States District Judge



or segregating any person or persons in his business establishment known as Wheeler Dealer Lounge, due to race, color, religion or national origin.

Allen E. Barrett  
Judge

Read, Understood and Approved, this  
14th day of November, 1975.

James Alfred Wheeler  
JAMES ALFRED WHEELER

APPROVED AS TO FORM:

John J. ...  
Attorney for Plaintiff

David O. Harris  
Attorney for Defendant

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

ARLING MEDINA, )  
 )  
 ) Petitioner, )  
vs. )  
 )  
 ) STATE OF OKLAHOMA, )  
 )  
 ) Respondent. )

NO. 75-C-438 ✓

FILED

DEC 30 1975

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

O R D E R

This is a proceeding brought pursuant to the provisions of § 2254 by a State prisoner presently confined in the Tulsa County Jail, Oklahoma, as a result of the Judgments and sentences rendered in cases numbered CRF-75-813 and CRF-75-992 in the District Court in and for Tulsa County, Oklahoma. After a plea of guilty, the Court found petitioner guilty in case No. CRF-75-813 of the crime of robbery with firearms and sentenced petitioner to confinement for a term of seven years. After a plea of guilty, the Court found petitioner guilty in case No. CRF-75-992 of the crime of shooting with intent to kill and sentenced petitioner to confinement for a period of seven years, said sentence to run concurrently with the sentence imposed in case No. CRF-75-813.

On September 8, 1975, petitioner filed a petition for writ of habeas corpus with the Court of Criminal Appeals of the State of Oklahoma, case No. H-75-519. He therein advised the appellate Court that he had filed a notice of intent to appeal in the District Court of the District Court's denial of his motions to withdraw pleas of guilty in CRF-75-818 and CRF-75-992. His writ of habeas corpus sought bail pending such appeal, or in the alternative that the appellate Court treat his petition as a petition for a Writ of Certiorari.

The State appellate Court by Order dated September 12, 1975, denied the relief sought not on the merits but on the ground that the facts presented were insufficient to grant the writ of habeas corpus, and the Court further stated that petitioner was not precluded from a full review of his contentions if presented by a proper writ of certiorari as provided by Rule 3 of the Oklahoma Statutes, Title 22, Chapter 18, Appendix.

In the petition before this Court, petitioner seeks release by writ of habeas corpus on the ground that the convictions and sentences in the

District Court of Tulsa County, State of Oklahoma, were in violation of the petitioner's Fifth Amendment right against double jeopardy as guaranteed by the Constitution of the United States for the reason that a juvenile certification hearing was held wherein witnesses appeared and evidence was taken.

Although petitioner asserts that his State remedies have been exhausted, he presents nothing to show that the issue presented to this Court has ever been presented to the high Court of the State of Oklahoma in the proper form for that Court's ruling on the merits. He has presently pending in the State District Court, filed December 19, 1975, an application for post conviction relief in both CRF-75-813 and CRF-75-992. Prior to a determination therein by the high Court of the State of Oklahoma of the issue he presents to this Court, the petition herein should be denied for failure to properly exhaust adequate and available State remedies. Further, if the petitioner herein contends that he has been denied his Eighth Amendment right to bail, or that the Oklahoma bail statutes are in some way unconstitutional, he makes no showing to this Court that he has presented that issue to the State Courts of Oklahoma. Therefore, this issue is also premature to this Court for failure to exhaust adequate and available State remedies.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of Arling Medina be and it is hereby denied, without prejudice, for failure to exhaust adequate and available State remedies.

Dated this 30th day of December, 1975, at Tulsa, Oklahoma.

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

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

WALTER M. BOWERS, )  
)  
Plaintiff, )  
)  
)  
)  
)  
vs. )  
)  
R.H. BEARD, )  
)  
Defendant. )

FILED  
DEC 29 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 75 C 415

ENTRY OF DEFAULT JUDGMENT BY THE COURT

This cause coming on before me, the undersigned Judge of the United States District Court for the Northern District of Oklahoma, on this 3rd day of December, 1975, upon plaintiff's Application for Entry of Default Judgment by the Court. The plaintiff appearing in person and by his attorney of record, Eric E. Anderson, and the defendant appears not but makes default herein.

The Court having examined the files and records in this case, having heard the oral testimony of witnesses sworn and examined in open Court, having fully considered the evidence and being fully advised in the premises, finds:

That the defendant, R.H. Beard, has been regularly served with process and has failed to appear, answer or otherwise respond to the plaintiff's Complaint filed herein. That the default of the defendant has been duly entered and that the defendant is not an infant or incompetent person as stated by the Affidavit filed by plaintiff's attorney;

That the material allegations of the plaintiff's Complaint are true and that the plaintiff is entitled to a judgment herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff have and recover from the defendant, R.H. Beard, the sum of \$2,579.13 plus an attorney's fee in the sum of \$300.00, together with costs expended herein.

  
Hon. Allen E. Barrow

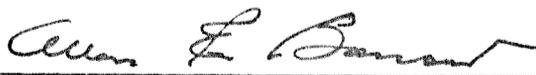


Where the evidence shows that the in-court identification of the defendant in a criminal trial is based upon an independent recollection of the defendant's identity from the scene of the crime, there is sufficient basis for the in-court identification of the defendant by the witnesses for the prosecution regardless of any unnecessarily suggestive pre-trial lineups or other identification procedures. United States v. Wade, 388 U. S. 218 (1967); Kirby v. Illinois, 406 U. S. 682 (1972); Simmons v. United States, 390 U. S. 377 (1968). Court reviewing denial of habeas corpus relief was not required to inquire into the propriety of lineups where in-court identification of petitioner was based upon origins independent of the lineup. Thornton v. Beto, 470 F.2d 657 (5th Cir. 1972) Cert. den. sub nom. Thornton v. Estelle, Corrections Director, 411 U. S. 920.

The review of the State record in this case conclusively shows on the issue raised to this Court that the State Judgment is supported by both law and fact and that petitioner is not entitled to relief. Therefore, there is no necessity for this Court to hold an evidentiary hearing. Ramirez v. Rodriguez, 467 F.2d 822 (10th Cir. 1972) Cert. den. 410 U. S. 987; Maxwell v. Turner, 411 F.2d 805 (10th Cir. 1969).

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of George Riley Mallard be and it is hereby denied and the case is dismissed.

Dated this 29<sup>th</sup> day of December, 1975, at Tulsa, Oklahoma.

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

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

LONNIE JOSEPH SELLS and )  
OWEN ERNEST SELLS, )  
 )  
 ) Petitioners, )  
vs. )  
 )  
 )  
THE UNITED STATES OF AMERICA, )  
 )  
 ) Respondent. )

NO. 75-C-397

**E I L E D**

DEC 29 1975

O R D E R

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

The Court has for consideration the motion to vacate and set aside Judgment of conviction and sentence pursuant to 28 U.S.C. § 2255 on behalf of Lonnie Joseph Sells and Owen Ernest Sells. In case No. 74-CR-79, they were each convicted on their valid pleas of guilty by this Court and sentenced to an indeterminate period pursuant to the Youth Corrections Act, 18 U.S.C. § 5010(b). They were at all times ably represented by retained counsel.

The ground asserted for the § 2255 motion under consideration is that their retained counsel was incompetent in that he failed to file a motion pursuant to Rule 35, Federal Rules of Criminal Procedure, for discretionary modification of sentence within the jurisdictional 120 days from date of sentence. The § 2255 motion is on its face without merit and without response or hearing should be denied and the case dismissed.

This Court clearly remembers the criminal proceedings. The indictment was returned June 13, 1974, and the defendants, petitioners herein, were fugitives until they turned themselves in on the charges November 11, 1974. They entered voluntary, knowing and valid pleas of guilty on December 10, 1974, wherein the procedures required by Rule 11, Federal Rules of Criminal Procedure, were fully and carefully met. Their sentences were imposed December 17, 1974, and were within the statutory maximum authorized by law. The Court had jurisdiction, and the conviction and sentence are not otherwise subject to collateral attack. Their retained counsel performed ably and well to protect the interests of his clients before this Court, and upon their sentence had no further obligation to them unless

by their retention and request which is not asserted. Further, the failure to file a Rule 35, Federal Rules of Criminal Procedure, motion for discretionary modification of sentence which in no way challenges the validity of the conviction and sentence is not a proper basis for a § 2255 motion to vacate, set aside or correct sentence. This Court at the time of sentence, being fully advised in the premises, imposed the sentences considered proper, and even lenient under the circumstances. The Court maintained that belief, and that the sentences should remain unchanged on June 3, 1975, and so informed the mother of the defendants by letter of that date, attached as Exhibit B to their § 2255 motion. The Court at the present time remains convinced that the sentences were lenient and proper.

IT IS, THEREFORE, ORDERED that the § 2255 motion of Lonnie Joseph Sells and Owen Ernest Sells be and it is hereby overruled and denied and the case is dismissed.

Dated this 29<sup>th</sup> day of December, 1975, at Tulsa, Oklahoma.

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

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

HARRISON R. BELDEN  
and MABEL L. BELDEN,

Plaintiffs,

-vs-

GOVERNMENT EMPLOYEES INSURANCE  
COMPANY OF WASHINGTON, D.C.,

Defendants.

FILED  
DEC 29 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 75- C-472

STIPULATION AND ORDER

It is hereby stipulated by Harrison R. Belden, Mabel L. Belden, Joseph LeDonne, Jr., and Thomas R. Brett, that the above entitled action be dismissed with prejudice, all at the cost of the Plaintiff herein.

DATED this 10th day of December, 1975.

*Harrison R. Belden*

Harrison R. Belden, Plaintiff

*Mabel L. Belden*

Mabel L. Belden, Plaintiff

*Joseph LeDonne Jr*

Joseph LeDonne, Jr., Attorney for  
Plaintiffs,

*Thomas R. Brett*

Thomas R. Brett, Attorney for  
Defendants

FILED

DEC 29 1975

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

ORDER

On the above and foregoing Stipulation entered into by all the Parties and their respective Attorneys of Record, filed herein on the 29<sup>th</sup> day of December, 1975, it is so ordered.

DATED this 29<sup>th</sup> day of December, 1975.

H. DALE COOK

*H. Dale Cook*  
District Judge

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 RAYMOND KNOX, REGINA KNOX, )  
 and TULSA ADJUSTMENT BUREAU, )  
 INC., )  
 )  
 ) Defendants. )

CIVIL ACTION NO. 75-C-528 ✓

FILED  
DEC 29 1975

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 29<sup>th</sup>  
day of December, 1975, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney; and the Defendant,  
Tulsa Adjustment Bureau, Inc., appearing by its attorney,  
D. Wm. Jacobus, Jr.; and the Defendants, Raymond Knox and  
Regina Knox, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendants, Raymond Knox, Regina  
Knox, and Tulsa Adjustment Bureau, Inc., were served with  
Summons and Complaint on November 20, 1975, as appears from  
the United States Marshal's Service herein.

It appearing that the Defendant, Tulsa Adjustment  
Bureau, Inc., has duly filed its disclaimer on November 21,  
1975; and that Defendants, Raymond Knox and Regina Knox, 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 Three (3), in Block One (1), NORTHGATE  
3rd ADDITION, to the City of Tulsa, Tulsa  
County, Oklahoma, according to the recorded  
plat thereof.

THAT the Defendants, Raymond Knox and Regina Knox,  
did, on the 30th day of October, 1974, execute and deliver  
to the Administrator of Veterans Affairs, their mortgage and  
mortgage note in the sum of \$11,500.00 with 9 1/2 percent  
interest per annum, and further providing for the payment of  
monthly installments of principal and interest.

The Court further finds that Defendants, Raymond  
Knox and Regina Knox, made default under the terms of the  
aforesaid mortgage note by reason of their failure to make  
monthly installments due thereon for more than 9 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 \$11,558.75 as unpaid principal with interest  
thereon at the rate of 9 1/2 percent per annum from March 1,  
1975, until paid, plus the cost of this action accrued and  
accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that  
the Plaintiff have and recover judgment against Defendants,  
Raymond Knox and Regina Knox, in personam, for the sum of  
\$11,558.75 with interest thereon at the rate of 9 1/2 percent  
per annum from March 1, 1975, 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  
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 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, interest, or claim in or to the real property or any part thereof. Specifically including any lien for personal property taxes which may have been filed during the pendency of this action.

  
UNITED STATES DISTRICT JUDGE

APPROVED

  
ROBERT P. SANTEE  
Assistant United States Attorney

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

TEXACO EXPORT INC.,  
a corporation,

Plaintiff,

vs.

ARROW TRUCKING CO.,  
a corporation,

Defendant.

NO. 75-C-200

FILED  
DEC 29 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

The plaintiff and defendant having settled subject  
cause, it is hereby dismissed with prejudice this 29<sup>th</sup> day  
of December, 1975.

  
United States District Judge

Approved:  
Elmer W. Adams  
attorney for Plaintiff

Richard P. Wagner  
attorney for defendant

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

FILED  
JUL 24 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT  
75-C-255

LOYD WILKS, )  
)  
Petitioner, )  
)  
vs. )  
)  
STATE OF OKLAHOMA, ET AL., )  
)  
Respondents. )

ORDER

This is a proceeding brought pursuant to the provisions of Title 28, U.S.C., §2254 by a state prisoner confined in the Vocational Training Center, Stringtown, Oklahoma. Petitioner attacks the validity of the judgment and sentence rendered and imposed by the District Court of Tulsa County, Oklahoma in Case No. CRF-69-1906, wherein, after a plea of guilty petitioner was found guilty of the crime of murder and sentenced to life imprisonment.

The petitioner alleges and the file reflects that he has exhausted the remedies available to him in the courts of the State of Oklahoma.

Petitioner's application to proceed in forma pauperis is supported by instruments satisfying the requirements of Title 28, U.S.C., §1915(a) and was allowed by the Order of this Court made and entered on the 30th day of June, 1975.

Petitioner demands his release from custody and as grounds therefor alleges:

- 1) That he was not advised of his constitutional rights in an understandable and intelligent manner at the time of entering his plea; and
- 2) That he did not have effective assistance of counsel.

A reading of the transcript of the proceedings in the District Court of Tulsa County at the time of entering plea and imposition of sentence clearly shows that petitioner's allegation is without merit and should be denied. The trial judge very thoroughly advised petitioner of his rights and petitioner stated several times during the hearing that

he fully understood his rights and that his plea of guilty was voluntarily made. From a reading of the transcript of the record there can be no question but that petitioner's plea was voluntarily and intelligently entered with full knowledge of the consequences thereof. Boykin vs. Alabama, 395 U. S. 238, 23 L.Ed.2d 274, 89 S.Ct. 1709 (1969).

Petitioner's second allegation is likewise without merit and should be denied. The transcript of the record at the time of plea and sentence contains the following questions by the Court and answers by the petitioner beginning at Page 9, Line 17, and ending at Page 10, Line 5.

THE COURT: Now you have been represented by an attorney throughout all the proceedings in this case?

MR. WILKS: This attorney?

THE COURT: Mr. Gaskill has represented you in all the proceedings, is that correct?

MR. WILKS: Yes, Sir.

THE COURT: Are you completely satisfied with the legal representation you have had?

MR. WILKS: Yes.

THE COURT: Now, Mr. Gaskill is a member of the public defender's office here, and was appointed to represent you, and you tell me now that you are satisfied that he has represented you as well as anyone could?

MR. WILKS: Yes, Sir, I am satisfied.

In Ellis vs. State of Oklahoma, 430 F.2d 1352 (10th Cir. 1970) Cert. den. 401 U. S. 1010 (1971), cited with approval in Johnson vs. United States, 485 F.2d 240 (10th Cir. 1973), the Court stated:

"The burden on appellant to establish his claim of ineffective assistance of counsel is heavy. Neither hindsight nor success is the measure for determining adequacy of legal representation. 'It is the general rule that relief from a final conviction on the ground of incompetent or ineffective counsel will be granted only when the trial was a farce, or a mockery of justice, or was shocking to the conscience of the reviewing court, or the purported representation was only perfunctory, in bad faith, a sham, a pretense, or without adequate opportunity for conference and preparation: Goforth vs. United States (10th Cir. 1963) 314 F.2d 868; Williams vs. Beto, 354 F.2d 698, 704 (5th Cir. 1965)."

The record in this case conclusively shows that petitioner is not entitled to relief. Therefore, there is no necessity for this Court to hold an evidentiary hearing. Semet vs. United States, 369 F.2d 90 (10th Cir. 1969).

IT IS, THEREFORE, ORDERED that the petition herein be denied and the case dismissed.

Dated this 24<sup>th</sup> day of December, 1975.

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

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 AN ARTICLE OF FOOD CONSISTING OF: )  
 )  
 23 cases, more or less, each con- )  
 taining 100 cardboard cartons con- )  
 taining one can, labeled in part: )  
 )  
 (case) )  
 )  
 "\*\*\* IMPORTE D'ESPAGNE \*\*\* FLAT )  
 FILLETS OF ANCHOVY IN OLIVE OIL )  
 SALT ADDED \*\*\* 100 - 4 x 25 \*\*\* )  
 CONSERVERA LAREDANA S. L. LAREDO )  
 (ESPANA) \*\*\*" )  
 )  
 (can carton) )  
 )  
 "Celebrity Brand FLAT FILLETS OF )  
 ANCHOVIES IN PURE OLIVE OIL - SALT )  
 ADDED \*\*\* NET WEIGHT 2 OZ. \*\*\* )  
 PRODUCT OF SPAIN \*\*\* PACKED BY )  
 CONSERVERA LAREDANA S. L. LAREDO )  
 (SANTANDER) SPAIN \*\*\* PACKED FOR )  
 ATALANTA CORPORATION NEW YORK, )  
 NEW YORK 10013 \*\*\*" )  
 )  
 Defendant. )

CIVIL ACTION NO. 75-C-396 ✓

DEFAULT DECREE OF CONDEMNATION

On August 28, 1975, a Complaint for Forfeiture against the above-described article was filed on behalf of the United States of America. The Complaint alleges that the article proceeded against is a food which was introduced into interstate commerce in violation of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 342(a)(3) in that it consists wholly or in part of a decomposed substance by reason of the presence therein of decomposed anchovy fillets, and is unfit for food by reason of being contained in swollen and leaking cans.

Pursuant to monition issued by this Court, the United States Marshal for this District seized said article on September 4, 1975.

It appearing that process was duly issued herein and returned according to law; that notice of the seizure of the above-

described article was given according to law; and that no persons have appeared or interposed a claim before the return day named in said process;

Now, therefore, on motion of Nathan G. Graham, United States Attorney for the Northern District of Oklahoma, by Robert P. Santee, Assistant United States Attorney, for a Default Decree of Condemnation and Destruction, the Court being fully advised in the premises, it is

ORDERED, ADJUDGED AND DECREED that the default of all persons be and the same are entered herein; and it is further

ORDERED, ADJUDGED AND DECREED that the article so seized is adulterated within the meaning of 21 U.S.C. 342(a)(3) in that said article consists in part of a decomposed substance by reason of the presence therein of decomposed anchovy fillets, and is unfit for food by reason of being contained in swollen and leaking cans;

ORDERED, ADJUDGED AND DECREED that the article is condemned and forfeited to the United States pursuant to 21 U.S.C. 334(a), and it is further

ORDERED, ADJUDGED AND DECREED that the United States Marshal in and for the Northern District of Oklahoma shall forthwith destroy the seized article and make return due to this Court.

Dated this 24<sup>th</sup> day of December, 1975.

  
UNITED STATES DISTRICT JUDGE

bcs

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

FILED

DEC 24 1975

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

NOLAN RAY CRAFT, )  
)  
Petitioner, )  
)  
vs. )  
)  
UNITED STATES OF AMERICA, )  
)  
Respondent. )

75-C-358

ORDER

This is a proceeding brought pursuant to the provisions of Title 28 U.S.C. §2255 by a state prisoner confined in the Oklahoma State Penitentiary at McAlester, Oklahoma. Petitioner is presently serving a sentence in the State Penitentiary as a result of a judgment and sentence made and imposed by the State of Oklahoma. On the 18th day of March, 1975, the petitioner entered a plea of guilty to the charge of having violated T. 26 U.S.C. §5861(d) and upon said plea was found guilty as charged and was ordered placed in the custody of the Attorney General of the United States of America for a period of eight years in Case No. 75-CR-8 in the United States District Court for the Northern District of Oklahoma. In this action the petitioner attacks the detainer placed against him by the United States of America as a result of the aforesaid plea and sentence.

Petitioner's application to proceed in forma pauperis is supported by papers satisfying the requirements of Title 28 U.S.C. §1915(a) and was approved by the Order of this Court made and entered on the 7th day of August, 1975.

In this proceeding petitioner contends that the sentence should be voided for the following reasons:

- 1) Violation of his rights against compulsory self-incrimination;
- 2) His right to trial by jury;
- 3) His right to confront his accusers;

- 4) His right to have a specified time to plea; and
- 5) His right to appeal his conviction.

The file in this case contains a Waiver of Jury executed by petitioner and his attorney, stating:

"I, the undersigned defendant, having been fully apprized of my rights, do hereby waive a jury and agree to try the above entitled case to the Court as provided by Rule 23(a), Rules of Criminal Procedure."

The transcript of proceedings at time petitioner entered his plea (March 17, 1975) discloses that he was fully advised as to his rights and was represented by counsel at said hearing. The Court at the time of arraignment and plea asked the petitioner the following questions and received the following responses:

THE COURT: Now, Mr. Craft, let me ask you: Do you plead guilty in 75 Criminal 8 because you are guilty as charged? You weren't induced by the Government dropping the 75 Criminal 23 to do it?

DEFENDANT CRAFT: No.

THE COURT: You plead guilty in 75 Criminal 8, because you are guilty as charged?

DEFENDANT CRAFT: Right.

THE COURT: Very well.

(T.P. 9, Line 2 through Line 10)

At the time of sentencing (March 18, 1975) the Court asked the petitioner the following question and received the following response:

THE COURT: Very well. Do you have anything to say as to why the Court should not pronounce sentence at this time, Mr. Craft?

DEFENDANT CRAFT: No, Sir.

(T.P. 3, Line 11 through Line 14)

The record in this case clearly shows that petitioner's allegations are without merit and should be denied. Petitioner's voluntary, knowing and valid plea of guilty while represented by counsel constitutes a waiver of all non-jurisdictional defects in the proceedings. Moore vs.

Rodriguez, 376 F.2d 817 (10th Cir. 1967) Cert. den. 389 U. S. 876; Smith vs. Beto, 453 F.2d 403 (5th Cir. 1972).

Where the evidence in habeas corpus case discloses that petitioner's counsel adequately represented him in discussion concerning sentence to be recommended on plea of guilty, and that petitioner fully understood what he was doing and voluntarily entered his plea of guilty, request for writ of habeas corpus should be denied. Corn vs. State of Oklahoma, 394 F.2d 478 (10th Cir. 1968) Cert. den. 393 U. S. 917.

The Court is not required to advise a defendant of his right to appeal on a plea of guilty. Barber vs. United States, 427 F.2d 70 (10th Cir. 1970) Cert. den. 400 U. S. 867; Elrod vs. United States, 503 F.2d 959 (5th Cir. 1974).

The Court recalling the criminal proceedings and having examined the transcript of the record in Case No. 75-CR-8 finds that the petitioner is not entitled to relief. Therefore, there is no necessity for this Court to conduct an evidentiary hearing. Ortiz vs. Baker, 411 F.2d 263 (10th Cir. 1969) Cert. den. 396 U. S. 935.

IT IS, THEREFORE, ORDERED that the § 2255 motion of Nolan Ray Craft be and it is hereby denied and the case is dismissed.

Dated this 21<sup>st</sup> day of December, 1975, at Tulsa, Oklahoma.

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 23 1975

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

JOHN T. DUNLOP, Secretary of Labor, )  
United States Department of Labor, )  
Plaintiff )  
v. ) Civil Action  
TULSA BUILDING SUPPLY, INC., a ) No. 73-C-243  
corporation, and EDWARD L. )  
SEMONES, individually, president, )  
Defendants )

J U D G M E N T

In accordance with the court's findings of fact and conclusions of law filed herein with respect to contempt proceedings arising out of this court's original judgment dated January 2, 1975, it is now:

ORDERED, ADJUDGED and DECREED

1. Respondent Tulsa Building Supply, Inc. and Edward L. Semones are adjudicated in civil contempt of this court for violating its judgment dated January 2, 1975.

2. In order to purge themselves of contempt, respondent Tulsa Building Supply, Inc. and Edward L. Semones shall:

(a) Pay to petitioner the amount of \$8,997.08 by separate cashier's or certified check made payable to <sup>the U.S. District</sup> ~~"Wage and Hour - Labor"~~ *Court Clerk for the Northern District of Oklahoma*, as follows:

1. \$2,000 by December 25, 1975.
2. Five installments of \$1,500 each beginning on or before the 15th of each succeeding month.
3. \$161.08 payable on or before June 15, 1976.

Said backwages are to be distributed, after deductions required by law, by plaintiff-petitioner to the employees, or

their estates should that be necessary, as specified in paragraph III of this court's original judgment of January 2, 1975. Any money not so distributed by plaintiff-petitioner within a period of three years, because of inability to locate the proper persons or because of their refusal to accept it, shall be covered into the Treasury of the United States as miscellaneous receipts;

(b) Pay to petitioner the amount of \$643.96 by cashier's or certified check made payable to "Office of the Solicitor - Labor" to compensate plaintiff-petitioner for his expenses in bringing this action in civil contempt, and

(c) Pay to petitioner the amount of \$20.04 by cashier's or certified check made payable to "Office of the Solicitor - Labor" for court costs accrued in bringing this action in civil contempt;

(d) The amounts due in paragraphs (b) and (c) above are covered in the schedule of payments set forth in paragraph (a).

3. Defendant Semones, having been previously committed to the custody of the U. S. Marshal on December 10, 1975, by previous order of this court for the reasons set forth in Finding of Fact number 7, and the court having released said defendant from custody based on his agreement to comply with the order of this court dated January 2, 1975, it is

FURTHER ORDERED, ADJUDGED and DECREED that in the event respondent Edward L. Semones fails to comply with paragraph 2 of this judgment within the time prescribed, respondent Edward L. Semones shall stand committed to the custody of the U. S. Marshal for this district or for such other custody as may be directed by the Attorney General of the United States until such

payment of this amount is made or until respondent Edward L. Semones is otherwise discharged as provided by law.

4. This court retains jurisdiction of this matter for such further action as may be necessary to enforce the terms of this judgment.

5. All outstanding provisions of the January 2, 1975 judgment shall remain in full force and effect.

6. Copies of this court's findings of fact, conclusions of law and this judgment shall be served upon respondents Tulsa Building Supply, Inc. and Edward L. Semones by the United States Marshal.

Dated this 23 day of December, 1975.

  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Harvey M. Shapan, one of the attorneys for plaintiff above named, does hereby certify that he has served true and correct copies of each of the foregoing findings of fact and conclusions of law, judgment, and affidavits of both Ronald M. Gaswirth and Charles M. Sturm, on Mr. Ted Riseling, attorney of record for defendants, by depositing same in the United States mail in a franked envelope, addressed to him at 124 East Fourth Street, Tulsa, Oklahoma 74103, his address of record, on the 17th day of December, 1975.

  
HARVEY M. SHAPAN  
Attorney

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
DEC 23 1975

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

JOHN T. DUNLOP, Secretary of Labor, )  
United States Department of Labor, )  
Plaintiff )  
v. ) Civil Action  
TULSA BUILDING SUPPLY, INC., a ) No. 73-C-243  
corporation, and EDWARD L. )  
SEMONES, individually, president, )  
Defendants )

J U D G M E N T

In accordance with the court's findings of fact and conclusions of law filed herein with respect to contempt proceedings arising out of this court's original judgment dated January 2, 1975, it is now:

ORDERED, ADJUDGED and DECREED

1. Respondent Tulsa Building Supply, Inc. and Edward L. Semones are adjudicated in civil contempt of this court for violating its judgment dated January 2, 1975.

2. In order to purge themselves of contempt, respondent Tulsa Building Supply, Inc. and Edward L. Semones shall:

(a) Pay to petitioner the amount of \$8,997.08 by separate cashier's or certified check made payable to <sup>the U.S. District</sup> ~~"Wage and Hour -~~ *Court Clerk for the Northern District of Oklahoma* ~~Labor~~, as follows:

1. \$2,000 by December 25, 1975.
2. Five installments of \$1,500 each beginning on or before the 15th of each succeeding month.
3. \$161.08 payable on or before June 15, 1976.

Said backwages are to be distributed, after deductions required by law, by plaintiff-petitioner to the employees, or

their estates should that be necessary, as specified in paragraph III of this court's original judgment of January 2, 1975. Any money not so distributed by plaintiff-petitioner within a period of three years, because of inability to locate the proper persons or because of their refusal to accept it, shall be covered into the Treasury of the United States as miscellaneous receipts;

(b) Pay to petitioner the amount of \$643.96 by cashier's or certified check made payable to "Office of the Solicitor - Labor" to compensate plaintiff-petitioner for his expenses in bringing this action in civil contempt, and

(c) Pay to petitioner the amount of \$20.04 by cashier's or certified check made payable to "Office of the Solicitor - Labor" for court costs accrued in bringing this action in civil contempt;

(d) The amounts due in paragraphs (b) and (c) above are covered in the schedule of payments set forth in paragraph (a).

3. Defendant Semones, having been previously committed to the custody of the U. S. Marshal on December 10, 1975, by previous order of this court for the reasons set forth in Finding of Fact number 7, and the court having released said defendant from custody based on his agreement to comply with the order of this court dated January 2, 1975, it is

FURTHER ORDERED, ADJUDGED and DECREED that in the event respondent Edward L. Semones fails to comply with paragraph 2 of this judgment within the time prescribed, respondent Edward L. Semones shall stand committed to the custody of the U. S. Marshal for this district or for such other custody as may be directed by the Attorney General of the United States until such

payment of this amount is made or until respondent Edward L. Semones is otherwise discharged as provided by law.

4. This court retains jurisdiction of this matter for such further action as may be necessary to enforce the terms of this judgment.

5. All outstanding provisions of the January 2, 1975 judgment shall remain in full force and effect.

6. Copies of this court's findings of fact, conclusions of law and this judgment shall be served upon respondents Tulsa Building Supply, Inc. and Edward L. Semones by the United States Marshal.

Dated this 23 day of December, 1975.

  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Harvey M. Shapan, one of the attorneys for plaintiff above named, does hereby certify that he has served true and correct copies of each of the foregoing findings of fact and conclusions of law, judgment, and affidavits of both Ronald M. Gaswirth and Charles M. Sturm, on Mr. Ted Riseling, attorney of record for defendants, by depositing same in the United States mail in a franked envelope, addressed to him at 124 East Fourth Street, Tulsa, Oklahoma 74103, his address of record, on the 17th day of December, 1975.

  
HARVEY M. SHAPAN  
Attorney

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

FILED

DEC 23 1975

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

STATE OF OKLAHOMA, ex rel. STATE )  
 BANKING BOARD and HARRY LEONARD, )  
 State Bank Commissioner and Chairman )  
 State Banking Board, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 UTICA NATIONAL BANK AND TRUST )  
 COMPANY, TULSA, OKLAHOMA; and JAMES )  
 E. SMITH, COMPTROLLER OF THE CURRENCY )  
 OF THE UNITED STATES, )  
 )  
 and )  
 )  
 BANK OF OKLAHOMA, N.A., TULSA, )  
 OKLAHOMA, and JAMES E. SMITH, )  
 COMPTROLLER OF THE CURRENCY OF )  
 THE UNITED STATES, )  
 )  
 Defendants. )

No. 75-C-318

Consolidated  
With

No. 75-C-319

J U D G M E N T

These consolidated actions came on for trial before the Court on November 11, 1975, and the Court having heard the evidence, and having this date made and filed its Findings of Fact and Conclusions of Law, and having found the issues for the defendants and against the plaintiff,

IT IS ORDERED, ADJUDGED AND DECREED that the defendant banks' CBCTs are not branches, and the use of CBCTs does not constitute branch banking within the meaning of the McFadden Act and the anti-branching statutes of the State of Oklahoma; that the declaratory and injunctive relief sought by the plaintiff should be and the same hereby is denied; and that these consolidated actions should be and the same hereby are dismissed on the merits with prejudice, each party to bear its own costs.

Dated this 23<sup>rd</sup> day of December, 1975.



ALLEN E. BARROW  
Chief Judge, United States  
District Court for the Northern  
District of Oklahoma

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

**FILED**

DEC 23 1975

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

STATE OF OKLAHOMA, ex rel. STATE )  
BANKING BOARD and HARRY LEONARD, )  
State Bank Commissioner and Chairman )  
State Banking Board, )

Plaintiff, )

vs. )

UTICA NATIONAL BANK AND TRUST )  
COMPANY, TULSA, OKLAHOMA; and JAMES )  
E. SMITH, COMPTROLLER OF THE CURRENCY )  
OF THE UNITED STATES, )

and )

BANK OF OKLAHOMA, N.A., TULSA, )  
OKLAHOMA, and JAMES E. SMITH, )  
COMPTROLLER OF THE CURRENCY OF )  
THE UNITED STATES, )

Defendants. )

No. 75-C-318

Consolidated  
With

No. 75-C-319

J U D G M E N T

These consolidated actions came on for trial before the Court on November 11, 1975, and the Court having heard the evidence, and having this date made and filed its Findings of Fact and Conclusions of Law, and having found the issues for the defendants and against the plaintiff,

IT IS ORDERED, ADJUDGED AND DECREED that the defendant banks' CBCTs are not branches, and the use of CBCTs does not constitute branch banking within the meaning of the McFadden Act and the anti-branching statutes of the State of Oklahoma; that the declaratory and injunctive relief sought by the plaintiff should be and the same hereby is denied; and that these consolidated actions should be and the same hereby are dismissed on the merits with prejudice, each party to bear its own costs.

Dated this 23<sup>rd</sup> day of December, 1975.



ALLEN E. BARROW  
Chief Judge, United States  
District Court for the Northern  
District of Oklahoma

FILED

DEC 23 1975

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

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

DELBERT ROBERT CROSSWHITE, )  
 )  
 ) Petitioner, )  
vs. )  
 )  
 )  
STATE OF MISSOURI, )  
 )  
 ) Respondent. )

NO. 75-C-450

O R D E R

The Court has for consideration a pro se, in forma pauperis petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by Delbert Robert Crosswhite. Having reviewed the petition and file and being fully advised in the premises, the Court finds that:

1. The petitioner is a prisoner held in the custody of the Warden of the Missouri State Penitentiary, Jefferson City, Missouri. He asserts that he pled guilty to an offense in Missouri in July, 1937, for which he received a life sentence, but claims to have been released in April, 1952, and that at that time all other charges in the State of Missouri were also dropped, he was discharged, and Missouri lost jurisdiction over him.

2. The only connection with the State of Oklahoma asserted by petitioner is that he was arrested on a Missouri fugitive warrant in Tulsa, Oklahoma, in 1956. He contends that his imprisonment in Missouri is the result of a sentence on this fugitive warrant in the District Court of Tulsa County, Oklahoma, however, this claim is not supported by the record. The charge in Tulsa County, Oklahoma, criminal case No. 16779, was dismissed August 23, 1956, on the application of the County Attorney. Therefore, petitioner has asserted no grounds giving this United States District Court in the Northern District of Oklahoma jurisdiction to proceed herein. Further, if it is the petitioner's contention that he was unconstitutionally denied in Oklahoma an extradition proceeding on the Missouri fugitive warrant, he admits in his petition to this Court that he did not file a direct appeal to the Oklahoma Court of Criminal Appeals. He, also, makes no showing that he has exhausted his State remedies by post conviction proceeding pursuant to 22 O.S.A. § 1080,

et seq., and his petition to this Court is premature for failure to exhaust adequate and available remedies in the State of Oklahoma.

3. The petition on its face shows that the petitioner is not entitled to relief in this United States District Court for the Northern District of Oklahoma, and there is no necessity for the appointment of counsel or an evidentiary hearing. The petition herein should be denied.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of Delbert Robert Crosswhite be and it is hereby denied without prejudice to a petition in a proper jurisdiction, and the case is dismissed.

Dated this 23rd day of December, 1975, at Tulsa, Oklahoma.

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



of the Constitution of the United States of America because of the disparity therein in the age classification between 16-18 year old males and 16-18 year old females. The appellate Court in Lamb, at p. 19, recognized the principle that "wide discretion is vested in a state's legislative body relating to the establishment of reasonable classifications for purposes of promoting the health, safety and welfare of those within its jurisdiction." This discretionary power is recognized, secured and protected by the Tenth Amendment to the Constitution of the United States.

The appellate Court in Radcliff v. Anderson, 509 F.2d 1093 (10th Cir. 1974), where it dealt only with the retroactivity of Lamb, reaffirmed the unconstitutionality of 10 O.S.A. § 1101 (Supp. 1969), and in applying Lamb retroactively the Circuit Court reiterated that the purpose of Lamb "was to end sex discrimination in juvenile proceedings." Lamb and Radcliff are the settled law.

4. The State of Oklahoma has recognized that 10 O.S.A. § 1101 (Supp. 1969) was unconstitutional and the extent and retroactive application of the Lamb and Radcliff decisions. The State Legislature, subsequent to the Lamb decision, has enacted a new law which includes no differentiation between the sexes in regard to the ages of persons qualifying for such proceedings. 10 O.S.A. § 1101(a), Eff. April 4, 1972. Further, the Courts of the State of Oklahoma in proceedings following the Lamb and Radcliff decisions have met and exceeded the minimum established in Radcliff where "The reliance on § 1101 was confined to the period between January 13, 1969, its effective date (see statement preceding § 1101 in 1 O.S. 1971), and the March 16, 1972, decision in Lamb." See Radcliff, infra, p. 1095. The State Courts have held in Schaffer v. Green, Okl. Cr., 496 P.2d 375 (1972), that to fill the legislative void created by Lamb until the House and Senate of the Oklahoma State Legislature had acted, it became the responsibility of the Courts to determine if there were effective legislation defining the age and classifications of persons responsible and not responsible for criminal acts as adults within the constitutional requirements of the fourteenth Amendment. It was the Court's determination that

21 O.S. § 152, originally enacted in 1910 and in conformity with the common law tradition, never having been expressly repealed, was then still effective; and that law defined the jurisdiction of the Courts of Oklahoma with respect to criminal capacity as being anyone over the age of seven but under the age of fourteen where there is showing such persons knew the wrongfulness of the act, and all persons over the age of fourteen.

5. The Federal Courts are generally bound by the interpretation of the highest Court of the State regarding jurisdictional questions. See Anderson v. Gladden, 293 F.2d 463, 467 (9th Cir. 1961). The Tenth Circuit follows this rule. Francia v. Rodriguez, 371 F.2d 827 (10th Cir. 1967), Mesmer v. Raines, 298 F.2d 718 (10th Cir. 1961).

6. The Lamb and Radcliff decisions are being followed by the State Courts of Oklahoma, and the unconstitutional provisions of Oklahoma law dealt with in said decisions have been eliminated. Further, the high Court of the State of Oklahoma, in defining the criminal jurisdiction of Oklahoma Courts has determined that between 1910 and March 16, 1972, persons accused of crime who were over the age of seven and under the age of fourteen in whose cases there was showing that the accused knew the wrongfulness of the alleged criminal act, and all persons over the age of fourteen, were the proper objects of criminal prosecution in the Oklahoma State Courts. This Court deems that holding of the high Court of the State of Oklahoma regarding this jurisdictional question binding upon this Court, and although the lengthy and involved arguments of the parties have been carefully studied and weighed, the Court finds that the State Court's interpretation of its jurisdiction in such matters does not offend the basic principles of fairness and justice so as to require the relief prayed herein. The petition for writs of habeas corpus of Billie Jay Killion and Delmar Eugene Hanley should be denied.

IT IS, THEREFORE, ORDERED that the petition for writs of habeas corpus

of Billie Jay Killion and Delmar Eugene Hanley be and it is hereby denied and the case is dismissed.

Dated this 17 day of December, 1975, at Tulsa, Oklahoma.

*Cecil E. ...*

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

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

DEREK LEE WILSON, )  
 )  
 ) Petitioner, )  
vs. )  
 ) NO. 75-C-227 ✓  
 )  
 )  
DAVE FAULKNER, Sheriff, Tulsa )  
County, State of Oklahoma, et al., )  
 ) Respondent. )

**FILED**

DEC 22 1975 *B*

O R D E R

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

The Court has for consideration the petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2241, et seq., of Derek Lee Wilson.

Having examined the file, heard the argument of counsel and had the benefit of copious briefs of the parties, the Court, being fully advised in the premises, finds that:

1. Derek Lee Wilson was born September 24, 1953, and at age seventeen was convicted following his pleas of guilty of the offenses under the laws of the State of Oklahoma of possession of narcotics, obtaining property by false pretenses, robbery with firearms, second degree burglary, and robbery with firearms. He was sentenced on November 10, 1970, to respective terms of imprisonment for seven years, three years, twenty-five years, five years, and twenty-five years, on the convictions.

2. Petitioner Wilson remains in custody in the State of Oklahoma as the result of said convictions and sentences, and State remedies effectively exhausted he seeks release by Order of this Court on the ground that his constitutional right to equal protection of the law was violated in said proceedings in that he was prosecuted and sentenced as an adult offender and not as a juvenile when a woman for like crimes would have been treated as a juvenile because of a disparity in the age classification between 16-18 year old males and 16-18 year old females under 10 O.S.A. § 1101 (Supp. 1969).

3. In Lamb v. Brown, 456 F.2d 18 (10th Cir. 1972), it was held that 10 O.S.A. § 1101 (Supp. 1969) was violative of the equal protection clause of the Constitution of the United States of America because of the disparity therein in the age classification between 16-18 year old males and 16-18 year old females. The appellate Court in Lamb, at p. 19, recognized

the principle that "wide discretion is vested in a state's legislative body relating to the establishment of reasonable classifications for purposes of promoting the health, safety and welfare of those within its jurisdiction." This discretionary power is recognized, secured and protected by the Tenth Amendment to the Constitution of the United States.

The appellate Court in Radcliff v. Anderson, 509 F.2d 1093 (10th Cir. 1974), where it dealt only with the retroactivity of Lamb, reaffirmed the unconstitutionality of 10 O.S.A. § 1101 (Supp. 1969), and in applying Lamb retroactively the Circuit Court reiterated that the purpose of Lamb "was to end sex discrimination in juvenile proceedings." Lamb and Radcliff are the settled law.

4. The State of Oklahoma has recognized that 10 O.S.A. § 1101 (Supp. 1969) was unconstitutional and the extent and retroactive application of the Lamb and Radcliff decisions. The State Legislature, subsequent to the Lamb decision, has enacted a new law which includes no differentiation between the sexes in regard to the ages of persons qualifying for such proceedings. 10 O.S.A. § 1101(a), Eff. April 4, 1972. Further, the Courts of the State of Oklahoma in proceedings following the Lamb and Radcliff decisions have met and exceeded the minimum established in Radcliff where "The reliance on § 1101 was confined to the period between January 13, 1969, its effective date (see statement preceding § 1101 in 1 O.S. 1971), and the March 16, 1972, decision in Lamb." See Radcliff, infra, p. 1095. The State Courts have held in Schaffer v. Green, Okl. Cr., 496 P.2d 375 (1972), that to fill the legislative void created by Lamb until the House and Senate of the Oklahoma State Legislature had acted, it became the responsibility of the Courts to determine if there were effective legislation defining the age and classifications of persons responsible and not responsible for criminal acts as adults within the constitutional requirements of the Fourteenth Amendment. It was the Court's determination that 21 O.S. § 152, originally enacted in 1910 and in conformity with the common law tradition, never having been expressly repealed, was then still effective; and that law defined the jurisdiction of the Courts of Oklahoma

with respect to criminal capacity as being anyone over the age of seven but under the age of fourteen where there is showing such persons knew the wrongfulness of the act, and all persons over the age of fourteen.

5. The Federal Courts are generally bound by the interpretation of the highest Court of the State regarding jurisdictional questions. See Anderson v. Gladden, 293 F.2d 463, 467 (9th Cir. 1961). The Tenth Circuit follows this rule. Francia v. Rodriguez, 371 F.2d 827 (10th Cir. 1967), Mesmer v. Raines, 298 F.2d 718 (10th Cir. 1961).

6. The Lamb and Radcliff decisions are being followed by the State Courts of Oklahoma, and the unconstitutional provisions of Oklahoma law dealt with in said decisions have been eliminated. Further, the high Court of the State of Oklahoma, in defining the criminal jurisdiction of Oklahoma Courts has determined that between 1910 and March 16, 1972, persons accused of crime who were over the age of seven and under the age of fourteen in whose cases there was showing that the accused knew the wrongfulness of the alleged criminal act, and all persons over the age of fourteen, were the proper objects of criminal prosecution in the Oklahoma State Courts. This Court deems that holding of the high Court of the State of Oklahoma regarding this jurisdictional question binding upon this Court, and although the lengthy and involved arguments of the parties have been carefully studied and weighed, the Court finds that the State Court's interpretation of its jurisdiction in such matters does not offend the basic principles of fairness and justice so as to require the relief prayed herein. The petition for writ of habeas corpus of Derek Lee Wilson should be denied.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of Derek Lee Wilson be and it is hereby denied and the case is dismissed.

Dated this 21st day of December, 1975, at Tulsa, Oklahoma.

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

FILED

DEC 22 1975 *2c*

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

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

UNITED STATES OF AMERICA and )  
CHARLES BEIBEL, Revenue Officer, )  
Internal Revenue Service, )  
 )  
 ) Petitioners, )  
 )  
vs. )  
 )  
ELBERT J. BRINLEE, )  
 )  
 ) Respondent. )

Civil No. 75-C-465 ✓

ORDER DISCHARGING RESPONDENT  
AND DISMISSAL

On this 22nd day of December, 1975, Petitioners' Motion To Discharge Respondent And For Dismissal came for hearing and the Court finds that Respondent has now complied with the Internal Revenue Service Summons served upon him July 15, 1975, that further proceedings herein are unnecessary and that the Respondent, Elbert J. Brinlee should be discharged and this action dismissed upon payment of \$45.32 costs by Respondent.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, Elbert J. Brinlee be and he is hereby discharged from any further proceedings herein and this *Cause of* ~~action~~ *and Complaint are* hereby dismissed upon payment of \$45.32 costs by said Respondent.

*Allen E. Barron*  
UNITED STATES DISTRICT JUDGE

APPROVED:

*Kenneth P. Snoke*  
KENNETH P. SNOKE  
Assistant United States Attorney

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

TULSA BUSINESS COLLEGE, INC., )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 75-C-210  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Defendant. )

FILED

DEC 22 1975 mm

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

J U D G M E N T

Plaintiff, Tulsa Business College, Inc., having been ordered to answer interrogatories propounded by the defendant, United States of America, by December 10, 1975, and the Court having been advised, and the Clerk's record so reflecting, that the plaintiff has not answered the defendant's interrogatories, the Court finds that the plaintiff is in default. The Court further finds that the assessments and demands for payment have been admitted by the plaintiff, and that assessments are presumed to be correct. Pursuant to Rule 37(b) of the Federal Rules of Civil Procedure, it is accordingly,

ORDERED, ADJUDGED, AND DECREED that the plaintiff's complaint is hereby dismissed with prejudice, and it is further

ORDERED, ADJUDGED, AND DECREED that the plaintiff, Tulsa Business College, Inc., is indebted to the defendant, United States of America, on its counterclaim in the amount of \$21,328.84, together with interest thereon from September 9, 1974, and that the parties are to bear their own costs.

Done this 22<sup>nd</sup> day of December, 1975.

  
H. DALE COOK

United States District Judge

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

STILLINGS TRANSPORTATION CORPORATION, )  
An Oklahoma Corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
ROBERT JOHNSON GRAIN & MOLASSES )  
COMPANY, A Foreign Corporation, )  
 )  
Defendant. )

No. 75-C-409

FILED  
DEC 22 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

Defendant herein, Robert Johnson Grain & Molasses Company, has filed a Motion to Dismiss. Plaintiff, Stillings Transportation Corporation, filed a Motion to Strike Motion to Dismiss and Answer of Defendant Robert Johnson Grain & Molasses Company, for the reasons that defendant had failed to submit a brief in support of its Motion to Dismiss in accordance with Rule 14(a) of the Rules of the United States District Court for the Northern District of Oklahoma and further because defendant was without resident counsel as required by Rule 5(h) of the Rules of this Court.

Defendant having now filed its brief in support of the Motion to Dismiss and having now acquired local counsel of record, plaintiff's Motion to Strike is moot.

Defendant contends in its Motion to Dismiss that this Court does not have jurisdiction over the defendant because the defendant is not amenable to service of process in that it has not had the requisite contact with the forum state as required by due process.

According to the uncontradicted affidavits submitted by defendant and plaintiff, defendant, Robert Johnson Grain & Molasses Company is incorporated under the laws of the State of

Texas, with its principal place of business in Iowa Park, Texas. It is not incorporated in Oklahoma nor has it qualified to do business in the State of Oklahoma. In addition, defendant maintains no agent in the State of Oklahoma, and does not own any real property in Oklahoma. The alleged contract that is the basis of this suit was formed when an agent of the plaintiff, Stillings Transportation Corporation, telephoned the Traffic Manager of defendant company in defendant's office in Iowa Park, Texas, from Kansas City, Kansas. Subsequent to the conversation, defendant took possession of the railroad cars which are the object of this suit. These railroad cars were located in Texas at the time defendant took possession; and thereafter they traveled through the states of Texas, Louisiana and Arkansas.

The affidavit submitted by plaintiff states that all payments made by defendant pursuant to the terms of its agreement with the plaintiff were made to plaintiff's office in Tulsa, Oklahoma. In addition, two agents of defendant visited plaintiff's Tulsa office on December 11, 1974, for the purpose of discussing defendant's business transactions with plaintiff.

Pursuant to Rule 4(e) Federal Rules of Civil Procedure, service may be made upon a party not an inhabitant of or found within the state whenever a statute of the state in which the district court is held provides for service of a summons upon an out-of-state resident.

Title 12 O.S. 1971 § 1701.03 makes a party amenable to in personam jurisdiction if he involves himself in the transacting of any business within the State of Oklahoma. The only limitation placed upon a court in exercising in personam jurisdiction over non-residents transacting any business in Oklahoma is that of due process. Vacu-Maid, Inc. v. Covington, Okl., 530 P.2d 137 (1974). This limitation is known as the "minimum contacts" rule pronounced by the United States Supreme Court in

International Shoe Co. v. State of Washington, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945).

The Supreme Court extended the minimum contacts rule in McGee v. International Life Ins. Co. 355 U.S. 220, 788 S.Ct. 199, 2 L.Ed. 2d 223 (1957). From McGee and International Shoe, we find the rule to be that a nonresident of the forum is subject to in personam jurisdiction in the forum with which he had minimum contacts, providing maintenance of the suit does not offend traditional notions of fair play and substantial justice. Just what amounts to minimum contacts must be decided by the facts of each individual case. Vacu-Maid, supra.

The courts of Oklahoma have made it clear that the Oklahoma long-arm statutes were intended to extend the jurisdiction of Oklahoma courts over nonresidents to the outer limits permitted by the due process requirements of the Fourteenth Amendment of the United States Constitution. Vacu-Maid, Inc., v. Covington, supra; Carmack v. Chemical Bank New York Trust Co., Okl., 536 P.2d 897 (1975); Yankee Metal Products Co. v. District Court of Oklahoma, Okl., 528 P.2d 311 (1974); Vemco Plating, Inc., v. Denver Fire Clay Co. 496 P.2d 117 (1972); Crescent Corp. v. Martin, Okl., 443 P.2d 111 (1968); Simms v. Hobbs, Okl., 411 P.2d 503 (1966); Marathon Battery Co. v. Kilpatrick, Okl., 418 P.2d 900 (1965). There is no question but that in personam jurisdiction will be upheld in Oklahoma where the nonresident defendant is a seller who has shipped goods into Oklahoma, even if such shipment was an isolated or infrequent occurrence. See Vemco Plating, Inc., v. Denver Fire Clay Co., supra. However, the Oklahoma courts are more reticent to uphold in personam jurisdiction when the defendant is a nonresident buyer. Vacu-Maid, supra. As stated in Vacu-Maid, "The reason most often given for this buyer-seller distinction is that the seller is the aggressor or initiator in the forum and by selling his product in the state he receives the benefit and protection of the forum state's laws,

and hopefully profits from its business therein. Further, allowing jurisdiction over 'passive' buyers would tend to extinguish state lines and also to discourage out-of-state purchasers from dealing with resident sellers."

The factual situation in Vacu-Maid was similar to the case at bar. The plaintiff seller, therein, sought defendant out in North Carolina and solicited his business. Further, defendant's single visit to Oklahoma was to get better acquainted with the products he was to sell for plaintiff. Additionally all the orders taken from defendant were by telephone and they were shipped freight collect directly to North Carolina. The court held that, "With these facts in mind, we think [defendant] falls more nearly within the passive purchaser category, and the additional factor of the goods being shipped f.o.b. Ponca City [Oklahoma] is not sufficient to increase defendant's contacts above the "minimum" level. . . . [Defendant's] chief contact in this state was that [plaintiff] manufactured the goods here." The court, quoting from Hanson v. Denckla, 357 U.S. 235, 78 S.Ct. 1228, 2 L.Ed. 2d 1283 (1958) reiterated:

"The unilateral activity of those who claim relationships with a nonresident defendant cannot satisfy the requirement of contact with a forum State . . . . [I]t is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws."

In the case at bar, plaintiff having rented tank cars to defendant, plaintiff falls within the category of the initiator of the transaction or "seller." Defendant falls more nearly within the passive "purchaser" category and therefore, in keeping with Vacu-Maid, it is the determination of the Court that defendant's contacts with the State of Oklahoma, consisting of the payment of invoices to plaintiff's office in Tulsa, Oklahoma, and a visit to that office, do not meet the "minimum contacts" requirements of due process. Therefore, the maintenance of the

suit does not comport with traditional notions of fair play and substantial justice and defendant's Motion to Dismiss is hereby sustained.

It is so Ordered this 22<sup>ND</sup> day of December, 1975.

  
H. DALE COOK  
United States District Judge





fruit flavors under the registered trademark of "K.C." Beverages.

5. The "K.C." Beverages trademark was registered in the United States Patent and Trademark Office on October 24, 1939 as United States Trademark Registration No. 372,247 to K. C. Love doing business as Dr. Pepper Love Bottling Co., Muskogee, Oklahoma.

6. K. C. Love, Sr. and Violet Mills Love doing business as Dr. Pepper Love Bottling Company of Muskogee, Oklahoma have continuously utilized the "K.C." Beverages mark to distinguish their carbonated fruit drinks from 1939 until sale of the business to their corporation after this case was filed.

7. K. C. Love, Sr. and Violet Mills Love doing business as Dr. Pepper Love Bottling Company of Muskogee did not utilize the "Love" Beverages mark to distinguish their carbonated fruit drinks from at least as early as 1946 until 1972, a period of some 26 years.

8. Each use of the word "Love" on a bottle by the K. C. Love partnership for over 25 years (until 1972) was as part of the name of the partnership, and in each instance the address (by city) was shown directly in association with the partnership name. Further, in each such use, the "K.C." trademark was used on the bottle.

9. John H. Love and his family, doing business as Love Bottling Company of Bartlesville, Oklahoma, obtained a federal registration of the mark "Love" Beverages from the United States Patent and Trademark Office (Trademark Registration No. 617,924) on December 20, 1955.

10. John H. Love and his family, doing business as Love Bottling Company of Bartlesville, Oklahoma, continuously utilized the registered mark "Love" Beverages to distinguish their carbonated soft drink products from at least as early as 1951 until 1964.

11. In 1964, John Love, Adelia Love and Kenneth Love, a partnership doing business as Love Bottling Company of Bartlesville, Oklahoma, sold all the assets of their partnership, including goodwill and the rights under Trademark Registration No. 617,924, to the plaintiff Oklahoma Beverage Company by contract dated December 1, 1964. The contract sale price of the business was \$400,000.

12. Included in the physical assets received by plaintiff as a result of the contract of sale was an inventory of bottles having the "Love" Beverages trademark thereon, as well as an inventory of bottle caps or crowns having the mark "Love" thereon written in script form and without the word "Beverages."

13. Said contract of sale gave Oklahoma Beverage Company the right to use the mark "Love" alone and in combination with "Beverages," although such marks were improperly designated "trade name" in the contract.

14. The "trade territory" specified in said contract of sale was set out to show the entire area in which the John Love partnership had been operating and to define the area in which the John Love partnership agreed not to operate for a period of five years from the date of the contract.

15. The "trade territory" did not prohibit plaintiff from normal expansion beyond such area, and did not operate as a limitation on the use of the trademark. The "trade territory" was not indicative of a mere license for use.

16. The entire consideration set forth by the contract terms was paid to the John Love partnership.

17. John Love and Adelia Love retired from the carbonated soft drink bottling and marketing business as of 1964, and to date neither of them has made, sold or distributed any type of carbonated soft drink.

18. Kenneth Love of the John Love Bartlesville partnership has been employed by the Oklahoma Beverage Company from 1964 to 1972 as plant production manager and as a general manager from 1972 to date.

19. The above-mentioned contract of sale of December 1, 1964, contains no provision giving the John Love partnership (the seller) any control over the quality of the soft drinks to be sold by plaintiff Oklahoma Beverage Company under the "Love" Beverages trademark.

20. John Love, Adelia Love and Kenneth Love of the John Love partnership have exercised no control over the production,

quality control or distribution of "Love" Beverages manufactured and sold by Oklahoma Beverage Company from 1964 to date, except insofar as Kenneth Love exercised such quality control and production control in his capacity as an employee of Oklahoma Beverage Company.

21. On July 30, 1971, John Love, Adelia Love and Kenneth Love, a partnership, executed an assignment of United States Trademark Registration No. 617,924 for the mark "Love" Beverages to Dr. Pepper Love Bottling Company of Muskogee, Oklahoma. As of that date, and for five years prior thereto, such partnership had no going business and no goodwill.

22. In 1972, K. C. Love, Sr., on behalf of Dr. Pepper Love Bottling Company of Muskogee, Oklahoma, executed an application for registration of trademark for the State of Oklahoma for the mark "Love" claiming exclusive ownership of said mark, which statement was made with full knowledge of plaintiff's continuous use of the mark.

23. Oklahoma Beverage Company has continuously distributed bottled carbonated fruit drinks in various flavors under the mark "Love" Beverages from 1964 to the present, pursuant to the terms of the 1964 contract of sale.

24. Each bottle distributed by Oklahoma Beverage Company since 1964 has exhibited the words "Love" Beverages on one panel of each bottle and the words "Oklahoma Beverage Company, of Bartlesville, Oklahoma" on the back panel of each bottle so distributed. The caps of such bottles contain the mark "Love" alone in script form.

25. Oklahoma Beverage Company contacted the Liberty Glass Company of Sapulpa, Oklahoma, and ordered 244 gross of 10 oz. #7201 "beer" bottles having the "Love" Beverages mark embossed thereon on one panel and the words "Oklahoma Beverage Company, Bartlesville, Oklahoma" on the back panel thereof on or about January of 1972.

26. Liberty Glass Company, in the course of its manufacture, improperly substituted a label on each bottle (ordered as set forth in the preceding Finding) consisting of the words "Love"

Beverages on one panel thereof and the words "Dr. Pepper Love Bottling Company, Muskogee, Oklahoma" on the back panel thereof, which label had been previously supplied to Liberty Glass Company by Dr. Pepper Love Bottling Company of Muskogee.

27. The improperly labeled bottles were transported to Oklahoma Beverage Company of Bartlesville, which shipment was refused and returned to Liberty Glass Company of Sapulpa where the bottles were placed in inventory.

28. Liberty Glass Company then contacted Dr. Pepper Love Bottling Company of Muskogee, Oklahoma, and Dr. Pepper Love Bottling Company of Muskogee agreed to purchase the bottles from the inventory of the Liberty Glass Company in July, 1972.

29. After the receipt of the improperly labeled bottles and the notice by Liberty that no more bottles of the #7201 "beer" bottle type would be made by Liberty, Oklahoma Beverage Company redesigned the "Love" mark by updating the type front and placement of the heart-shaped design and ordered 10 oz. returnable stock of generic bottles from Liberty Glass Company with the redesigned "Love" Beverages mark thereon.

30. Upon discovery of this last mentioned order by Dr. Pepper Love Bottling Company of Muskogee, the son of K. C. Love, Sr. contacted George H. Weaver of Liberty Glass Company and informed him that should Liberty mold and imprint bottles for Oklahoma Beverage Company with the updated "Love" mark thereon, Liberty faced the probability of a suit for infringement of said mark which K. C. Love, Sr. and his son held out to be wholly owned by Dr. Pepper Love Bottling Company of Muskogee.

31. As a result of the conversation of the son of K. C. Love, Sr. and George H. Weaver, Liberty Glass Company demanded and received an agreement from Oklahoma Beverage Company providing for indemnity of Liberty Glass Company supplying any bottles to Oklahoma Beverage Company with the updated "Love" mark thereon.

32. Liberty Glass Company has been and is the sole supplier to Oklahoma Beverage Company bottles having the "Love" Beverages mark thereon from 1964 to the present.

33. Oklahoma Beverage has made many attempts to secure the distinctive #7201 "beer" bottle for its "Love Beverages from suppliers other than Liberty Glass, but without success.

Conclusions of Law

1. The Court has jurisdiction over the parties and subject matter of this suit and venue is properly laid in this Judicial District.

2. This is a declaratory judgment action seeking a declaration of the rights of the parties to and under a trademark registered in the United States Patent and Trademark Office, Registration No. 617,924, for the mark "LOVE" Beverages with heart design originally issued to Dr. Pepper Love Bottling Company of Bartlesville, Oklahoma, plaintiff's predecessor.

3. A further aspect of this action is one of unfair competition based upon a tortious interference with plaintiff's business by defendants.

4. A valid registration of a trademark in the U.S. Patent and Trademark Office grants the registrant the right to exclude others from using the registered mark anywhere in the United States except where another has been using the mark in connection with his goods in a time prior to that of registrant's use of the mark in the area. Hanover Star Milling Co. v. Metcalf, 240 U.S. 403 (1916).

5. A trade name is to be distinguished from a trademark. A trade name is statutorily defined in 15 U.S.C. §1127 as

"individual names and surnames, firm names and tradenames used by manufacturers . . . and others to identify their businesses . . . ; the names or titles lawfully adopted and used by persons, firms, associations, corporations, companies, unions, and any manufacturing . . . or other organizations engaged in trade or commerce and capable of suing and being sued in a court of law." (emphasis added)

6. As contrasted with this, the same section of the statute defines the term "trademark" as including

"any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured or sold by others." (emphasis added)

7. A trade name very often does not function, or is incapable of functioning, in a trade mark sense. This is particularly true where both appear on a product simultaneously, or where the address appears adjacent the name of the company, or where all the words involved are written in the same size of letters. In re Walker Process Equipment, Inc., 233 F.2d 329 (CCPA 1956); Minnesota Mining & Manufacturing Co. v. Minnesota Linseed Oil Paint Co., 229 F.2d 448 (CCPA 1956); In re Antenna Specialists Co., 150 USPQ 820; Ex parte Pinking Shears Corporation, 104 USPQ 408.

8. Ownership of a trademark arises only through use. Intent to use some time in the future confers no rights. Sinclair v. Deb Chemical Proprietaries Limited, 137 USPQ 161 (PTOTMTrApBd. 1963).

9. The trademark and associated good will of a business are like Siamese twins - when one is sold the other goes with it. Kidd v. Johnson, 100 U.S. 617 (1879).

10. Under contract of sale dated December 1, 1964, defendants John H. Love, Adelia Love and Kenneth Love, a partnership doing business as Dr. Pepper Love Bottling Company of Bartlesville, Oklahoma, sold and transferred their going business to the plaintiff for a valuable consideration and the transfer included all the assets of the partnership including the good will of the going business.

The contract terminology of the 1964 agreement does not limit the areas from which the plaintiff could ordinarily have been expected to expand his sphere of trade and hence the use of the mark in furtherance of his business. Hanover Star Milling Co. v. Metcalf, supra.

11. A trademark cannot be transferred apart from a going business. Any attempted assignment of a mark apart from a going business is a naked assignment or an assignment "in gross" and as such, transfers no rights to the assignee. Kidd v. Johnson, 100 U.S. 617 (1879); Browning King Co. of New York v. Browning King Co., 176 F.2d 105 (C.A. 3, 1949).

The assignment dated July 30, 1971, and recorded in the United States Patent and Trademark Office on December 12, 1972, from John H. Love, Adelia Love and Kenneth Love to Dr. Pepper Love Bottling Company of Muskogee was a naked assignment and the Muskogee company received no rights thereby. Lazar v. Cecelia Company, 30 F.Supp 769 (DC SDNY 1939); Handmacher-Vogel, Inc. v. Ritmor Sportswear Co., Inc., 95 USPQ 344 (1952); Nettie Rosenstein, Inc. v. Princes Pat, Ltd., 220 F.2d 444 (CCPA 1955); Kelley Liquor Co. v. National Brokerage Co., Inc., 102<sup>o</sup> F.2d 857 (CCPA 1939).

12. Neither K. C. Love, Sr. individually nor as the 1944 partnership of K.C. Love, Sr. and Violet Mills Love doing business as Dr. Pepper Love Bottling Company of Muskogee, Oklahoma, utilized the trademark "Love" within a heart design or with the word "Beverages" from at least as early as 1945 until 1972. Defendant Dr. Pepper Love Bottling Company of Muskogee prima facie abandoned whatever rights it may have had to concurrent use of the trademark "Love" by a failure to use for a period far in excess of the statutory period beyond which a presumption of abandonment is raised under Title 15 U.S.C. §1127. Dunhill International, Inc. v. Lull-A-Babe, Inc., 137 USPQ 232; Sinclair v. Deb Chemical Proprietaries Limited, 137 USPQ 161.

13. The partnership of John H. Love, Adelia Love and Kenneth Love was terminated by operation of law under the 1964 contract of sale and agreement not to compete with the plaintiff transferee, and the partnership has conducted no business since the date of termination. Defendants, John H. Love, Adelia Love and Kenneth Love doing business as Dr. Pepper Love Bottling Company of

Bartlesville, Oklahoma, abandoned their right to the mark by a failure to use the mark for a period from 1964 to the present.

14. The partnership of John H. Love, et al. showed its intent to abandon the "Love" Beverages mark by not including any provisions in said contract of sale for control of the quality of the soft drinks to be sold by Oklahoma Beverage Company under the "Love" Beverages mark. When the owner of a registered trademark grants another the right to use the mark without the owner maintaining control over the quality of the products to be sold by the grantee under the mark, then the owner loses (abandons) any rights he may have in the ownership of the mark. Dawn Donut Company v. Hart's Food Stores, Inc., 267 F.2d 358 (C.A. 2, 1959).

15. By virtue of said contract of sale of December, 1964, and by virtue of exclusive use of the mark "Love" Beverages from December, 1964, until 1972 and continued use to date, plaintiff Oklahoma Beverage Company is the owner of Trademark Registration No. 617,924.

16. As Dr. Pepper Love Bottling Company of Muskogee acquired no rights to the Love trademark via the assignment in gross of July 30, 1971, the defendants' attempts to interfere with plaintiff's source of supply of trademarked containers (bottles) constitutes unfair competition as tortious interference with a competitor's source of supply, and plaintiff is entitled to the damages resulting from such actions.

17. Defendants' Dr. Pepper Love Bottling Company of Muskogee attempt to obtain trademark registration from the State of Oklahoma via a false declaration of sole ownership and use of the Love mark renders said registration subject to cancellation. Title 78 Okla. Stat. §28.

An appropriate Judgment will accordingly be entered herein.

Dated this 18<sup>th</sup> day of December, 1975.

Leith Bohannon  
UNITED STATES DISTRICT JUDGE

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

REVEREND A. D. MARNEY and FLORENCE )  
MARIE MARNEY, )  
Plaintiffs, )  
vs. )  
SOUTHWESTERN BELL TELEPHONE COMPANY, )  
Defendant. )

No. 75-C-184

FILED

DEC 19 1975

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

O R D E R

After reviewing the file and record in this cause, the recommendations of the Magistrate are hereby approved, and

IT IS, THEREFORE, ORDERED that the defendant's motion for summary judgment be and the same is hereby granted.

IT IS FURTHER ORDERED that the plaintiffs' motion to dismiss without prejudice 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 plaintiffs and defendant.

Dated this 19<sup>th</sup> day of Dec., 19 75.

*Allen E. Brown*

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

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

WILLIAM TROY GRIFFIN, )  
 )  
 ) Petitioner, )  
 )  
 vs. ) No. 75-C-553 ✓  
 )  
 DR. NED BENTON, Director, )  
 Department of Corrections, )  
 State of Oklahoma, )  
 )  
 Respondent. )

E I L E D  
DEC 19 1975

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

O R D E R

This is a proceeding brought pursuant to the provisions of Title 28 U.S.C. § 2254, by a prisoner confined in the Vocational Training Center, Stringtown, Oklahoma.

Petitioner is currently confined pursuant to a three-year sentence imposed by the District Court of Tulsa County, State of Oklahoma. Petitioner states that after commitment on the above judgment and sentence, a detainer, or warrant issued by Barton County, Great Bend, Kansas, was lodged against petitioner's release, alleging the offense of second degree forgery. Petitioner seeks to have said detainer dismissed for the reasons that the charges are unfounded and further that a fast and speedy remedy has been denied in that the detainer has been pending for more than one hundred days.

Title 28, United States Code, § 2254, provides in subsection (b):

"An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State . . . ."  
(emphasis added)

Therefore, habeas corpus relief cannot be granted in the courts of the United States for denial of a constitutional

right by a state court where relief is sought in the Federal court upon a ground which has not been asserted in the state courts and state remedies have not been exhausted. Hoggatt v. Page, 432 F.2d 41 (10th Cir. 1970); Prescher v. Crouse, 431 F.2d 209 (10th Cir. 1970).

Petitioner does not allege that his grounds for relief have ever been presented to the high court of the State of Kansas.

The petition is therefore hereby denied and the case is dismissed.

It is so Ordered this 19<sup>th</sup> day of December, 1975.

  
H. DALE COOK  
United States District Judge

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

CAROLINE M. HOLCOMB, )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 75-C-84  
 )  
 DR. J. E. HOLCOMB, )  
 )  
 Defendant. )

**FILED**

DEC 19 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 Motions for Summary Judgment filed by plaintiff and defendant herein. The issues having been duly presented and decision having been duly rendered, the following Order is entered:

IT IS ORDERED AND ADJUDGED that the plaintiff be awarded the sum of Twenty Thousand, Nine Hundred and Fifty Dollars (\$20,950.00) and costs of the action.

Dated at Tulsa, Oklahoma, this 19<sup>th</sup> day of December, 1975.



H. DALE COOK  
United States District Judge

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

1975  
DEC 18 1975

UNITED STATES OF AMERICA and )  
CHARLES BEIBEL, Revenue Officer, )  
Internal Revenue Service, )  
 )  
 ) Petitioners, )  
 )  
vs. ) Civil No. 75-C-521  
 )  
ANTHONY E. SANTILLI, )  
 )  
 ) Respondent. )

PETITIONERS' MOTION TO DISCHARGE  
RESPONDENT AND FOR DISMISSAL

Come Now the Petitioners, the United States of America and Charles Beibel a Revenue Officer of the Internal Revenue Service, and move the Court to discharge the Respondent, Anthony E. Santilli, from the Order to Show Cause herein and to dismiss this action with costs in the amount of \$41.96 to be taxed against Respondent because Respondent has now complied with the summons served upon him July 22, 1975.

NATHAN G. GRAHAM  
United States Attorney

*Kenneth P. Snoke*

KENNETH P. SNOKE  
Assistant United States Attorney

CERTIFICATE OF MAILING

The undersigned certifies that a true and correct copy of the foregoing Motion to Discharge Respondent and for Dismissal was mailed to: Anthony E. Santilli, 1722 South Carson, Tulsa, Oklahoma 74119 on this 18<sup>th</sup> day of December, 1975, with postage thereon prepaid.

*Kenneth P. Snoke*  
\_\_\_\_\_  
KENNETH P. SNOKE

FILED

DEC 18 1975

Jack C. Silver, C...  
U. S. DISTRICT COU

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 75-C-490
	)	
	)	
SHELDON G. HARRIS,	)	
	)	
Defendant.	)	

J U D G M E N T

THIS MATTER COMES on for consideration this 16th day of December, 1975, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and the defendant, Sheldon G. Harris, appearing not.

The Court being fully advised and having examined the file herein finds that Sheldon G. Harris was served with Summons and Complaint on November 3, 1975, as appears from the United States Marshals Service herein, and

It appearing that said defendant has failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit to recover the sum of \$9,135.81 paid to Sheldon G. Harris in 1974 by the Railroad Retirement Board, an agency of the United States of America, upon the representation of Sheldon G. Harris that only he was entitled to such sum. The Court finds that said amount represented the residual lump-sum payable to the legal beneficiary of Hobart Harris deceased, the brother of Sheldon G. Harris; that the legal beneficiary of Hobart Harris was his widow, children, grandchildren, parents, brothers and sisters, or his estate, in that order of precedence. The Court further finds that Sheldon G. Harris represented to the Railroad Retirement Board that his deceased brother Hobart Harris was not survived by any of the

above-described persons in higher priority than himself when, in truth and in fact, Hobart Harris was survived by his daughter Carol D. Duncan. The Court finds that the sum of \$9,135.81 was erroneously paid to Sheldon G. Harris because of his false representation to the Railroad Retirement Board that he was entitled to said sum because Hobart Harris, upon his death, had no widow, children, grandchildren, or parents surviving him and that Sheldon G. Harris was the only sibling surviving the deceased.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the United States of America have and recover judgment against the defendant, Sheldon G. Harris, for the sum of \$9,135.81, plus interest according to law until paid, plus the costs of the action.

  
UNITED STATES DISTRICT JUDGE

APPROVED.

  
ROBERT P. SANTEE  
Assistant United States Attorney

bcs

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 vs. )  
 ) No. 72-C-11  
 )  
 ) CITY OF PAWHUSKA, OKLAHOMA, )  
 ) a municipal corporation, )  
 )  
 ) Defendant. )

FILED  
DEC 18 1975

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

FINDINGS AND JUDGMENT

This cause came on before the Court November 5, 1975, for evidence and trial as mandated by the Opinion of the United States Court of Appeals for the Tenth Circuit, the Opinion having been filed September 29, 1974.

In the Opinion of the Tenth Circuit, it was stated, "By condemnation City [of Pawhuska] obtained the interests of the Tribe's lessees but did not compensate the Tribe for any subsurface mineral interest." The Circuit further stated, "If that interest has any value, the Tribe has not been compensated for its loss."

Based on the evidence adduced at new trial and the authorities, the Court finds the facts and legally concludes as is set out below.

The evidence showed that, as the Tribe's lessees had been compensated but not the Tribe, the mineral interest which was taken by the City was an interest equating with royalty if present production existed or future bonus and royalty on lands either not leased or which would not be held by production in the future and upon which subsequent leases could be given. Such interest stems from the settled rule in Oklahoma that a mineral estate owner does not have absolute ownership in the minerals in place; rather, such owner has the right to capture by exploration and extraction.

The flooding of the surface acres by the City of Pawhuska has "taken" the right of the Tribe to receive future benefits which inure to the right to explore and extract or to give leases to

explore and extract. The deprivation of such right through the surface flooding constitutes an inverse condemnation. United States v. Dickinson, 331 U.S. 745 (1947); Duke Power Co. v. Toms, 118 F.2d 443 (C.A. 4, 1941). Oklahoma recognizes the theory of inverse or reverse condemnation where a sovereign or its agent has made overt acts leading to exercise of dominion and control so as to constitute a de facto taking as has occurred in this case. State ex rel. Dept. of Highways v. Cook, 45 OBAJ 2153 (decided Nov. 4, 1975). Plaintiff amended its Complaint to include allegations of such a taking.

Where flooding of lands for public purposes has occurred through a municipality's acts, the municipality may be held liable for the appropriation of valuable property rights. City of Wewoka v. Mainard, 8 P.2d 676 (Okla. 1932); City of Wewoka v. Magnolia Petroleum Co., 3 P.2d 182 (Okla. 1931).

A taking having occurred, the appropriate measure of damages need be applied. As the minerals in suit are not owned in place, evidence of the quantity of oil trapped in sub-surface strata and its market value is not an appropriate measure. In Oklahoma Gas & Electric Co. v. Kelly, 58 P.2d 328 (Okla. 1936), the general measure of damages is stated as:

"The measure of damages in condemnation proceedings where private property is taken in the exercise of the right of eminent domain under the statutes of Oklahoma is the market value of the property actually taken, at the time it is so taken, and for the impairment or depreciation of value done to the remainder."

There has been a loss or impairment of the property right previously defined. The Court finds from the expert evidence introduced at trial that such right, though speculative to a degree, has a monetary value of \$50 per acre, said sum encompassing past, present and future damages resulting from the taking. Phillips v. United States, 243 F.2d 1 (C.A. 9, 1957). A total of 858.64 acres involving interests held in trust were consequentially affected by the flooding of the surface lands, thus warranting an award of \$42,932.

The Court further finds and concludes that from the date of payment of such judgment, the City is vested with fee title

derived from both the surface and mineral estates. In the event it is determined by law that the City of Pawhuska does not hold all such rights, then it is the alternative decision of the Court that the City of Pawhuska, Oklahoma, shall have a permanent injunction for as long as the subject flooded lands are used as a municipal water source, enjoining any interference with the rights conferred upon the City by its exercise of eminent domain.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the plaintiff have judgment against the defendant City of Pawhuska in the amount of \$42,932, together with interest thereon from the date of this judgment until paid as provided by law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant City of Pawhuska have judgment against the plaintiff quieting its title in fee simple to the 858.64 acres.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if the taking by the City of Pawhuska of the mineral acreage hereinabove referred to is found to be contrary to law, then it is ordered that the defendant City of Pawhuska have judgment restraining and enjoining the plaintiff from claiming any interest in or title to said 858.64 acres so long as the City of Pawhuska owns and operates and controls the surface of said land as a municipal water reservoir for the City of Pawhuska and any of its assignees.

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

Arthur Bohannon  
UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
STEPHEN B. MURRAY, VIVIAN MURRAY, )  
BOARD OF COUNTY COMMISSIONERS, )  
Tulsa County, Oklahoma, COUNTY )  
TREASURER, Tulsa County, Oklahoma, )  
CENTURY FINANCE COMPANY OF TULSA, )  
INC., NATIONAL HOMES ACCEPTANCE )  
CORPORATION, AMERICA FINANCE )  
SYSTEMS OF TULSA, now AMERICA )  
FINANCE SYSTEMS OF OKLAHOMA, a )  
Corporation, MICKEY'S, INC., d/b/a )  
AAMCO TRANSMISSION, ELLIOTT LYLES, )  
and ROSIE LEE LYLES, )  
)  
Defendants. )

CIVIL ACTION NO. 75-C-447

FILED

DEC 16 1975

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 15th  
day of December, 1975, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney; the Defendants,  
County Treasurer, Tulsa County, Oklahoma, and Board of County  
Commissioners, Tulsa County, Oklahoma, appearing by its attorney,  
Andrew B. Allen, Assistant District Attorney; the Defendant,  
America Finance Systems of Tulsa now America Finance Systems  
of Oklahoma, a Corporation, appearing by its attorney, J. G.  
Follens; and, the Defendants, Stephen B. Murray, Vivian Murray,  
Century Finance Company of Tulsa, Inc., National Homes Acceptance  
Corporation, Mickey's, Inc., d/b/a Aamco Transmission, Elliott  
Lyles, and Rosie Lee Lyles, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendant, National Homes Acceptance  
Corporation, was served with Summons and Complaint on October 1,  
1975; that Defendants, Board of County Commissioners, Tulsa  
County, Oklahoma, County Treasurer, Tulsa County, Oklahoma,

Mickey's, Inc., d/b/a Aamco Transmission, and America Finance Systems of Tulsa, now America Finance Systems of Oklahoma, a Corporation, were served with Summons and Complaint on October 2, 1975; that Defendants, Elliott Lyles, Rosie Lee Lyles, Vivian Murray, and Stephen B. Murray, were served with Summons and Complaint on October 7, 1975; and, that Defendant, Century Finance Company of Tulsa, was served with Summons and Complaint on October 9, 1975, all as appears from the United States Marshal's Service herein.

It appearing that the Defendants, County Treasurer, Tulsa County, Oklahoma, Board of County Commissioners, Tulsa County, Oklahoma, have duly filed its answers herein on October 15, 1975; that Defendant, America Finance Systems of Tulsa, now America Finance Systems of Oklahoma, has duly filed its disclaimer on October 22, 1975; that Defendants, Stephen B. Murray, Vivian Murray, Century Finance Company of Tulsa, Inc., National Homes Acceptance Corporation, Mickey's, Inc., d/b/a Aamco Transmission, Elliott Lyles, and Rosie Lee Lyles, 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 Four (4), Block Thirty-One (31), VALLEY VIEW ACRES SECOND ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Stephen B. Murray and Vivian Murray, did, on the 28th day of February, 1969, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$10, 750.00 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 Defendants, Elliott Lyles and Rosie Lee Lyles, were the grantees in a deed from Defendants, Stephen B. Murray and Vivian Murray, dated July 29, 1973, filed August 17, 1973, in Book 4083, Page 1467, records of Tulsa County, wherein Defendants, Elliott Lyles and Rosie Lee Lyles, assumed and agreed to pay the mortgage indebtedness being sued upon herein.

The Court further finds that Defendants, Stephen B. Murray, Vivian Murray, Elliott Lyles, and Rosie Lee Lyles, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 11 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 \$10,260.43 as unpaid principal with interest thereon at the rate of 7 1/2 percent per annum from December 1, 1974, until paid, plus the cost of this action accrued and accruing.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendants, Elliott Lyles and Rosie Lee Lyles, the sum of \$ 20.67 plus interest according to law for personal property taxes for the year(s) 1975 and that Tulsa County should have judgment, in rem, for said amount, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendants, Stephen B. Murray, Vivian Murray, Elliott Lyles, and Rosie Lee Lyles, the sum of \$ 72.33 plus interest according to law for real estate taxes for the year(s) 1975 and that Tulsa County should have judgment, in rem, for said amount, and that such judgment is superior 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, Stephen B. Murray, Vivian Murray, Elliott Lyles and Rosie Lee Lyles, in personam, for the sum of \$10,260.43 with interest thereon at the rate of 7 1/2 percent per annum from December 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 County of Tulsa have and recover judgment, in rem, against Defendants, Elliott Lyles and Rosie Lee Lyles, for the sum of \$ 20.67 as 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 the County of Tulsa have and recover judgment, in rem, against Defendants, Stephen B. Murray, Vivian Murray, Elliott Lyles, and Rosie Lee Lyles, for the sum of \$ 72.33 as of the date of this judgment plus interest thereafter according to law for real estate taxes, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment, in rem, against Defendants, Century Finance Company of Tulsa, Inc., National Homes Acceptance Corporation, and Mickey's, Inc., d/b/a Aamco Transmission.

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

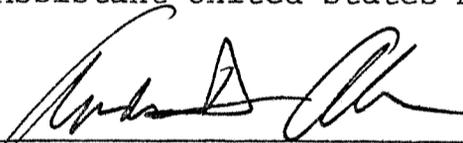
Plaintiff's judgment which shall be subject to the tax judgment of Tulsa County, supra. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

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, interest, or claim in or to the real property or any part thereof. Specifically, including any lien for personal property taxes which may have been filed during the pendency of this action.

s/ Allen L. Barrow  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
ROBERT P. SANTEE  
Assistant United States Attorney

  
ANDREW B. ALLEN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners  
Tulsa County

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 12 1975

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

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. ) CIVIL ACTION NO. 75-C-33 ✓  
 )  
130.00 Acres of Land, More ) Tract No. 923ME  
or less, Situate in Osage )  
County, State of Oklahoma, ) (All interests in estate taken)  
and Osage Tribe of Indians, )  
 ) (Included in D. T. filed in  
Defendants. ) Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 923ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$7,150.00	\$7,150.00
Deposited as estimated compensation -----	\$3,867.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$7,150.00
Deposit deficiency -----	\$3,283.00	

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 \$3,283.00 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$7,150.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 12 1975

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

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 75-C-32
	)	
160.00 Acres of Land, More	)	Tract No. 922ME
or less, Situate in Osage	)	
County, State of Oklahoma	)	(All interests in estate taken)
and Osage Tribe of Indians,	)	
	)	(Included in D. T. filed in
Defendants.	)	Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 922ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$8,800.00	\$8,800.00
Deposited as estimated compensation -----	\$4,760.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		<u>\$8,800.00</u>
Deposit deficiency -----	\$4,040.00	

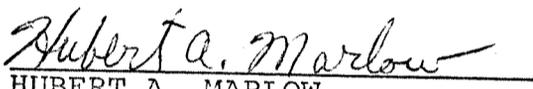
13.

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 \$4,040.00 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$8,800.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

DEC 12 1975

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

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. ) CIVIL ACTION NO. 75-C-27  
 )  
160.00 Acres of Land, More ) Tract No. 906ME  
or less, Situate in Osage )  
County, State of Oklahoma, ) (All interests in estate taken)  
and Osage Tribe of Indians, )  
 ) (Included in D. T. filed in  
Defendants. ) Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 906ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$8,800.00	\$8,800.00
Deposited as estimated compensation -----	\$4,760.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		<u>\$8,800.00</u>
Deposit deficiency -----	\$4,040.00	

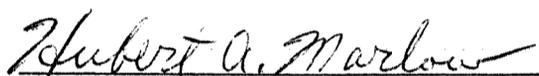
13.

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 \$4,040.00 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$8,800.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 12 1975 ae

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

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 75-C-28 ✓
	)	
160.00 Acres of Land, More	)	Tract No. 907ME
or less, Situate in Osage	)	
County, State of Oklahoma,	)	(All interests in estate taken)
and Osage Tribe of Indians,	)	
	)	(Included in D. T. filed in
Defendants.	)	Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 907ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$8,800.00	\$8,800.00
Deposited as estimated compensation -----	\$4,760.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$8,800.00
Deposit deficiency -----	\$4,040.00	

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 \$4,040.00 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$8,800.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 17 1975 *ze*

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 75-C-29 ✓
	)	
72.50 Acres of Land, More	)	Tract No. 908ME
or less, Situate in Osage	)	
County, State of Oklahoma,	)	(All interests in estate taken)
and Osage Tribe of Indians,	)	
	)	(Included in D. T. filed in
Defendants.	)	Master File #398-4)

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

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 908ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$3,987.50	\$3,987.50
Deposited as estimated compensation -----	\$2,153.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		<u>\$3,987.50</u>
Deposit deficiency -----	\$1,834.50	

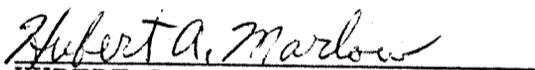
13.

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 \$1,834.50 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$3,987.50.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 12 1975

Jack C. Silver, Clerk *2e*  
U. S. DISTRICT COURT

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 75-C-30 ✓
	)	
159.06 Acres of Land, More	)	Tract No. 909ME
or less, Situate in Osage	)	
County, State of Oklahoma,	)	(All interests in estate taken)
and Osage Tribe of Indians,	)	
	)	(Included in D. T. filed in
Defendants.	)	Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 909ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$8,748.30	\$8,748.30
Deposited as estimated compensation -----	\$4,760.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$8,748.30
Deposit deficiency -----	\$3,988.30	

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 \$3,988.30 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$8,748.30.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 12 1975

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

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. ) CIVIL ACTION NO. 75-C-31  
 )  
88.44 Acres of Land, More ) Tract No. 911ME  
or less, Situate in Osage )  
County, State of Oklahoma, ) (All interests in estate taken)  
and Osage Tribe of Indians, )  
 ) (Included in D. T. filed in  
Defendants. ) Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 911ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$4,864.20	\$4,864.20
Deposited as estimated compensation -----	\$2,596.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$4,864.20
Deposit deficiency -----	\$2,268.20	

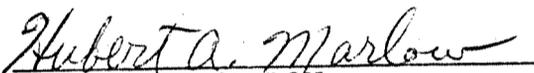
13.

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 \$2,268.20 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$4,864.20.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 12 1975

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

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. ) CIVIL ACTION NO. 75-C-26 ✓  
 )  
80.00 Acres of Land, More ) Tract No. 904ME  
or less, Situate in Osage )  
County, State of Oklahoma ) (All interests in estate taken)  
and Osage Tribe of Indians, )  
 ) (Included in D. T. filed in  
Defendants. ) Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 904ME

OWNER: Osage Tribe of Indians		
Award of just compensation pursuant to Stipulation -----	\$4,400.00	\$4,400.00
Deposited as estimated compensation -----	\$2,360.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$4,400.00
Deposit deficiency -----	\$2,040.00	

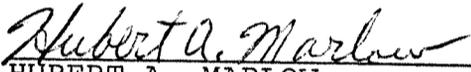
13.

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 \$2,040.00 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$4,400.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 12 1975

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

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 75-C-24
	)	
28.00 Acres of Land, More	)	Tract No. 902ME
or less, Situate in Osage	)	
County, State of Oklahoma,	)	(All interests in estate taken)
and Osage Tribe of Indians,	)	
	)	(Included in D. T. filed in
Defendants.	)	Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 902ME

OWNER: Osage Tribe of Indians		
Award of just compensation pursuant to Stipulation -----	\$1,540.00	\$1,540.00
Deposited as estimated compensation -----	\$ 812.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$1,540.00
Deposit deficiency -----	\$ 728.00	

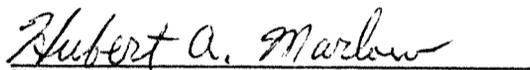
13.

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 \$728.00 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$1,540.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 11 1975

2c

Jack C. Silver,  
U. S. DISTRICT

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
147.50 Acres of Land, More )  
or less, Situate in Osage )  
County, State of Oklahoma, )  
and Osage Tribe of Indians, )  
 )  
Defendants. )

CIVIL ACTION NO. 75-C-34 ✓  
Tracts Nos. 924ME-1 &  
924ME-2  
(All interests in estate taken)  
(Included in D. T. filed in  
Master File #398-4)

FILED

DEC 12 1975

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

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 January 22,

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 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 January 22, 1975, 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. 924ME-1 and 924ME-2

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$8,112.50	\$8,112.50
Deposited as estimated compensation -----	\$4,403.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		<u>\$8,112.50</u>
Deposit deficiency -----	\$3,709.50	

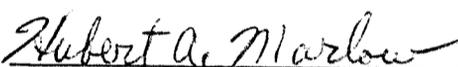
13.

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 \$3,709.50 and the Clerk of this Court then shall disburse from the deposit for subject tracts, to the Osage Tribe of Indians the sum of \$8,112.50.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

DEC 12 1975

Jack C. Silver, *cc*  
U. S. DISTRICT COURT

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 75-C-25 ✓
	)	
80.00 Acres of Land, More	)	Tract No. 903ME
or less, Situate in Osage	)	
County, State of Oklahoma,	)	(All interests in estate taken)
and Osage Tribe of Indians,	)	
	)	(Included in D. T. filed in
Defendants.	)	Master File #398-4)

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 903ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$4,400.00	\$4,400.00
Deposited as estimated compensation -----	\$2,360.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		<u>\$4,400.00</u>
Deposit deficiency -----	\$2,040.00	

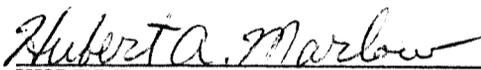
13.

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 \$2,040.00 and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$4,400.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America,	)	
	)	
Plaintiff,	)	(Master File #398-4)
	)	
vs.	)	CIVIL ACTION NO. 75-C-23 ✓
	)	
91.75 Acres of Land, More	)	Tract No. 901ME
or less, Situate in Osage	)	
County, State of Oklahoma	)	(All interests in estate taken)
and Osage Tribe of Indians,	)	
	)	
Defendants.	)	

**FILED**

DEC 12 1975

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

J U D G M E N T

1.

NOW, on this 11<sup>th</sup> day of December, 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 tract listed in the caption hereof, as such estate and tract 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 January 22,

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 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 tract. 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 January 22, 1975, 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:

TRACT NO. 901ME

OWNER: Osage Tribe of Indians

Award of just compensation pursuant to Stipulation -----	\$5,046.25	\$5,046.25
Deposited as estimated compensation -----	\$2,714.00	
Disbursed to owner -----		<u>None</u>
Balance due to owner -----		\$5,046.25
Deposit deficiency -----	\$2,332.25	

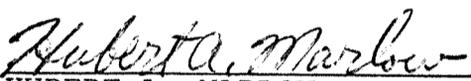
13.

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 \$2,332.25, and the Clerk of this Court then shall disburse from the deposit for subject tract, to the Osage Tribe of Indians the sum of \$5,046.25.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant U. S. Attorney

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

JOAN C. McLEOD,

Plaintiff,

vs.

AETNA LIFE INSURANCE COMPANY,  
a Foreign Corporation,

Defendant.

No. 75-C-196

**FILED**

DEC 11 1975

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

ORDER OF DISMISSAL

ON This 3rd day of December, 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.

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

APPROVAL:

Bob Mason

Bob Mason

Attorney for the Plaintiff,

Alfred B. Knight

Alfred B. Knight

Attorney for the Defendant.



On October 8, 1975, the defendants, Scrivner, Inc. d/b/a Bestyet Discount Foods Stores, Inc., Bestyet Discount Food Stores, Inc., and Jack Nellis filed a joint answer. On October 9, 1975, Jack Nellis, defendant, filed his separate answer. On October 9, 1975, defendant, Riverside National Bank, filed its Motion to Dismiss. On November 4, 1975, the plaintiff filed a motion to confess the motion to dismiss the first cause of action as to all defendants. At the same time plaintiff filed her motion to remand.

It is noted that when the case was removed, the following allegation for removal was stated in the petition:

"The above-described action is a civil action of which this Court has original jurisdiction under the provisions of Title 28, U.S.C.A. Sec. 1331, and is one which may be removed to this Court by the Petitioners, Defendants therein, pursuant to the provisions of Title 28, U.S.C.A. Sed. 1441, and it appears from the Plaintiff's Petition that this is a civil action which arises under 42 U.S.C.A., in that Plaintiff alleges she was deprived of her civil rights under the Fourth and Fourteenth Amendments of the Constitution of the United States and the 'Civil Rights Act as set out in 42 U.S.C.A.,' and that the matter in controversy exceeds, exclusive of interest and costs, the sum of \$10,000.00. "

The Court is now faced with a decision on the Motion to Dismiss as to the Second and Third Causes of Action by Republic National Bank and plaintiff's Motion to Remand.

On plaintiff's motion to remand, the Court is faced with the thorn question going to the jurisdiction of this Court of a case removed to it from a state court after the removal predicate is subsequently dropped from the proceedings. The Court feels, at this juncture the propriety of removal at the time the case was removed is not questionable. But, additionally, the Court recognizes that absent some independent head of federal jurisdiction, retention of the non-federal claims involves the court with subject matter at the periphery of United States judicial power. This Court does not dispute the fact that absent some statutory limitation, federal jurisdiction may be exercised over non-federal facets of a case if there is first established jurisdiction based on a substantial federal ingredient.

This Court is aware of the various subsequent developments that do not oust the Court of jurisdiction. But at the same time it is recognized that the existence of power to adjudicate a controversy is not always coextensive with the propriety of its exercise.

As Judge Merrill of the Ninth Circuit stated, where there has been no substantial commitment of judicial resources to the nonfederal claims, it is akin to "making the tail wag the dog" for the District Court to retain jurisdiction.

Federal Courts should not be overeager to hold onto the determination of issues that might be more appropriately left to settlement in state court litigation merely because the Court might have had jurisdiction to do so by virtue of a complaint making an unfounded claim of federal right.

Since the plaintiff is not relying upon the deprivation of civil rights claim, then the claim does not really and substantially involve a controversy within the jurisdiction of the Court.

IT IS, THEREFORE, ORDERED that plaintiff's motion to remand is hereby sustained and this case is ordered remanded to the District Court of Tulsa County, Oklahoma.

ENTERED this 11<sup>th</sup> day of December, 1975.

  
\_\_\_\_\_  
CHIEF UNITED STATES DISTRICT JUDGE

FILED

DEC 11 1975 J.

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

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

CHARLES F. HOFFMAN, GENEVA HOFFMAN )  
RAMSEY, RUTH NADINE HOFFMAN, Executrix )  
of the Estate of HENRY HOFFMAN, Deceased, )  
JEAN ANN BLUE, )

Plaintiffs, )

vs. )

UNITED STATES OF AMERICA, SAMMY )  
DOWLING, and HENRY HOFFMAN TRUST, )  
whose Trustees are First National )  
Bank of Miami, Oklahoma and )  
Paul S. Wilson, )

Defendants. )

74-C-484 ✓

ORDER

The Court has for consideration the Motion to Dismiss filed by the United States of America; the Motion to Dismiss Cross Complaint filed by Sammy Dowling; the Motion to Dismiss filed by Sammy Dowling; the briefs in support and opposition thereto; the Findings and Recommendations of the Magistrate; the objections to the Findings and Recommendations of the Magistrate; the briefs in support and opposition thereto; and, being fully advises in the premises, finds:

That this action was instituted by plaintiffs who allege jurisdiction is conferred by virtue of 28 U.S.C.A. Section 1346 and 28 U.S.C.A. Sections 2671 et seq.

Plaintiffs contend that they were at all times owners of certain real property situated in Osage County, Oklahoma, and that at all times material the United States, acting through the Secretary of the Interior, the Bureau of Indian Affairs, their agents, servants and employees, acting within the scope of their employment, exercised exclusive control over said lands and tailing pile, approving and causing to be executed on behalf of the plaintiffs and their restricted Indian predecessors, various mining leases to various lessees; and that said United States exercised exclusive control of the method, manner

and procedure employes by the lessees in the mining and management of said land. Plaintiffs further allege that the depositing, disposition, maintenance and operation of the tailing pile located on said land was also performed by various lessees and purchases under the exclusive control and regulations of the United States whose employees were allegedly acting within the scope of their employment pursuant to the Statutes of the United States and the regulations of the administrative agencies thereof.

Plaintiffs further contend that the Henry Hoffman Trust is the owner of an undivided interest in the lands, but that said undivided interest is a minority unrestricted non-Indian interest and that said Trust has had no voice nor control over the operation of said lands.

The defendant, Sammy Dowling has filed an action in the District Court of Ottawa County, Oklahoma against plaintiffs and the Trust, in cause number C-73-91, seeking damages for alleged personal injuries sustained as a result of certain alleged careless and negligent acts with reference to the mining operations on said land.

Plaintiffs contend that the United States owes plaintiffs a defense and indemnification of the claim of Sammy Dowling in that state court action.

It is noted that although the Trust is named as a party-defendant in this action, there is no prayer for relief for defense or indemnification or contribution stated against said Trust.

The Trust has cross-claimed against the United States and Sammy Dowling, also praying a defense and indemnification by virtue of any claim of Sammy Dowling.

The Court will first turn to the Motions to Dismiss filed by Sammy Dowling, and, finds that there is no cause of action stated in the Complaint or in the Cross-claim upon which relief can be granted.

The Recommendations of the Magistrate as to sustaining the Motions to Dismiss of Sammy Dowling as to the Complaint and Cross-Complaint should be adopted and said Motions should be sustained.

Turning to the Motion to Dismiss filed by the United States, said Motion is premised on two contentions, i.e. (1) The Court does not have jurisdiction of the action; and (2) that the complaint and the cross-complaint both fail to state a claim against the United States of America upon which relief can be granted.

A prerequisite to judicial action under the Federal Tort Claims Act is the rule that a claimant must have presented his claim to the appropriate federal agency for administrative determination, and the claim must have been finally denied by the agency or the agency must have failed to make a final disposition of the claim within the statutory period specified, which, at the claimant's option, may be deemed a final denial.

There is no allegation or showing that the plaintiffs or the cross-complainant have filed a claim as hereinabove detailed.

The Court will not turn to the two cases relied on by plaintiffs, i.e., *Chicago, Rock Island and Pacific Railway Co. v. The United States*, 220 F.2d 939 (CCA, 7th, 1955); *United Airlines, Inc. v. Wiener*, 335 F.2d 379 (CCA, 9th, 1964).

In the *Chicago Rock Island and Pacific Railway* case, *supra*, the action was brought for indemnification for the amount which the railroad had paid to its employees for injuries caused by negligence of employee of the United States in throwing a mail pouch from a postal car of a passing train onto the station platform. It is noted that the railroad notified the United States to the effect that the injury was the result of the negligence of defendant's employee, requesting that it assume liability and the United States acknowledged receipt of the notice, but denied liability. Thereafter the railroad made a settlement of the claim by payment of an amount. In that case the Court held "that it was held or recognized that the plaintiff railroad was entitled to maintain suit against the government to recover money which it had paid an employee for damages sustained as a result of negligence by the government". This case, and the cases cited therein, lead to the belief that the United States might be sued, in proper atmosphere, for monies already paid by the

tortfeasor. In the case of *United Airlines, Inc. v. Wiener*, supra, the United States was found to be the primary wrongdoer in an air accident between a United Air Lines passenger plane and a U.S. Air Force trainer plane. Indemnity against the United States was granted as to judgments paid to United passengers who were not Government employees, on the grounds that indemnity could not be awarded where there was no liability on the United States (indemnitor) to employees of the United States because of Federal Employees' Compensation Act, 5 U.S.C. 751 et seq.

See also *Wallenius Beemen v. United States*, 290 F.Supp. 195 (USDC, E.D. Va., 1968); 12 ALR Fed. page 765.

It is apparent that the cases decided under Section 2675(a), as amended in 1966, establish that compliance with the administrative claim requirements is now a prerequisite to maintaining suit against the government under the Federal Tort Claims Act. Thus it has been held or recognized that an action instituted in a Federal District Court under the Federal Tort Claims Act is subject to dismissal where no administrative claim has first been filed by the plaintiff as required by Section 2675(a), or where the administrative claim filed by the plaintiff pursuant to Section 2675(a) does not meet the requirements of the regulations governing a proper claim.

The Tenth Circuit Court of Appeals has stated in *Cooper v. United States Penitentiary, etc.* 433, F.2d 596 (CCA 10, 1970) and *Wilson v. United States*, 433 F.2d 597 (CCA 10, 1970) that a motion to dismiss for failure to allege such compliance should not be granted without first giving the plaintiff an opportunity to respond to the motion and meet the asserted deficiency in pleading.

The Court, therefore, finds that the Recommendations and Findings of the Magistrate should be sustained, subject to the comments made in this order.

IT IS, THEREFORE, ORDERED that the Motion to Dismiss filed by the United States as to the complaint and cross complaint be and the same is hereby sustained and the cause of action and complaint and cross-complaint are hereby dismissed as to the United States.

IT IS FURTHER ORDERED that the Motion to Dismiss the Complaint and Cross-Complaint filed by Sammy Dowling for failure to state a cause of action should be sustained and said Complaint and Cross-Complaint are hereby dismissed, as well as the cause of action, for failure to state a cause of action.

The Court notes that this case remains open as to the Complaint of plaintiffs as to the defendant, Henry Hoffman Trust, whose Trustees are First National Bank of Maimi, Oklahoma and Paul S. Wilson.

The plaintiffs are directed to contact the defendant, Henry Hoffman Trust, and conduct a pre-trial order without the presence of the Court within 15 days from this date, and to file and submit an agreed pre-trial order for signature of the Court within 5 days thereafter.

ENTERED this 11<sup>th</sup> day of December, 1975.



---

CHIEF UNITED STATES DISTRICT JUDGE

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

ROBERT J. CARAWAY, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIMBERLAKE, INC., et al., )  
 )  
 Defendants. )

No. 72-C-19 ✓

**E I L E D**  
DEC 11 1975  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

This matter comes on for hearing this 10<sup>th</sup> day of December, 1975, upon the defendants, cross-petitioners Charles A. Vance and Phyllis N. Vance's Motion for Summary Judgment as against the defendant James W. Heidler, individually; the defendants, cross-petitioners, Charles A. Vance and Phyllis N. Vance, appearing by and through their attorney, J. G. Follens, and the defendant James W. Heidler, appearing by and through his attorney, Robert S. Rizley, and the Court being advised in the premises finds:

That the defendant James W. Heidler co-signed the notes individually covering the real property involved herein secured by a Third Real Estate Mortgage and that in accordance with the Pretrial Order entered on the 8th day of May, 1975, and subsequently reduced to judgment on the 12th day of September, 1975 as against the defendant Heidler Corporation, there was shown due and owing on said notes and mortgage secured by the real property, a balance due in the sum of \$230,717.01 with interest thereon at the rate of \$49.0668 per day from the 31st day of March, 1975 and an attorney's fee in the sum of \$18,737.29.

The Court further finds that the defendant James W. Heidler co-signed the Contract for Sale of said property individually and that judgment was entered against the defendant Heidler Corporation on the 16th day of May, 1975,

for breach of contract in the sum of \$151,598.17 with interest thereon from the date of judgment at the rate of 10% per annum and that the defendant James W. Heidler executed said Contract individually as a co-maker and that he is indebted to the defendants, cross-petitioners Charles A. Vance and Phyllis N. Vance for breach of contract in the sum of \$151,598.17 with interest thereon at the rate of 10% per annum from the date of judgment.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendants, cross-petitioners Charles A. Vance and Phyllis N. Vance recover judgment as against the defendant James W. Heidler, individually, for the balance due on the notes and mortgage in the sum of \$230,717.01 with interest accruing at the rate of \$49.0668 per day from the 31st day of March, 1975, and an attorney's fee in the sum of \$18,737.29, which indebtedness is secured by a Third Mortgage on the real property involved herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendants, cross-petitioners Charles A. Vance and Phyllis N. Vance have judgment as against the defendant James W. Heidler individually, for breach of Contract of Sale in the sum of \$151,598.17 with interest thereon at the rate of 10% per annum, for all of which let execution issue.

  
\_\_\_\_\_  
JUDGE

APPROVED:

  
\_\_\_\_\_  
J. G. FOLLENS

Attorney for Defendants, Cross- Petitioners  
Charles A. Vance and Phyllis N. Vance

  
\_\_\_\_\_  
ROBERT S. RIZLEY

Attorney for Defendant James W. Heidler

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

KATHRYN KILLOPS, )  
Administratrix of the )  
Estate of ROBERT KILLOPS; )  
 )  
Plaintiff, )  
 )  
vs )  
 )  
McKISSICK PRODUCTS CO., )  
a corporation; and AMERICAN )  
HOIST & DERRICK CO., a )  
Crosby-Loffland Division, a )  
corporation, )  
 )  
Defendants. )

NO. 74-C-462

FILED  
DEC 10 1975

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

ORDER

The above named cause comes on this 10 day of December,  
1975 on the joint motion for dismissal filed by Plaintiff and Defendant, and  
the Court finds that all issues of fact and law have been compromised and  
settled and the cause should be dismissed with prejudice.

  
U. S. DISTRICT JUDGE

GKD:dlt

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

FILED

DEC 9 1975

STILLINGS TRANSPORTATION CORPORATION, )  
An Oklahoma Corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WILLIGHT CHEMICAL CORPORATION, )  
A Foreign Corporation, )  
 )  
Defendant. )

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

No. 75-C-333

J U D G M E N T

NOW on this 9th day of December, 1975, the parties have filed with the Court a Stipulation for Judgment, which is hereby received and fully considered by the Court.

WHEREFORE, judgment is hereby entered as follows:

1. Judgment is entered in favor of the plaintiff and against the defendant in the sum of \$25,132.47 with interest at the rate of ten percent (10%) per annum from the date of judgment until paid, plus costs.

2. Execution shall issue on said judgment only in the event a default by defendant as provided in the Stipulation for Judgment filed herein.

3. The attachment order filed herein on the 23d day of July, 1975 is hereby dissolved and Republic Bank and Trust Company is directed to negotiate to plaintiff Cashiers Check No. L22922 in the sum of \$10,132.47 which check is presently payable to said Republic Bank and Trust Company. The amount of this check is to be credited to the judgment entered in favor of the plaintiff herein.

Allen E. Barrow  
UNITED STATES DISTRICT JUDGE

APPROVED:

RIZLEY, PRICHARD, FORD, NORMAN & REED

By Joel L. Wohlgemuth  
Joel L. Wohlgemuth  
1100 Philtower Building  
Tulsa, Oklahoma 74103

Attorneys for the Plaintiff.

BLOUNT, TENNYSON & BAKER

By Andrew C Baker

Andrew C. Baker  
23 South Court Square  
Charleston, Mississippi 38921

Attorneys for the Defendant.

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

In Re )  
)  
)  
GOLDSTEIN, SAMUELSON, INC., )  
)  
Bankrupt, )  
)  
CURTIS B. DANNING, Trustee, )  
)  
Plaintiff, )  
)  
vs. )  
)  
)  
JOE L. SAMUEL, MARY JO SAMUEL )  
and SAMUEL BROKERAGE, INC., )  
an Oklahoma corporation, a/k/a )  
Joe L. Samuel Company, )  
)  
Defendants. )

FILED

DEC 8 1975

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

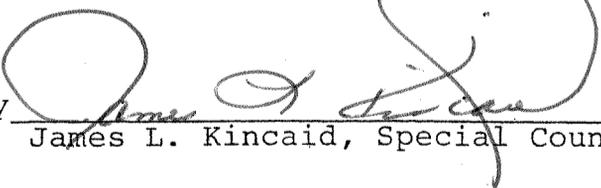
No. 75-C-13

STIPULATION OF VOLUNTARY  
DISMISSAL WITHOUT PREJUDICE

Pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, the Plaintiff hereby dismisses this action, without prejudice, as to the Defendants, Joe L. Samuel and Mary Jo Samuel, and all parties who have appeared in this action hereby enter into this Stipulation of Voluntary Dismissal Without Prejudice.

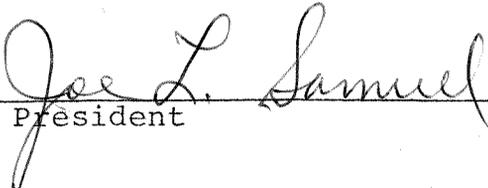
DATED December 4, 1975.

CURTIS B. DANNING,  
TRUSTEE FOR THE ESTATE OF  
GOLDSTEIN, SAMUELSON, INC., A  
BANKRUPT CORPORATION, Plaintiff

By   
James L. Kincaid, Special Counsel

Conner, Winters, Ballaine, Barry  
& McGowen  
2400 First National Tower  
Tulsa, Oklahoma 74103

SAMUEL BROKERAGE, INC., Defendant

By   
President

*Joe L. Samuel*  
\_\_\_\_\_  
JOE L. SAMUEL, Defendant

*Mary Jo Samuel*  
\_\_\_\_\_  
MARY JO SAMUEL, Defendant

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

In Re )  
)  
)  
GOLDSTEIN, SAMUELSON, INC., )  
)  
Bankrupt, )  
)  
CURTIS B. DANNING, Trustee, )  
)  
Plaintiff, )  
)  
vs. )  
)  
)  
JOE L. SAMUEL, MARY JO SAMUEL )  
and SAMUEL BROKERAGE, INC., )  
an Oklahoma corporation, a/k/a )  
Joe L. Samuel Company, )  
)  
Defendants. )

FILED

DEC 8 1975

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

No. 75-C-13

JUDGMENT

This action came before the Court upon the agreement of the parties that a judgment may be entered in favor of the Plaintiff and against the Defendant, Samuel Brokerage, Inc. in the amount of \$336,280.20, together with interest as provided by law and the costs of the action, and the agreement of parties and the issues involved in the action having been fully considered,

It is Ordered, Adjudged and Decreed that the Plaintiff, Curtis B. Danning, Trustee for the Estate of Goldstein, Samuelson, Inc., a bankrupt corporation, have and recover of the Defendant, Samuel Brokerage, Inc., the sum of \$336,280.20, with interest thereon at the rate of 10 per cent as provided by law, and his costs of the action, for which let execution issue.

DATED this 8th day of December, 1975.

  
\_\_\_\_\_  
Chief Judge of the United States  
District Court for the  
Northern District of Oklahoma



UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JOHN T. DUNLOP, Secretary of Labor, )  
United States Department of Labor )  
 )  
Petitioner )  
 )  
v. ) Civil Action  
 )  
 ) No. 75-C-541  
DON DOWNING, d.b.a. DOWNING )  
MANUFACTURING COMPANY, )  
 )  
Respondent )

**FILED**

DEC 8 1975

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

NOTICE OF DISMISSAL

Comes now the petitioner, John T. Dunlop, Secretary of Labor, United States Department of Labor, pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure and dismisses his lawsuit filed herein against respondent Don Downing, an individual doing business as Downing Manufacturing Company on the ground that said Don Downing has allowed representatives of the Occupational Safety and Health Administration, United States Department of Labor, to enter his plant for the purpose of inspecting it, pursuant to the provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). By reason of respondent's aforesaid action in allowing the said inspection, all issues in this lawsuit are not moot.

*William J. Kilberg*  
WILLIAM J. KILBERG  
Solicitor of Labor

*James E. White*  
JAMES E. WHITE  
Acting Regional Solicitor

*Harvey M. Shapan*  
HARVEY M. SHAPAN  
Attorney

*Gail M. Dickinson*  
GAIL M. DICKINSON  
Attorney

Attorneys for Petitioner

CERTIFICATE OF SERVICE

Harvey M. Shapan, one of the attorneys of record for the plaintiff above named, does hereby certify that he has served a true and correct copy of the foregoing notice of dismissal on Don Downing by depositing same in the United States mail, in a franked envelope, addressed to him at Downing Manufacturing Company, 4525 South 34th West Avenue, Tulsa, Oklahoma, 74104, his address of record on the 5th day of December, 1975.

  
\_\_\_\_\_  
HARVEY M. SHAPAN  
Attorney

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 75-C-351 ✓  
 )  
 )  
 ) GEORGIANN BARRETT McLEMORE, )  
 ) a single person, BOARD OF COUNTY )  
 ) COMMISSIONERS, Tulsa County, )  
 ) Oklahoma, and COUNTY TREASURER, )  
 ) Tulsa County, Oklahoma, )  
 )  
 ) Defendants. )

**E I L E D**

**DEC 5 - 1975**

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 5th  
day of ~~November~~ *December*, 1975, the Plaintiff appearing by Robert P. Santee,  
Assistant United States Attorney; the Defendants, Board of County  
Commissioners, Tulsa County, Oklahoma, and County Treasurer, Tulsa  
County, Oklahoma, appearing by its attorney, Gary J. Summerfield,  
Assistant District Attorney; and the Defendant, Georgiann Barrett  
McLemore, appearing not.

The Court being fully advised and having examined the  
file herein finds that Defendants, Board of County Commissioners,  
Tulsa County, Oklahoma, and County Treasurer, Tulsa County, Oklahoma,  
were served with Summons and Complaint on August 6, 1975, as appears  
from the United States Marshal's Service herein; that Defendant,  
Georgiann Barrett McLemore, was served by publication as shown on  
the Proof of Publication filed herein.

It appearing that the Defendants, County Treasurer,  
Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa  
County, Oklahoma, have duly filed its answers herein on August 22,  
1975; and that the Defendant, Georgiann Barrett McLemore, has  
failed to answer herein and that default has been entered by the  
Clerk of this Court.

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

Lot Forty-two (42), Block Three (3), BRIARDALE, an Addition in Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendant, Georgiann Barrett McLemore, did, on the 16th day of June, 1971, execute and deliver to the Mager Mortgage Company her mortgage and mortgage note in the sum of \$17,750.00 with interest thereon at the rate of 7 percent per annum, and further providing for the payment of monthly installments of principal and interest.

THAT by Assignment of Mortgage of Real Estate dated June 29, 1971, Mager Mortgage Company assigned said note and mortgage to Federal National Mortgage Association; and by Assignment dated January 31, 1973, Federal National Mortgage Association assigned said note and mortgage to Secretary of Housing and Urban Development, Washington, D.C.

The Court further finds that Defendant, Georgiann Barrett McLemore, 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 \$17,552.35 as unpaid principal with interest thereon at the rate of 7 percent per annum from April 1, 1973, until paid, plus the cost of this action accrued and accruing.

The Court further finds that there is nothing due and owing to the County of Tulsa, State of Oklahoma, from Defendant, Georgiann Barrett McLemore, for personal property taxes for the year 1975 and preceding.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendant, Georgiann Barrett McLemore, the sum of \$ 1,198.50 plus interest according to law for real estate taxes for the year(s) 1973, 1974, 1975 and that Tulsa County should have judgment, in rem, for said amount, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Georgiann Barrett McLemore, in rem, for the sum of \$17,552.35 with interest thereon at the rate of 7 percent per annum from April 1, 1973, 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 County of Tulsa have and recover judgment, in rem, against Defendant, Georgiann Barrett McLemore, for the sum of \$ 1,198.50 as of the date of this judgment plus interest thereafter according to law for real estate taxes, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

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, which sale shall be subject to the tax judgment of Tulsa County, supra. The residue, if any shall be deposited with the Clerk of the Court to await further order of the Court.

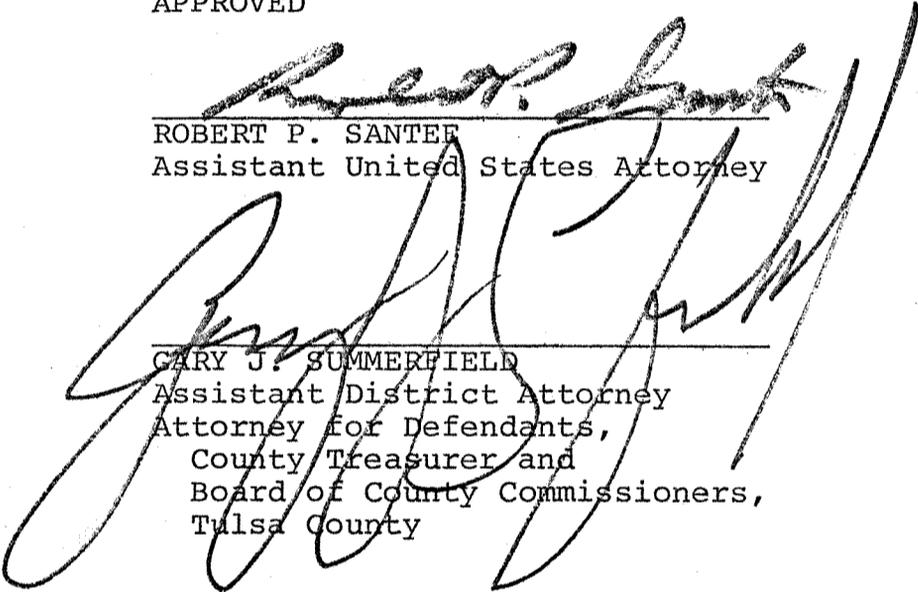
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this

judgment and decree, all of the Defendants and each of them and  
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. Specifically including any lien for personal  
property taxes which may have been filed during the pendency of  
this action.

s/Allen E. Barrow  
UNITED STATES DISTRICT JUDGE

APPROVED

  
ROBERT P. SANTEE  
Assistant United States Attorney

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

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

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

LEE A. JOHNSON, MARY ANN  
JOHNSON, WILLIAM W. HOOD, JR.,  
Attorney-at-Law, BOARD OF  
COUNTY COMMISSIONERS, Tulsa  
County, Oklahoma, COUNTY  
TREASURER, Tulsa County,  
Oklahoma,

Defendants.

)  
)  
)  
) CIVIL ACTION NO. 75-C-371  
)  
)

**FILED**

**DEC 5 - 1975**

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 5th  
day of ~~November~~ *December*, 1975, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney; the Defendants, Board  
of County Commissioners, Tulsa County, Oklahoma, and County  
Treasurer, Tulsa County, Oklahoma, appearing by its attorney,  
Gary J. Summerfield, Assistant District Attorney; and, the  
Defendants, William W. Hood, Jr., Lee A. Johnson, and Mary Ann  
Johnson, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendants, Lee A. Johnson and Mary  
Ann Johnson were served by publication as shown on the Proof of  
Publication filed herein; that Defendants, Board of County  
Commissioners, Tulsa County, Oklahoma, County Treasurer, Tulsa  
County, Oklahoma, and William W. Hood, Jr., were served with  
Summons and Complaint on August 14, 1975, all as appears from  
the United States Marshal's Service herein.

It appearing that the Defendants, County Treasurer,  
Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa  
County, Oklahoma, have duly filed its answers herein on  
September 2, 1975; and that the Defendants, Lee A. Johnson,  
Mary Ann Johnson, and William W. Hood, Jr., 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 Ten (10), in Block One (1), FAIRHILL ADDITION to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded amended plat thereof.

THAT the Defendants, Lee A. Johnson and Mary Ann Johnson, did, on the 10th day of February, 1972, execute and deliver to the National Homes Acceptance Corporation, an Indiana Corporation, their mortgage and mortgage note in the sum of \$10,200.00 with 7 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

THAT by Assignment of Mortgage of Real Estate dated September 25, 1972, National Homes Acceptance Corporation, an Indiana Corporation, assigned said note and mortgage to Secretary of Housing and Urban Development, Washington, D.C.

The Court further finds that Defendants, Lee A. Johnson and Mary Ann Johnson, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$10,183.09 as unpaid principal with interest thereon at the rate of 7 percent per annum from March 1, 1973, until paid, plus the cost of this action accrued and accruing.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendants, Lee A. Johnson, and Mary Ann Johnson, the sum of \$ 449.30 plus interest according to law for real estate taxes for the year(s) 1974-1975 and that Tulsa County should have judgment, in rem, for said amount, and that such judgment is superior 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, Lee A. Johnson and Mary Ann Johnson, in rem, for the sum of \$10,183.09 with interest thereon at the rate of 7 percent per annum from March 1, 1973, 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 County of Tulsa have and recover judgment, in rem, against Defendants, Lee A. Johnson and Mary Ann Johnson, for the sum of \$ 449.30 as of the date of this judgment plus interest thereafter according to law for real estate taxes, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment, in rem, against Defendant, William W. Hood, Jr.

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, which sale shall be subject to the tax judgment of Tulsa County, supra. The residue, if any shall be deposited with the Clerk of the Court to await further order of the Court.

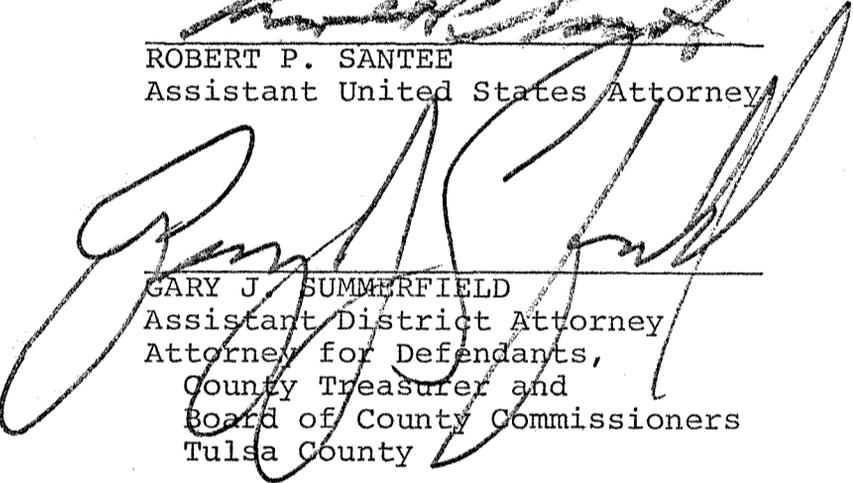
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and each of them and all persons claiming under them since the filing of the Complaint

herein be and they are forever barred and foreclosed of any right, title, interest, or claim in or to the real property or any part thereof. Specifically including any lien for personal property taxes which may have been filed during the pendency of this action.

*Sj Allen E. Barrow*  
UNITED STATES DISTRICT JUDGE

APPROVED

  
\_\_\_\_\_  
ROBERT P. SANTEE  
Assistant United States Attorney

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



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 of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estates in the subject tracts a certain sum of money, but none of this deposit has been disbursed to the owner of the subject interest, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on November 26, 1975, is accepted and adopted as a finding of fact as to subject property. The amount of just compensation as to the oil leasehold interest in the estates taken in 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 property 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 defendant named in paragraph 12 as owner of the oil leasehold interest in the estates taken in the subject tracts is the only defendant asserting any claim to such interest; all other defendants having either disclaimed or defaulted, the named defendant was (as of the date of taking) the owner of the property condemned herein and, as such, is 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 they are de-

scribed in the Complaint filed herein, and such property, to the extent of the oil leasehold interest in the estates described in such Complaint is condemned, and title thereto is vested in the United States of America, as of January 29, 1974, and all defendants herein and all other persons are forever barred from asserting any claim to such property.

11.

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

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on November 26, 1975, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the oil leasehold interest in the estates taken in subject tracts, as shown by the following schedule:

TRACTS NOS. 502ME-1 and 502ME-2

(Oil Leasehold Interest Only)

Owner:

Rainbow Oil and Gas Company

Award of just compensation pursuant to Commissioners' Report -----	\$859.00	\$859.00
---	----------	----------

Deposited as estimated compensation for oil leasehold interest -----	None	
---	------	--

(\$2,890.00 was deposited with the D.T. as estimated compensation, but this sum was all allocated to and disbursed to the lessor interest owner, by Judgment filed June 9, 1975.)

Disbursed to owner (of oil leasehold interest) -----		<u>None</u>
---	--	-------------

Balance due to owner -----		\$859.00 plus interest
----------------------------	--	------------------------------

Deposit deficiency -----	\$859.00	
--------------------------	----------	--

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 owner of the oil leasehold interest the deposit deficiency for the subject tracts as shown in paragraph 12, in the total amount of \$859.00, together with interest on such deficiency at the rate of 6% per annum from January 29, 1974, 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 to Rainbow Oil and Gas Company.

/s/ Allen E. Barrow

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UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

---

HUBERT A. MARLOW  
Assistant United States Attorney





No. 7300,97, establishing guide-lines regarding the marriage of federal offenders. It establishes procedures whereby a federal prisoner may obtain permission to marry. The Chief Executive Officer of each federal institution is delegated the authority to authorize an offender in his custody to marry. The request must be directed to him and investigated by the case-management staff to verify the facts of the situation and assess the suitability of the requested marriage. Offenders in temporary state custody who request marriage shall be referred by the United States Marshal to the Regional Director for a decision. The petitioner does not allege that he has made a request for permission to marry to the Warden at the United States Penitentiary at Leavenworth, Kansas, where he is regularly confined or to the United States Marshal for the Northern District of Oklahoma. Personal grievances must be presented in the first instance by administrative remedies available to the prisoner within the Bureau of Prisons. Rivera v. Toft, 477 F.2d 534 (CA10 1973). Until he has done so he cannot seek relief in the courts. Owens v. Alldridge, 311 F.Supp. 667 (W.D. Okla. 1970); Harbolt v. Alldredge, 311 F.Supp. 688 (W.D. Okla. 1970), affmd., 432 F.2d 441 (CA10 1970); McNeal v. Taylor, 313 F.Supp. 200 (W.D. Okla. 1970).

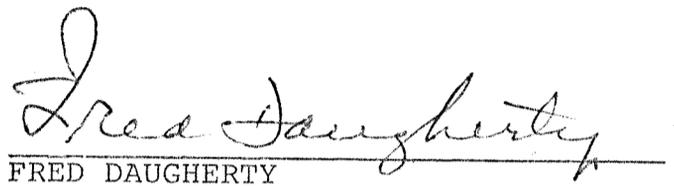
The petitioner's allegations concerning the denial of visitation by his alleged wife and daughter do not establish the violation of a federal constitutional right entitling him to relief in this court. Walker v. Pate, 356 F.2d 502 (CA7 1966), cert. den., 384 U.S. 966.

The petitioner has not named as respondent the person having his actual custody. Neither the United States District Court of the Northern District of Oklahoma, H. Dale Cook, United States District Judge nor Rob Baker, United States Probation Officer have custody of the petitioner. For this reason also this court has no jurisdiction to consider petitioner's application for a Writ of Habeas Corpus. Olson v. California Adult Authority, 423 F.2d 1326 (CA9 1970), cert. den., 398 U.S. 914. See also Moore v. United States, 339 F.2d 448.

Since the applications affirmatively show that the petitioner is not entitled to federal habeas corpus relief the Motion for Appointment of Counsel will be denied by the court in its discretion and the cause will be dismissed.

IT IS SO ORDERED.

Dated this 2<sup>d</sup> day of December, 1975.

  
FRED DAUGHERTY  
UNITED STATES DISTRICT JUDGE