

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

OCT 29 1976

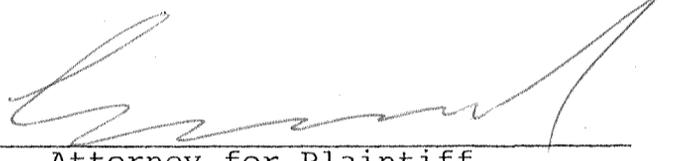
BOBBY L. BLAKE )  
 )  
 Plaintiff )  
 )  
 vs. )  
 )  
 RILEY STOKER CORPORATION )  
 a foreign corporation )  
 )  
 Defendant )

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

NO. 76-C-191 - C

STIPULATION OF DISMISSAL WITH PREJUDICE

Comes now the plaintiff, through his attorney, Edwin W. Ash, and the defendant, through his attorney, Michael P. Atkinson, and stipulate that the above captioned cause of action be dismissed with prejudice to filing a future action herein.

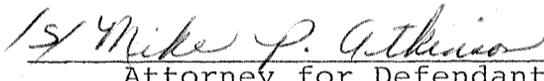


Attorney for Plaintiff

FILED

NOV 1 1976

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



Attorney for Defendant

ORDER

And now on this 1st <sup>November</sup> day of ~~October~~, 1976, there came on for consideration before the undersigned Judge of the United States District Court for the Northern District of Oklahoma, stipulation of the parties hereto of dismissal, parties hereto having advised the court that all disputes between the parties have been settled.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above styled cause be and the same is hereby dismissed with prejudice to the rights of the plaintiff to bring any future action arising from said cause of action.



Judge

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

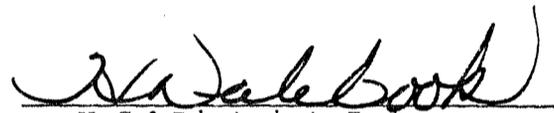
FILE  
OCT 28 1976  
Jack C. Silver, Clerk  
No. 76-C-212, ✓

ANNA THOMPSON, )  
Plaintiff )  
vs. )  
MISSOURI PACIFIC RAILROAD )  
COMPANY, et al, )  
Defendants, )

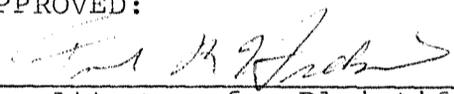
ORDER OF DISMISSAL

Now on this 28th day of October, 1976, it having been made to appear to the court, by this open court stipulation by and between all parties, that settlement has been reached by the payment of \$12,500.00 to plaintiff by the defendants herein, the court finds that the petition should be dismissed pursuant to said agreement.

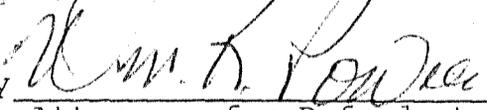
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that the petition and all claims set out therein against the defendants, and each of them, be and the same is hereby dismissed with prejudice to any future action.

  
U.S. District Judge

APPROVED:

  
Attorney for Plaintiff

DYER, POWERS AND MARSH

BY   
Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA OCT 28 1976

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 76-C-455-B
	)	
	)	
ERNEST R. JOHNSON,	)	
IRENE L. JOHNSON,	)	
BELL FINANCE COMPANY, INC.,	)	
PAYCO OF OKLAHOMA, INC., and	)	
CONTINENTAL OIL COMPANY, a	)	
Corporation,	)	
	)	
Defendants.	)	

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 28 day of October, 1976, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney; and the Defendant, Continental Oil Company, appearing by its attorney, Edwin L. Gorham; and, the Defendants, Ernest R. Johnson, Irene L. Johnson, Bell Finance Company, Inc., and Payco of Oklahoma, Inc., appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, Ernest R. Johnson, Irene L. Johnson, and Payco of Oklahoma, Inc., were served with Summons and Complaint on August 31, 1976; that Defendant, Continental Oil Company, was served with Summons and Complaint on August 27, 1976; and that Defendant, Bell Finance Company, Inc., was served with Summons and Complaint on September 29, 1976, all as appears from the United States Marshal's Service herein.

It appearing that the Defendant, Continental Oil Company, has duly filed its Disclaimer on September 15, 1976; and that Defendants, Ernest R. Johnson, Irene L. Johnson, Bell Finance Company, Inc., and Payco of Oklahoma, Inc., 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 upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Thirty-Nine (39), Block Fifteen (15), VALLEY VIEW ACRES ADDITION to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Ernest R. Johnson and Irene L. Johnson, did, on the 14th day of March, 1974, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$9,750.00 with 8 1/4 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Ernest R. Johnson and Irene L. Johnson, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$9,630.19 as unpaid principal with interest thereon at the rate of 8 1/4 percent per annum from September 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, Ernest R. Johnson and Irene L. Johnson, in personam, for the sum of \$9,630.19 with interest thereon at the rate of 8 1/4 percent per annum from September 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 the Plaintiff have and recover judgment, in rem, against Defendants, Bell Finance Company, Inc. and Payco of Oklahoma, Inc.

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.

s/Allen E. Barow  
UNITED STATES DISTRICT JUDGE

APPROVED

  
ROBERT P. SANTEE  
Assistant United States Attorney

FILED

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

OCT 28 1976

U.S. District Court  
Northern District of Oklahoma

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
vs. )  
 )  
 )  
 )  
ANTHONY A. ALEXANDER, KAREN S. )  
ALEXANDER, BOARD OF COUNTY )  
COMMISSIONERS, Tulsa County, )  
Oklahoma, and COUNTY TREASURER, )  
Tulsa County, Oklahoma, )  
 )  
 ) Defendants. )

CIVIL ACTION NO. 76-C-351-B

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 28th day of October, 1976, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney; and the Defendants, Board of County Commissioners, Tulsa County, Oklahoma, and County Treasurer, Tulsa County, Oklahoma, appearing by their attorney, Gary J. Summerfield, Assistant District Attorney; and, the Defendants, Anthony A. Alexander and Karen S. Alexander, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, Anthony A. Alexander and Karen S. Alexander, were served by publication as shown on the Proof of Publication filed herein; that Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, were served with Summons, Complaint, and Amendment to Complaint on July 27, 1976, 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 their answers herein on August 10, 1976; and that Defendants, Anthony A. Alexander and Karen S. Alexander, 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 upon the following described real

property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Two (2), Block Four (4), SHARON HEIGHTS ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Anthony A. Alexander and Karen S. Alexander, did, on the 16th day of August, 1974, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$11,000.00 with 9 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Anthony A. Alexander and Karen S. Alexander, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$10,918.25 as unpaid principal with interest thereon at the rate of 9 percent per annum from November 1, 1975, 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, Anthony A. Alexander and Karen S. Alexander, the sum of \$ 5.00 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.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendants, Anthony A. Alexander and Karen S. Alexander, in rem, for the sum of \$10,918.25 with interest thereon at the rate of 9 percent per annum from November 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 the County of Tulsa have and recover judgment, in rem, against Defendants, Anthony A. Alexander and Karen S. Alexander, for the sum of \$ 5.00 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.

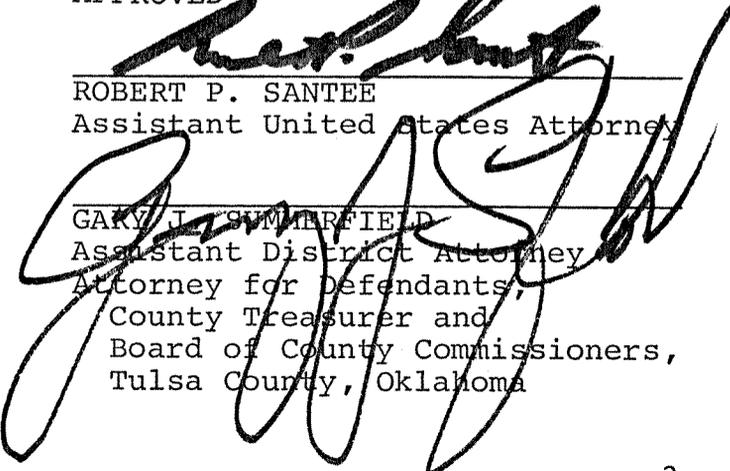
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisalment the real property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

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

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

FILED  
OCT 2 1976  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

*lm*

JACK H. CAMPBELL, )  
)  
Plaintiff, )  
)  
vs. )  
)  
THE SECRETARY OF HEALTH, )  
EDUCATION AND WELFARE, )  
)  
Defendant. )

CIVIL ACTION NO. 75-C-572-B ✓

O R D E R

The Court has for consideration Plaintiff's Motion to Remand and Defendant's Motion to Affirm in their entirety and have carefully perused the entire file, the briefs and all of the recommendations concerning said motions, and being fully advised in the premises, finds:

That the Plaintiff's Motion to Remand should be denied and the Defendant's Motion to Affirm should be granted.

IT IS, THEREFORE, ORDERED that the Motion of Plaintiff to Remand be and the same is hereby denied and that the Defendant's Motion to Affirm be and the same is hereby granted and sustained.

Dated this 28 day of October, 1976.

*Allen E. Barron*  
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. )

CIVIL ACTION NO. 76-C-259-C )

JAMES E. LEMONS, JR., a/k/a )

JAMES E. LEMONS, a/k/a JIM )

LEMMONS, JUANITA LEMONS, a/k/a )

JUANITA G. LEMONS, a/k/a JUANITA )

LEMON, a/k/a MRS. JIM LEMMONS, )

ERNEST PICKERING, JR., D.O., )

WIW STOEVER, D.O., MRS. DELBERT )

HARLAN, and OSTEOPATHIC FOUNDERS )

ASSOCIATION, INC., a Corporation, )

d/b/a OKLAHOMA OSTEOPATHIC )

HOSPITAL, )

Defendants. )

FILED

OCT 27 1976

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 27<sup>th</sup>  
day of October, 1976, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney; the Defendant,  
Mrs. Delbert Harlan, appearing by her attorney, David Nelson;  
the Defendant, Osteopathic Founders Association, Inc., a  
Corporation, d/b/a Oklahoma Osteopathic Hospital, appearing  
by its attorney, Don E. Gasaway, the Defendants, Ernest Pickering,  
Jr., D.O., and WIW Stoever, D.O., appearing by their attorney,  
William B. Lee, and the Defendants, James E. Lemons, Jr., a/k/a  
James E. Lemons, a/k/a Jim Lemmons, and Juanita Lemons, a/k/a  
Juanita G. Lemons, a/k/a Juanita Lemon, a/k/a Mrs. Jim Lemmons,  
appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendants, James E. Lemons, Jr.,  
a/k/a James E. Lemons, a/k/a Jim Lemmons and Juanita Lemons, a/k/a  
Juanita G. Lemons, a/k/a Juanita Lemon, a/k/a Mrs. Jim Lemmons,  
were served by publication, as appears from the Proof of Publication  
filed herein; that Defendants, WIW Stoever, D.O., and Osteopathic  
Founders Association, Inc., a Corporation, d/b/a Oklahoma  
Osteopathic Hospital, were served with Summons and Complaint on

June 16, 1976, that Defendant, Mrs. Delbert Harlan, was served with Summons and Complaint on June 18, 1976; and that Defendant, Ernest Pickering, Jr., D.O., was served with Summons and Complaint on July 16, 1976, all as appears from the U.S. Marshals Service herein.

It appearing that Defendant, Osteopathic Founders Association, Inc., a Corporation, d/b/a Oklahoma Osteopathic Hospital, filed a Disclaimer herein on July 1, 1976; that Defendants, Ernest Pickering, Jr., D.O., and WIW Stoever, D.O., filed a Disclaimer herein on July 1, 1976; that Defendant, Mrs. Delbert Harlan, filed an Answer herein on June 28, 1976; and that Defendants, James E. Lemons, Jr., a/k/a James E. Lemons, a/k/a Jim Lemmons, and Juanita Lemons, a/k/a Juanita G. Lemons, a/k/a Juanita Lemon, a/k/a Mrs. Jim Lemmons, 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 Seven (7), Block Ten (10), VALLEY VIEW ACRES ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

THAT the Defendants, James E. Lemons, Jr., and Juanita Lemons, did, on the 25th day of August, 1971, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$10,250.00 with 4 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, James E. Lemons, Jr., and Juanita Lemons, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued

and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$9,619.06 as unpaid principal with interest thereon at the rate of 4 1/2 percent per annum from July 25, 1975, until paid, plus the cost of this action accrued and accruing.

The Court further finds that Defendant, Mrs. Delbert Harlan, is entitled to judgment against Defendant, Mrs. Jim Lemmons, in the amount of \$325.00, plus \$8.00 costs, plus interest according to law and accrued court costs, but that such judgment would be 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, James E. Lemons, Jr., and Juanita Lemons, in rem, for the sum of \$9,619.06 with interest thereon at the rate of 4 1/2 percent per annum from July 25, 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 Defendant, Mrs. Delbert Harlan, have and recover judgment, in rem, against the Defendant, Mrs. Jim Lemmons, in the amount of \$325.00, plus \$8.00 costs, plus interest according to law and accrued court costs, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said Defendants to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, 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.

*J. H. Dale Cook*  
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

JACK GADDY, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 ) NO. 76-C-226-C  
 BECHTEL INCORPORATED, )  
 )  
 Defendant. )

NO. 76-C-226-C

FILED

OCT 27 1976

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

ORDER OF DISMISSAL

Now on this 27<sup>th</sup> day of October, 1976, the above styled and numbered cause of action coming on for hearing before the undersigned Judge, upon the Stipulation for Dismissal of the plaintiff and defendant herein; and the Court having examined the pleadings and said Stipulation for Dismissal and being well and fully advised in the premises, is of the opinion that said cause should be dismissed with prejudice.

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

W. Dale Book  
United States District Judge

APPROVED:

Jack Gaddy  
Jack Gaddy, Plaintiff

Coy D. Morrow  
Coy D. Morrow  
WALLACE & OWENS  
Attorney for Plaintiff

John H. Tucker  
John H. Tucker  
RHODES, HIERONYMUS, HOLLOWAY  
& WILSON  
Attorneys for Defendant

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

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

BILLY W. WEESE, MYRA F. WEESE,  
and DAISY DABNEY,  
Defendants.

)  
)  
)  
)  
) CIVIL ACTION NO. 76-C-350-C  
)  
)  
)  
)

FILED

OCT 27 1976

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 27<sup>th</sup>  
day of October, 1976, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney; and the Defendants,  
Billy W. Weese, Myra F. Weese, and Daisy Dabney, appearing  
not.

The Court being fully advised and having examined  
the file herein finds that Defendants, Billy W. Weese, Myra F.  
Weese, and Daisy Dabney, were served by publication as shown  
on the Proof of Publication filed herein.

It appearing that the Defendants, Billy W. Weese,  
Myra F. Weese, and Daisy Dabney, 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 upon the following described real  
property located in Tulsa County, Oklahoma, within the Northern  
Judicial District of Oklahoma:

Lot Sixteen (16), Block Three (3), of the  
RESUBDIVISION of Blocks 2 & 3 and Lots 46 & 47,  
Block 10, in LAKEVIEW HEIGHTS AMENDED ADDITION  
to the City of Tulsa, Tulsa County, State of  
Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Billy W. Weese and Myra F. Weese,  
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 \$9,400.00 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, Billy W. Weese and Myra F. Weese, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$9,351.98 as unpaid principal with interest thereon at the rate of 9 1/2 percent per annum from September 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, Billy W. Weese and Myra F. Weese, in rem, for the sum of \$9,351.98 with interest thereon at the rate of 9 1/2 percent per annum from September 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 the Plaintiff have and recover judgment, in rem, against Defendant, Daisy Dabney.

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.

W. H. Dale Cook  
UNITED STATES DISTRICT JUDGE

APPROVED

  
ROBERT P. SANTEE  
Assistant United States Attorney

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

HELEN WRIGHT,

Plaintiff,

vs.

ST. JOHN'S HOSPITAL,

Defendant.

No. 75-C-479-C

FILED

OCT 22 1976

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

STIPULATION FOR DISMISSAL

It is hereby stipulated by Helen Wright, Plaintiff, and Waldo E. Jones, II, attorney for plaintiff, and St. John's Hospital, Defendant, by Mary T. Matthies, its attorney, that the above-titled action be dismissed with prejudice without cost to either party.

Dated this 21<sup>st</sup> day of October, 1976.

*Helen Wright*  
\_\_\_\_\_  
Helen Wright

*Waldo E. Jones, II*  
\_\_\_\_\_  
Waldo E. Jones, II

*Mary T. Matthies*  
\_\_\_\_\_  
Mary T. Matthies

FILED  
OCT 22 1976  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

It appearing to the Court that the above-entitled cause has been fully settled, adjudicated, and compromised, and based on stipulation it is hereby ordered and adjudged that the above entitled cause be and the same is hereby dismissed without cost to either party and with prejudice to the plaintiff.

Dated this 22<sup>nd</sup> day of October, 1976.

*W. Dale Book*  
\_\_\_\_\_  
United States District Judge

JONES, JONES & RINEER  
A Professional Corporation  
ATTORNEYS & COUNSELORS  
MEZZANINE, BEACON BLDG. TULSA, OK. 74103



FILED

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

OCT 22 1976

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
vs. )  
 )  
 )  
CHARLES L. JACKSON and )  
BEVERLY K. JACKSON, )  
 )  
 )  
 ) Defendants. )

CIVIL ACTION NO. 76-C-246-B

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 22nd  
day of October, 1976, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney, and the Defendants,  
Charles L. Jackson and Beverly K. Jackson, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendants, Charles L. Jackson and  
Beverly K. Jackson, were served by publication, as appears  
from the Proof of Publication filed herein.

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

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

Lot Thirty-eight (38), Block Three (3), SUBURBAN ACRES  
ADDITION to the City of Tulsa, County of Tulsa, State  
of Oklahoma, according to the recorded plat thereof,

THAT the Defendants, Charles L. Jackson and Beverly K.  
Jackson, did, on the 9th day of January, 1975, execute and  
deliver to the Administrator of Veterans Affairs, their mortgage  
and mortgage note in the sum of \$9,000.00 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, Charles L.  
Jackson and Beverly K. Jackson, made default under the terms

of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$9,081.52 as unpaid principal with interest thereon at the rate of 9 1/2 percent per annum from August 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, Charles L. Jackson and Beverly K. Jackson, in rem, for the sum of \$9,081.52 with interest thereon at the rate of 9 1/2 percent per annum from August 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.

W. Allen E. Barrow  
UNITED STATES DISTRICT JUDGE

APPROVED



ROBERT P. SANTEE  
Assistant United States Attorney

bcs

OCT 11 1976  
JERRY...  
U.S. DISTRICT COURT  
EK

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 76-C-251-B ✓  
 )  
 )  
 KENNETH EARL ELLIOTT and )  
 BRENDA J. ELLIOTT, )  
 )  
 Defendants. )

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 19<sup>th</sup>  
day of October, 1976, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney; and the Defendants,  
Kenneth Earl Elliott and Brenda J. Elliott, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendants, Kenneth Earl Elliott  
and Brenda J. Elliott, were served by publication as shown on  
the Proof of Publication filed herein.

It appearing that the Defendants, Kenneth Earl Elliott  
and Brenda J. Elliott, 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 upon the following described real  
property located in Tulsa County, Oklahoma, within the Northern  
Judicial District of Oklahoma:

Lot Twelve (12), Block Five (5), SUBURBAN  
ACRES THIRD ADDITION to the City of Tulsa,  
Tulsa County, State of Oklahoma, according  
to the recorded plat thereof.

THAT the Defendants, Kenneth Earl Elliott and Brenda J.  
Elliott, did, on the 4th day of December, 1972, execute and  
deliver to the Administrator of Veterans Affairs, their mortgage  
and mortgage note in the sum of \$10,250.00 with 4 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, Kenneth Earl Elliott and Brenda J. Elliott, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$9,897.44 as unpaid principal with interest thereon at the rate of 4 1/2 percent per annum from May 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, Kenneth Earl Elliott and Brenda J. Elliott, in rem, for the sum of \$9,897.44 with interest thereon at the rate of 4 1/2 percent per annum from May 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 appraisalment 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

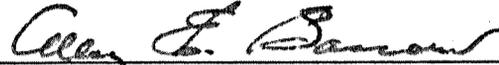
The Court further finds that Defendants, Kenneth Earl Elliott and Brenda J. Elliott, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$9,897.44 as unpaid principal with interest thereon at the rate of 4 1/2 percent per annum from May 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, Kenneth Earl Elliott and Brenda J. Elliott, in rem, for the sum of \$9,897.44 with interest thereon at the rate of 4 1/2 percent per annum from May 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 appraisalment 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

FILED

E. R. McKEE and )  
RUTH McKEE, )  
 )  
Plaintiffs, )  
 )  
 )  
vs. )  
 )  
 )  
GENE HOPKINS, SHARON )  
HOPKINS, RALPH GRIMMER, )  
AMANDA B. GRIMMER, BILL )  
B. DeGEER and D. LINN )  
THOMASON, )  
 )  
Defendants. )

OCT 15 1976

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

No. 75-C-373

JUDGMENT

Now on this 23rd day of September, 1976, Court having made findings of fact and conclusions of law finds that plaintiffs E. R. McKee and Ruth McKee are entitled to have and recover a judgment of and from the defendants Gene Hopkins and Sharon Hopkins for the balance of the rents due and owing under the modification agreement for the sum of \$107,000.00 plus insurance premiums for the sum of \$891.00 less the sum of \$1,000.00 paid by Bill B. DeGeer and D. Linn Thomason, and that the sum of \$39,500.00, being the rents from May 1, 1970 through September, 1976, the sum of \$39,500.00 shall be paid at this time together with interest accruing thereon in the sum of \$1,678.75 and that the balance of \$67,500.00 shall be paid in installments of \$2,500.00 per month beginning on the 1st day of October, 1976, and monthly thereafter until paid in full and that the defendants Gene Hopkins and Sharon Hopkins shall have all of the rights and privileges <sup>of and</sup> shall be placed in possession of said ranch as lessees under lease dated December 20, 1973, between themselves and Michael E. Naman, II, and others as modified by modification agreement dated October 4, 1974, and that they shall keep said premises insured in keeping with the terms and provisions of said lease as amended.

NOW, THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED by the Court, that the plaintiffs E. R. McKee and Ruth McKee have and recover judgement of and from the defendants Gene Hopkins and Sharon Hopkins for the total sum of \$108,569.75. The sum of \$41,069.75 to be paid forthwith and the balance, \$67,500.00 to be paid in installments of \$2,500.00 beginning on the 1st day of October, 1976, and monthly thereafter until paid in full.

BE IT FURTHER ORDERED, ADJUDGED AND DECREED by the Court, that the defendants Gene Hopkins and Sharon Hopkins shall keep said premises insured in keeping with the terms and provisions of the lease as amended covering said property.

BE IT FURTHER ORDERED, ADJUDGED AND DECREED by the Court, that the defendants Gene Hopkins and Sharon Hopkins are to take possession of said premises as lessee and have all the rights and privileges of the lessee under the terms and provisions of the lease executed between themselves and Michael E. Naman, II, on December 20, 197~~2~~<sup>3</sup>, and thereafter amended by modification of agreement dated October 4, 1974.

Dated this 14<sup>th</sup> day of October, 1976.

*W. W. White*

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

*David H. Sanders*  
Attorney for Plaintiffs

*W. W. White*  
Attorney for Defendants

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

ASSOCIATED DISTRIBUTORS, INC., )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 SECURITY BANK AND TRUST COMPANY )  
 OF MIAMI, OKLAHOMA; RAWLEIGH, MOSES )  
 AND COMPANY, INC.; and OZARK INDUSTRIES, )  
 INC., )  
 ) Defendants, )  
 )  
 and )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 ) Intervener. )

No. 75-C-61 - B ✓

FILED

OCT 15 1976

U.S. DISTRICT COURT  
U.S. DISTRICT COURT *SK*

ORDER OF DISMISSAL

PURSUANT to the Stipulation filed in this case by Defendants, SECURITY BANK AND TRUST COMPANY OF MIAMI, OKLAHOMA ("Bank") and RAWLEIGH, MOSES AND COMPANY, INC. ("Rawleigh Moses") and of THE UNITED STATES OF AMERICA, Intervener ("Intervener"),

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

A. The sum of Eighteen Thousand Eight Hundred Thirty-Nine Dollars and 93/100 (\$18,839.93), less any Court Costs remaining unpaid, shall be disbursed from the Registry of this Court to the Defendant, RAWLEIGH, MOSES AND COMPANY, INC.

B. The Cross-Claim of Rawleigh Moses against Bank is hereby dismissed, with prejudice.

C. The Cross-Claim of Bank against Rawleigh Moses is hereby dismissed, with prejudice.

D. The Cross-Claim of Intervener against Rawleigh Moses is hereby dismissed, with prejudice.

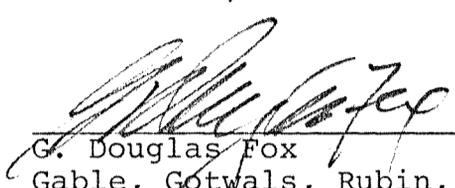
DATED this 15<sup>th</sup> day of October, 1976.

*Celan E. Barrow*  
UNITED STATES DISTRICT JUDGE

10-21-76  
KW

APPROVED AS TO FORM AND  
CONTENT:

  
\_\_\_\_\_  
Coy D. Morrow  
Wallace and Owens  
Attorneys for Defendant  
SECURITY BANK AND TRUST COMPANY  
OF MIAMI, OKLAHOMA

  
\_\_\_\_\_  
G. Douglas Fox  
Gable, Gotwals, Rubin, Fox,  
Johnson & Baker  
Attorneys for Defendant  
RAWLEIGH, MOSES AND COMPANY, INC.

  
\_\_\_\_\_  
Robert P. Santee  
Assistant U. S. Attorney  
for Nathan G. Graham  
U. S. Attorney  
Attorneys for the UNITED STATES  
OF AMERICA, INTERVENER.

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

FILED

OCT 15 1976

JERRY FRAZIER, )  
 )  
 Plaintiff )  
 )  
 vs )  
 )  
 ST. LOUIS-SAN FRANCISCO RAILWAY )  
 COMPANY, A Corporation, )  
 )  
 Defendant )

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

No. 76-C-49 - *31*

ORDER OF DISMISSAL

On this the 15<sup>th</sup> day of October, 1976, it appearing to the Court from the Stipulation for Dismissal With Prejudice filed by the parties herein that the above entitled case has been fully settled and compromised by the parties thereto;

IT IS ORDERED that all said causes of action contained therein be, and are, hereby dismissed with prejudice at plaintiff's cost.

*Allen E. Barrow*  
United States District Judge

FILED

OCT 15 1976

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

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

LLOYD HOLSAPPLE, )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 E. I. DU PONT DE NEMOURS AND )  
 COMPANY, a corporation; and )  
 THOMPSON-HAYWARD CHEMICAL )  
 COMPANY, a corporation, )  
 )  
 Defendants. )  
 )

---

No. 75-C-508-C

ORDER OF DISMISSAL WITH PREJUDICE

This matter coming on for further proceedings on this 15<sup>th</sup> day of October, 1976, upon Plaintiff's motion for leave to dismiss without prejudice filed on August 12, 1976, on the response and opposition thereto of the Defendants, E. I. du Pont de Nemours and Company and Thompson-Hayward Chemical Company, filed herein on or about August 16, 1976, and upon the joint motion of said Defendants for dismissal with prejudice filed on September 22, 1976; and the Court having considered the same, having heard oral argument of counsel and otherwise being fully advised in the premises, finds:

1. On August 27, 1976, the Court heard oral argument in support of and in opposition to Plaintiff's motion for leave to dismiss without prejudice. At that time, the Court advised counsel that Plaintiff's motion for leave to dismiss without prejudice would be denied because a dismissal without prejudice at this stage of the proceedings would operate to the detriment and disadvantage of the Defendants.

2. At the hearing on August 27, Plaintiff was granted to and including September 17, 1976, in which to take a proposed second deposition from L. F. Smith and to advise the Court whether Plaintiff desired to proceed with the case, in default of which this action would be ordered dismissed with prejudice. Subsequently, the Court

ordered this time extended to and including October 5, 1976.

3. Counsel for Plaintiff has now advised the Court that Plaintiff does not desire to proceed with this litigation and consents to an order of dismissal with prejudice of this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That Plaintiff's motion for leave to dismiss without prejudice should be and the same is hereby denied.

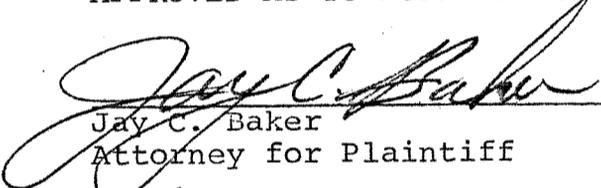
2. Upon stipulation and consent of Plaintiff, this action is ordered dismissed with prejudice to the filing or prosecution of a future action ~~at the costs of Plaintiff.~~ *each party to bear his own costs.*

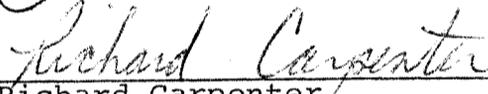
3. The joint motion of the Defendants to dismiss with prejudice is mooted by the foregoing orders of the Court.

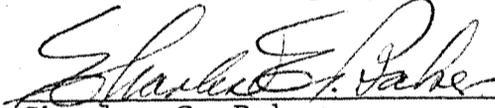
DONE IN CHAMBERS the day and year first above written.

  
The Honorable H. Dale Cook  
United States District Judge

APPROVED AS TO FORM AND CONTENT:

  
Jay C. Baker  
Attorney for Plaintiff

  
Richard Carpenter  
Attorney for Thompson-Hayward  
Chemical Company

  
Charles C. Baker  
Attorney for E. I. du Pont  
de Nemours and Company

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

WHEATON HARRY,  
Plaintiff,

vs.

GENESCO, INC., d/b/a  
S. H. KRESS AND COMPANY,  
Defendant.

)  
)  
)  
)  
)  
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)  
)  
)

FILE  
OCT 15 1976 SK  
Jack C. Silver, Clerk  
U.S. DISTRICT COURT

No. 76-C-12(b) ✓

DISMISSAL WITH PREJUDICE

Comes now the plaintiff Wheaton Harry and hereby dismisses the  
above entitled cause with prejudice to the filing of any future suit or action  
herein.

  
W. Creekmore Wallace II  
Attorney for Plaintiff

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

RICH PRINTING CO., INC.,	)	
	)	
Plaintiff,	)	Civil Action
	)	
vs.	)	NO. 76 C 389
	)	
LINCOLN PRESS, INC.,	)	
	)	
Defendant.	)	<b>FILED</b>

OCT 14 1976

J U D G M E N T Jack C. Silver, Clerk  
U. S. DISTRICT COURT

Pursuant to notice, plaintiff's Application for entry of Default Judgment comes on for hearing in open court on October 13, 1976. Plaintiff appeared by its attorneys, Ungerman, Grabel & Ungerman by Allen Klein, but defendant appeared neither in person nor by counsel.

The Court found that the Complaint in this action was filed on July 19, 1976 and service on the defendant was obtained on July 19, 1976. The Court further found that the defendant was granted an additional fifteen days in which to plead or answer. That said extension of time expired on August 30, 1976, and that defendant has not filed any pleadings. Plaintiff filed its Application for Judgment by Default on September 7, 1976 and defendant had notice of this hearing.

The Court heard testimony in open court and finds that the plaintiff is entitled to recover damages from the defendant as prayed for in plaintiff's Complaint.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that plaintiff, RICH PRINTING CO., INC., a corporation, recover of the defendant, LINCOLN PRESS, INC., a corporation, the sum of \$16,043.61, with interest thereon at the rate of 10% per annum from date of judgment until paid, together with an attorneys' fee in the amount of \$4,000.00, and all the costs of this action to be taxed by the Clerk of this Court.

  
Allen E. Barrow  
United States District Judge

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

CHEVRON OIL COMPANY OF  
VENEZUELA, a Corporation,

Plaintiff,

v.

FIRST NATIONAL BANK AND TRUST  
COMPANY OF TULSA, a National  
Banking Association,

Defendant.

No. 76-C-22-C

FILED  
IN OPEN COURT  
OCT 14 1976  
JACK C. SILVER, CLERK  
U. S. DISTRICT COURT

ORDER GRANTING MOTION FOR  
SUMMARY JUDGMENT

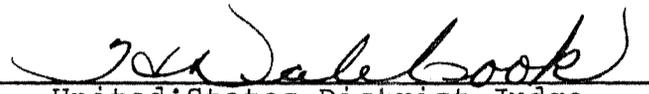
Plaintiff, Chevron Oil Company of Venezuela, having filed herein its Motion for Summary Judgment and a brief in support thereof with supporting affidavits and the defendant, The First National Bank and Trust Company of Tulsa, having responded thereto, the Court, being fully advised in the premises, finds that there is not presented by this civil action any genuine issue as to any material fact and that the plaintiff, Chevron Oil Company of Venezuela, is entitled to judgment against The First National Bank and Trust Company of Tulsa for the sum of Two Hundred Thousand Dollars (\$200,000.00) and the sum of \$34,066.62 accrued interest. IT IS ORDERED that the Motion for Summary Judgment filed herein by Chevron Oil Company be, and is hereby granted with judgment to be entered in the amount of \$234,066.62.

  
United States District Judge

J U D G M E N T

On this 14<sup>th</sup> day of October, 1976, pursuant to the foregoing Order Granting Motion for Summary Judgment judgment is hereby

rendered and awarded in favor of Chevron Oil Company of Venezuela  
in the amount of \$234,066.62 against The First National Bank and Trust  
Company of Tulsa.

  
United States District Judge

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

UNITED STATES OF AMERICA, )  
 )  
 ) Petitioner, )  
 )  
 vs. )  
 )  
 JERRY L. WHITE, JR., )  
 ) No. 76-C-223  
 )  
 ) Patient. )

FILED

OCT 13 1976

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

O R D E R

On this date, it appearing to the Court from the Motion of the Petitioner United States of America and the letters and reports filed therewith, that the above-named patient, who was civilly committed by this Court on June 24, 1976, to the Surgeon General for care and treatment under the provision of 42 U.S. Code, Sections 3411, et seq., and who was thereafter determined by the Surgeon General to have failed to comply with orders and directions of the Surgeon General in connection with said patient's treatment and supervision, it is hereby

ORDERED that Terry Luther White, Jr., is hereby completely discharged from the care, custody, and supervision of the Surgeon General.

Dated this 13<sup>th</sup> day of October, 1976.



UNITED STATES DISTRICT JUDGE

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

WHEATON HARRY,

Plaintiff,

vs.

GENESCO, INC., d/b/a  
S. H. KRESS AND COMPANY,

Defendant.

FILED

OCT 12 1976

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

No. 76-C-12(b) ✓

ORDER APPROVING SETTLEMENT

*& Dismissing Cause of action & Complaint*

Now on this 6th day of October, 1976, plaintiff and defendant having announced to the Court that the above styled case is to be settled by payment of the sum of \$2,500.00 to the plaintiff by the defendant in full settlement of all claims by plaintiff against the defendant and out of said sums attorney's fees are hereby awarded to the plaintiff's attorney in the amount of \$833.33, and the Court having been advised of the premises hereby approves said settlement and attorney's fees *and the cause of action & Complaint are hereby dismissed.*

*Allen E. Barrow*  
\_\_\_\_\_  
ALLEN E. BARROW,  
U. S. District Judge

Approved:

*W. Culmore Wallace*  
\_\_\_\_\_  
Attorney for Plaintiff

*Barbara F. O'Leary*  
\_\_\_\_\_  
Attorney for Defendant



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

LESTER LAY, doing business  
as S.L.S. OIL,

Plaintiff,

vs.

AGRICO CHEMICAL COMPANY,  
a Delaware corporation;  
BERTRAM GLAZER and FRANK  
J. ROBINSON, both doing  
business as DUBLIN OIL  
COMPANY,

Defendants.

No. 76-C-362-C

FILED

OCT 18 1976

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

O R D E R

The Court has before it for consideration a Motion to Dismiss filed herein pursuant to Rule 12(b)(2) by the defendants Bertram Glazer and Frank J. Robinson, both doing business as Dublin Oil Company. Said defendants allege this action as against them should be dismissed for the reason that this Court lacks in personam jurisdiction as to them under the Oklahoma "long-arm" statutes, 12 O.S. §§ 187 and 1701.01 et seq.

This action was instituted by plaintiff, Lester Lay, doing business as S.L.S. Oil, in the District Court of Tulsa County, State of Oklahoma. Thereafter, a Petition for Removal to this Court was filed by defendants Glazer and Robinson. Plaintiff alleges in the Petition filed in state court, that on March 25, 1975, a contract was entered into in Tulsa County, State of Oklahoma, between plaintiff and Agrico Chemical Company (hereinafter Agrico). It is alleged that under said contract plaintiff was to remove the reclaimed oil from certain oil tanks owned by Agrico and that plaintiff was to then clean the storage tanks containing reclaimed oil, which is known in the industry as basic sediment and water. In regard to defendants Glazer and

Robinson, both doing business as Dublin Oil Company, plaintiff alleges that in an effort to fully perform under the contract between plaintiff and Agrico, the plaintiff entered into a sub-contract with Dublin Oil Company. It is alleged that under this agreement Dublin Oil Company was to process and treat the barrels of basic sediment and water at the Dublin, Indiana location, thereby changing it into saleable oil. Plaintiff alleges that subsequent to the commencement of the work and after an interruption of the work allegedly precipitated by the conduct of Agrico, plaintiff attempted to have Dublin Oil Company return to the job to continue work under their sub-contract, but that defendants Glazer and Robinson, both doing business as Dublin Oil Company, refused to return to the job site and told plaintiff they would not work for him and perform under their contract any longer because they had obtained a contract to do the work directly with Agrico. Plaintiff alleges causes of action against Glazer and Robinson, both doing business as Dublin Oil Company, for breach of contract and for malicious and intentional interference with contracts between Agrico and plaintiff.

Defendants Glazer and Robinson have each filed affidavits in this action. In considering a Motion to Dismiss for want of jurisdiction, an uncontroverted affidavit should be taken as true. Burchett v. Bardahl Company, 470 F.2d 793 (10th Cir. 1972). The following facts are stated in the uncontroverted affidavits:

1. Both Glazer and Robinson are citizens and residents of Indiana.
2. Each was served with process in this action by certified mail.
3. Neither Glazer nor Robinson, individually or doing business as Dublin Oil Company, has transacted any business in Oklahoma (whether to be performed in Oklahoma or elsewhere), either individually or through an employee, agent or other representative.

4. The agreements between plaintiff and these defendants were solicited by Lester Lay in Indiana, pertain to subject matter in Indiana, and were executed by all parties in Indiana before Indiana notaries.

5. The events and conversations involving Lester Lay and defendants Glazer and Robinson in regard to completion of work occurred in Indiana, while Lester Lay was in Indiana.

6. Any agreement entered into between Glazer and Robinson, doing business as Dublin Oil Company, and Agrico as alleged in the Petition, was agreed and entered into by Glazer and Robinson, in Indiana, to be performed in Indiana, concerning subject matter located in Indiana.

The assertion of in personam jurisdiction over non-resident defendants has been subjected to close scrutiny by the United States Supreme Court. See, e.g., International Shoe Co. v. Washington, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945); Hanson v. Denckla, 357 U.S. 235, 78 S.Ct. 1228, 2 L.Ed.2d 1283 (1958); and McGee v. International Life Ins. Co., 355 U.S. 220, 78 S.Ct. 199, 2 L.Ed.2d 223 (1957). These cases make it clear that long-arm jurisdiction over non-residents must be based on minimum contacts with the forum state, such that maintenance of a suit does not offend traditional notions of fair play and substantial justice.

A federal district court must look to the law of the State wherein it sits to determine whether it has in personam jurisdiction over the defendant. Doyn Aircraft, Inc. v. Wylie, 443 F.2d 579 (10th Cir. 1971). Plaintiff herein apparently relies upon the Oklahoma "long-arm" statutes, 12 O.S. §§ 187 and 1701.01 et seq. as a basis for in personam jurisdiction over the defendants Glazer and Robinson, both doing business as Dublin Oil Company. Oklahoma's long-arm statutes are intended to extend the jurisdiction of its courts over non-residents "to the outer limits permitted by the due process requirements of the United

States Constitution." Vacu-Maid, Inc. v. Covington, 530 P.2d 137 (Okla. Ct. App. 1974); Yankee Metal Products Co. v. District Court of Oklahoma, 528 P.2d 311 (Okla. 1974). However, as reiterated by the Oklahoma Supreme Court, quoting from Hanson v. Denckla, supra: "The application of [the minimum contacts rule] will vary with the quality and nature of defendant's activity, but it is essential in each case that there must 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." (emphasis added). Architectural Building Components Corporation v. Comfort, 528 P.2d 307 (Okla. 1974).

In regard to plaintiff's cause of action based upon an alleged breach of contract, the uncontroverted affidavits of Glazer and Robinson show that the written agreements in question were solicited by the plaintiff in Indiana, the agreements pertain to subject matter located in Indiana, they were to be performed in Indiana, and they were executed by all parties in Indiana. It appears, therefore, that all the operative facts surrounding the contractual relationship of the parties occurred outside the State of Oklahoma.

Plaintiff contends that the defendants invoked the benefits and protections of the law of the State of Oklahoma "by agreeing to sub-contract the work to be done under the Oklahoma Main Contract between plaintiff and Agrico." Plaintiff apparently is contending that language in the contract between plaintiff and Agrico to the effect that the rights thereunder "shall be governed by the law of the State of Oklahoma" is somehow binding on defendants Glazer and Robinson, both doing business as Dublin Oil Company. However, the contract between plaintiff and defendants Glazer and Robinson in no way incorporates the terms and conditions of the contract between plaintiff and Agrico. Neither does it reflect that there was any assignment of rights

existing under the main Agrico contract. Rather it appears to be a basic sub-contracting agreement for the treatment and sale of petroleum products, with plaintiff representing himself to be the owner of said products.

In regard to plaintiff's cause of action based upon the defendant's alleged tort of interference with contracts, personal jurisdiction over non-resident defendants in tort cases exists under the Oklahoma long-arm statutes only if (a) the tort occurred in Oklahoma, 12 O.S. § 1701.03(3), or (b) the tort occurred outside Oklahoma, causing damage inside Oklahoma and the defendant "regularly does or solicits business or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state." 12 O.S. § 1701.03(4).

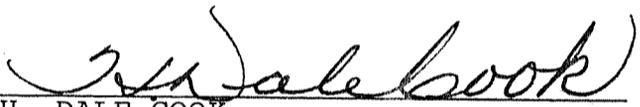
The uncontroverted affidavits on file herein clearly show that if defendants interfered with plaintiff's contractual relationship with Agrico, said interference occurred in Indiana; and they further show that Glazer and Robinson, both doing business as Dublin Oil Company, do not regularly do business or solicit business in Oklahoma. Neither do they engage in any other persistent course of conduct in Oklahoma or derive substantial revenue from goods used or services rendered in Oklahoma.

Finally, plaintiff asserts that defendants Glazer and Robinson, both doing business as Dublin Oil Company, have made sufficient appearance in the case at bar to entitle this Court to exercise jurisdiction. Plaintiff refers the Court to the fact that on July 2, 1976, defendants Glazer and Robinson filed a Notice of Filing Petition and Bond Removal, a Bond for Removal, and a Petition for Removal. However, as stated in 2A Moore's Federal Practice ¶ 12.12 (1975): "Removal of an action from a state to a federal court does not constitute a general appearance or a waiver of defects in service of process." See also Phillips v.

Manufacturers Trust Co., 101 F.2d 723 (9th Cir. 1939); Weinberg v. Colonial Williamsburg, Inc., 215 F.Supp. 633 (E.D.N.Y. 1963); Noel v. St. Johnsburg Trucking Company, 147 F.Supp. 432 (D. Conn. 1956).

Based upon the above it is the determination of the Court that defendants Glazer and Robinson, both doing business as Dublin Oil Company, have not purposefully availed themselves of the privilege of conducting business within the State of Oklahoma and have not had minimum contacts with the State of Oklahoma sufficient to allow this Court to exercise in personam jurisdiction. The Motion to Dismiss of defendants Bertram Glazer and Frank J. Robinson, both doing business as Dublin Oil Company, is therefore hereby sustained.

It is so Ordered this 12<sup>th</sup> day of October, 1976.

  
H. DALE COOK  
United States District Judge



responsive pleading in the form of an answer. Judicial immunity is absolute only to the extent that the Judge was acting within his jurisdiction. Here, appellant alleged that there exists no basis for the action which Judge Simms undertook. An answer would clearly help clarify this issue. We also note that the statute of limitations is, of course, an affirmative defense which must be pleaded as such. Rule 8, Fed.R.Civ.P. In holding as we must that an answer is required, we intimate absolutely no opinion as to the merits of appellant's complaint." (Emphasis supplied)

The file reflects that the mandate of the Tenth Circuit Court of Appeals was filed in this Court on April 28, 1976. On May 7, 1976, this Court entered an order granting the defendant, Robert D. Simms, Judge, 20 days to answer in this litigation. The file reflects that his answer was filed on May 27, 1976.

Turning to plaintiff's Motion for Default filed on June 14, 1976, wherein plaintiff states:

"In its decision on this case rendered on the 1st day of April, 1976, the Tenth Circuit Court ruled that the Defendant's(sic) should have answered the original petition filed by the plaintiff here. Having failed to answer in the first instance, the Plaintiff therefore requests that a judgement(sic) in default be entered against the defendants and that they be ordered to pay the amount stated in the petition plus whatever amount this court may deem fitting and proper."

The Court finds that the defendant, Robert D. Simms, has answered within the time ordered by the Court and is not in default and said Motion for Default should be overruled.

The Court will now consider the plaintiff's Motion for Protection for the Plaintiff, filed on June 22, 1976. A brief summary of plaintiff's allegations in that Motion will be helpful in ruling on the propriety of plaintiff's claims.

He alleges that between 6 and 8 p.m. on June 14, 1976, a conspiracy was in operation to force him back into illegal incarceration in order that he not be available to appear against Justice Robert D. Simms and a "number of individuals whose name could be mentioned in regards to this matter at a later time."

Plaintiff then gives his version of the sequence of events in 1970 which resulted in his incarceration. On Page 5 plaintiff alleges:

"Plaintiff was advised by Deputy Sheriff McPerkins that he had been advised by Judge Robert D. Simms to collect

Ten thousand (\$10,000) in cash from the plaintiff or bring the plaintiff to the Tulsa County Jail."

On Pages 5 and 6 plaintiff further contends:

"Plaintiff do recall sometime the next day or before June 5, 1970, plaintiff was contacted by Attorney Caesar Latimer of Tulsa and Mr. Latimer further told the plaintiff that he had been advised by a judge who was name Amos T. Hall that the Tulsa District Attorney's office and Judge Simms was conspiring together to have the plaintiff committed to the Eastern State Hospital at Vinita, Oklahoma and Mr. Latimer further stated that he had been advised by Judge Amos T. Hall to be very careful in regards to this matter because what the District Attorneys' office and Judge Simms was doing to the plaintiff is very dangerous and should be done on the 'QT'."

Plaintiff then complains of certain items that were taken from him during June of 1970.

Plaintiff further alleges on page 7:

"Plaintiff have been constantly harassed, threatened and advised to leave the city of Tulsa and the State of Oklahoma for the safety of plaintiff's life. Plaintiff can further present the necessary evidence that will show and prove that a well-planned conspiracy have constantly been working against the plaintiff through a number of money loaning institutions located at 569 E. 36th St. north, telephone no. 428-211, Tulsa, Oklahoma. \*\*\*."

He then makes allegations against the "so-called, bi-racial bank, American State" for evidently denying him a loan.

At the bottom of page 7 and top of page 8 plaintiff states:

"The plaintiff would like to respectable call to this court's direct attention that the plaintiff can present the names and addresses plus a number of telephone numbers that will connect as many as One Hundred thirty-six (136) individuals that was aware and was a part in some way of this well-planned conspiracy and ganster style crime. \*\*."

In conclusion, in said motion, he prays, in part:

"The plaintiff pray that the court will take this motion under advisement and grant the plaintiff the necessary protection that is necessary for the safety of the plaintiff's future life, due to the fact, plaintiff have been constantly threatened, harassed, and have also been advised that it will mean death if the plaintiff continue to press for all guilty parties to be sued and prosecuted for whatever part they could have played in regards to this well-planned conspiracy and ganster style crime that was committed and successfully carried out between June 2, 1970 and April 24, 1973."

As part of his Exhibit "F" attached to said motion the plaintiff has attached a copy of a letter dated January 17, 1973, from Arnold C. Larson, Special Agent in Charge, Federal Bureau of Investigation, Oklahoma City, Oklahoma, to Mr. Marian P. Opala, Director,

Administrative Office of the Judiciary, Supreme Court of Oklahoma,  
with reference to Thomas Jefferson Clark. Said letter states:

"This is to acknowledge receipt of your letter of January 12, 1973, with enclosures thereto, consisting of extensive correspondence from one Thomas J. Clark, presently confined at the Springfield Medical Center for Federal Prisoners, Springfield, Missouri.

"Mr. Clark has corresponded extensively in the past with this office wherein he has made numerous allegations identical or similar to those set forth in the information you furnished.

"Thomas Jefferson Clark and his associate, Jeff McHenry, were subjects of an FBI investigation instituted in 1969, and later reinstated in 1970. Clark and McHenry were indicted by a Federal Grand Jury at Muskogee, Oklahoma, on February 26, 1970, in an 11 count indictment charging both with Mail Fraud. They were tried on December 7, and 8, 1970, in U.S. District Court, Muskogee, with the Honorable Edwin Langley, U.S. District Judge, presiding, and a jury returned a verdict of guilty as charged on all counts. On February 12, 1971, Judge Langley sentenced Clark to two years custody of the Attorney General of the United States on each of the 11 counts to run concurrent to be served upon completion of sentences then being served on state charges at McAlester, Oklahoma. \*\*\*. Clark prepared numerous articles for the 'Oklahoma Eagle' a Tulsa, Oklahoma, newspaper headed, 'Reporting to You Jet Style, Telling it Like it is Beyond a Doubt, Important! Important Notices, Special! Special to the Black People,' in which articles he made numerous accusations against banking institutions in Tulsa, claiming discrimination against him because of his race, in that they would not loan money to him. The 'Tulsa Daily World', Tulsa, Oklahoma, reported in an issue of June 6, 1970, Clark's commitment for mental observation following a hearing in District Court in Tulsa arising from a series of alleged threats against Tulsa jurors. The Honorable Robert D. Simms presided over that jury. The article stated Clark was convicted on April 30 of criminal libel (which arose out of some of his reporting in the aforementioned newspaper) by a six member jury who assessed a one year jail term and a \$1,000 fine. On May 25, 1970, a 12 member jury convicted Clark of bogus checks and assessed a two year prison sentence and a \$2,500 fine. The District Attorney's Office at Tulsa asked for Clark's commitment following a lengthy investigation of threats received by at least seven jurors who had served on Clark's previous trials. One anonymous call was made from a telephone booth located across the street from the Thomas J. Clark Car Lot at 1519 East Apache, Tulsa, Oklahoma. The state's strongest evidence came from a false alarm fire to a juror's residence who had served on the bogus check case and had an unlisted telephone number and who had not received any threatening calls. This call came at about 10:00 p.m. at night. Investigators then checked the fire station's recorder and Clark's voice was identified as the one called in the false alarm. The tape was played at the hearing and Judge Simms also identified the voice, according to the news articles. Others also identified the anonymous voice as that belonging to Clark. Six of the jurors receiving anonymous calls stated obscene language and threats were used in each

instance. Judge Simms noted that following Clark's incarceration, the telephone calls ceased. Judge Simms also stayed proceedings on two other criminal libel charges. Senator E. Melvin Porter represented Clark at the hearing and objected strenuously to Clark's commitment to Eastern State Hospital at Vinita. Judge Simms rejected Porter's argument stating, 'In fairness to Justice, I must be satisfied that this man is competent to stand trial,' according to the newspaper article.

"The above gives you some information concerning the alleged prior antics of Mr. Clark and is furnished for your information in your dealings with him.

"He has written numerous letters to the FBI, the Oklahoma State Attorney General's Office, the FBI in Missouri, and possibly to several other organizations, including the U.S. Department of Justice, Washington, D.C.

"\*\*\*."

A letter from the Honorable Raymond W. Graham, Presiding Administrative Judge, dated February 12, 1973, to Mr. Thomas J. Clark, attached as Plaintiff's Exhibit "I" to said motion states, in part:

"I have received your false and defamatory communication where you contend that you were railroaded into the penitentiary and that you desire me to attempt to get you out of prison.

"Apparently from your address you are a prisoner of the Federal Government. I think your letter is probably misdirected since we have no jurisdiction with inmates in the Federal Penitentiary.

"I would suggest that you write to the Federal Judge who apparently sentenced you to the Springfield Penitentiary. However, I would advise you not to write the type of letter to the Federal Judge that you have to me. Your long history of writing defamatory letters has gotten you into trouble with the law in times past, and I would suggest perhaps the punishment meted to you was not sufficient to curtail your activities in this regard.

"\*\*\*."

The Court assumes that the Exhibits attached to Plaintiff's Motion are in support of said Motion.

Having carefully reviewed the Motion and the exhibits, the Court finds that the Motion for Protection for the Plaintiff should be denied.

The last pending motion filed by the plaintiff is his Motion filed September 10, 1976 styled "A Motion to Further Show the Court that the Plaintiff can Further Present the Necessary Evidence and Prove that Mr. Leroy Thomas, who is a Black Man & Chairman of the Board for the So-Called, Bi-Racial Bank, American State that is located at 569

E. 36th Street, North, Telephone No. 428-2211, Tulsa, Oklahoma.

The Court has reviewed this Motion and the Exhibits attached thereto, and finds that these persons are not parties to the instant litigation. At page 3 of said Motion the plaintiff states:

"The plaintiff would further like to respectfully ask the court for an immediate ruling in regards to the civil matters and submit the criminal part of this matter over to a U.S. Federal Grand Jury for the Northern District of Oklahoma for the sole purpose of indicting all of the guilty parties that was a part of this well-planned conspiracy and ganster style crime, due to the fact, the evidence is crystal clear that plaintiff's civil and constitutional rights have been completely violated and that the evidence will further constitute criminal violations."

The Court, therefore, finds that said Motion should be denied.

Having disposed of plaintiff's pending motions the Court will consider the Motions filed by the defendant.

The plaintiff instituted the present action, pro se, on June 2, 1975, alleging a violation of Title 42 U.S.C. §1983.

Plaintiff alleges that on March 11, 1970, the State of Oklahoma initiated certain Misdemeanor actions against plaintiff, alleging that he should stand trial in the District Court of Tulsa County, to answer charges of libel. Plaintiff further alleges that the record will indicate that while the allegations grew out of a single action, plaintiff was charged on three separate counts of libel, CRM70-218, 70-219 and 70-220. Plaintiff was convicted of the offense of libel in CRM70-218 on the 20th day of April, 1970.

Plaintiff further alleges that on June 2, 1970, Robert D. Simms, then presiding Judge of the District Court of Tulsa County, did, while plaintiff was on appeal bond in case CRM70-218 and on bond in CRM70-219, 220, cause plaintiff to be arrested and incarcerated without justifiable cause and without authority to so do. It is further alleged that Robert D. Simms did, without authority, cause plaintiff to be transmitted to the Eastern State Hospital for the insane in Vinita, Oklahoma, for mental observation, on or about June 5, 1970. Plaintiff alleges that no evidence was presented at any hearing which indicated that he was insane or was mentally disturbed in any way.

Plaintiff alleges that Robert D. Simms pretended to act under the Statutes of the State of Oklahoma. Plaintiff further alleges that he committed no acts and conducted himself in such a manner that the actions of Robert D. Simms were done maliciously, both as a disregard for plaintiff and because of the racist practices which Robert D. Simms has carried on in his court over the years against blacks and other minorities. Among the acts complained of are the alleged disconnection of plaintiff's telephone and loss of his business and certain itemized property in the alleged sum of \$110,424.00. Plaintiff additionally claims punitive damages in the sum of One Million Dollars.

The defendant's Motion for Summary Judgment or in the Alternative Motion to Dismiss advances two grounds for consideration by the Court.

1. That the pleadings, Affidavits, certified copies of docket sheets of the State District Court, and the certified copies of various pleadings in the State District Court actions referred to in the plaintiff's complaint herein show there are no genuine questions of fact which under the law would entitle the plaintiff to recover against the defendant.

2. In the alternative the action should be dismissed as the statute of limitations has run.

The Court will first consider the Motion to Dismiss based on the affirmative defense that the statute of limitations has run on any alleged claim of the plaintiff.

All of the acts and conduct that plaintiff complains of in his complaint occurred during the year 1970. As hereinabove stated, this cause of action was instituted on June 2, 1975.

Title 12 O.S. §195 provides, in pertinent part:

"Limitations of other actions.

"Civil actions other than for the recovery of real property can only be brought within the following periods, after the cause of action shall have accrued, and not afterwards:

"Third. Within two (2) years: An action for trespass upon real property; an action for taking, detaining or injuring personal property, including actions for the specific recovery of personal property; an action for injury to the rights of another, not arising on contract, and not hereinafter enumerated; an action for relief on the ground of fraud--the cause of action in such case shall not be deemed to have accrued until the discovery of the fraud."

In *Crosswhite v. Brown*, 424 F.2d 495 (10th Cir. 1970) the Tenth Circuit Court of Appeals said:

"There is no applicable federal statute of limitations relating to civil rights actions brought under Sections 1983 and 1985. The time within which such action must be brought is to be determined by the laws of the state where the cause of action arose. In *Wilson v. Hinman*, 172 F.2d 914, 915 (10th Cir. 1949), cert.denied 336 U.S. 970, reh. denied, 337 U.S. 927, we held that '[t]he time for filing an action under the Civil Rights Act is controlled by the applicable Kansas Statute of Limitations.' See also *Jones v. Jones*, 410 F.2d 365 (7th Cir. 1969); *Hileman v. Knable*, 391 F.2d 593 (3rd Cir. 1968); *Mulligan v. Schlachter*, 389 F.2d 231 (6th Cir. 1968); *Swan v. Board of Higher Education of New York*, 319 F.2d 56 (2d Cir. 1963); *Horn v. Bailie*, 309 F.2d 167 (9th Cir. 1962).

"It is apparent from the complaint that the last overt act of Brown, as Sheriff of Tulsa County, Oklahoma, to carry out the alleged conspiracy was the surrender of Crosswhite to Missouri authorities in August of 1956. The statute of limitations began to run from that date. *Peto v. Madison Square Garden Corp.*, 384 F.2d 682 (2d Cir. 1967), cert.denied, 390 U.S. 989, reh.denied, 390 U.S. 1046; *Garelick v. Goerlich's Inc.*, 323 F.2d 387 (7th Cir. 1963); *Lambert v. Conrad*, 308 F.2d 571 (9th Cir. 1962); *Hoffman v. Halden*, 268 F.2d 289 (9th Cir. 1959). Whatever cause of action for conspiracy Crosswhite may have had, it was barred by the applicable statute of limitations."

In *Savage v. United States*, 450 F.2d 449, 451 (8th Cir. 1971), the Court said:

"The law is clear that state statutes of limitation govern the timeliness of federally created causes of action unless Congress specifically has supplied a limitation period. Accordingly, since neither §§1983 nor 1985 define the time within which suits thereunder must be brought, we must look to the appropriate or analogous law of Minnesota to determine whether these claims are barred.\*\*\*."

Defendant has raised the affirmative defense of statute of limitations both in his answer and in His Motion presently under consideration.

The Court, therefore, finds that said Motion to Dismiss should be sustained because any cause of action accruing to plaintiff is barred by the applicable Oklahoma Statute of Limitations.

In an abundance of caution, even though this Court is of the opinion that the present litigation is barred by the applicable Oklahoma Statute of Limitations, the Court will turn to the other proposition advanced by the defendant in his Motion for Summary Judgment.

The defendant avers that a member of the Judiciary is immune from suit under the Civil Rights Act for any act committed in his judicial capacity.

Having reviewed the exhibits attached to the brief and motion of the defendant, including affidavits, the Court finds that all of the alleged acts complained of were committed within the judicial jurisdiction of the defendant, save and except with the possible exception of the allegation dealing with the disconnection of the telephone.

There is no controversy that the defendant was the duly elected and qualified and acting District Judge of the Fourteenth Judicial District of the State of Oklahoma during the period complained of and is now a Justice of the Supreme Court of the State of Oklahoma.

In *Kostal v. Stoner*, 292 F.2d 492 (10th Cir. 1961) the Court said:

"We have held that the Civil Rights Act does not impair the traditional common law immunity of judges from personal liability in damages for their official acts in matters within their jurisdiction. *Spriggs v. Pioneer Carissa Gold Mines, Inc.*, 10 Cir., 251 F.2d 61, certiorari denied, 356 U.S. 950; *Ryan v. Scoggin*, 10 Cir., 245 F.2d 54; See *Bottone v. Lindsley*, 10 Cir., 170 F.2d 705, certiorari denied 336 U.S. 944. In *Alzua v. Johnson*, 231 U.S. 106, an action for damages was brought against a Justice of the Supreme Court of the Phillipine Islands. The complaint alleged that the defendant was guilty of malfeasance in rendering two appellate opinions which were adverse to plaintiff. In holding the Justice immune from an action for damages, the Court said:

"\*\*\*we regard it as fundamental that the immunity of the defendant from this suit is the same as that of judges in the United States, which is established beyond dispute. *Bradley v. Fisher*, 13 Wall. 335 [20 L.Ed. 646]; *Randall v. Brigham*, 7 Wall. 523 [19 L.Ed. 285]."  
(Emphasis supplied)

In Cawley v. Warren, 216 F.2d 74 (7th Cir. 1954) the following language is found:

"The reason for this rule of immunity is set forth in Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646, at page 649:

"'For it is a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequence to himself. Liability to answer to everyone who might feel himself aggrieved by the action of the judge, would be inconsistent with the possession of this freedom, and would destroy that independence without which no judiciary can be either respectable or useful. \*\*\* Nor can this exemption of the judges from civil liability be affected by the motives with which their judicial acts are performed. The purity of their motives cannot in this way be the subject of judicial inquiry. \*\*\* If civil actions could be maintained in such cases against the judge, because the losing party should see fit to allege in his complaint that the acts of the judge were done with partiality, or maliciously, or corruptly, the protection essential to judicial independence would be entirely swept away. Few persons sufficiently irritated to institute an action against a judge for his judicial acts would hesitate to ascribe any character to the acts which would be essential to the maintenance of the action.'"

In Pierson v. Ray, 386 U.S. 547 (1967) the Supreme Court of the United States said:

"\*\*\*Few doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction, as this Court recognized when it adopted the doctrine in Bradley v. Fisher, 13 Wall. 335 (1872). This immunity applies even when the judge is accused of acting maliciously and corruptly and it 'is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences.' \*\*\*It is a judge's duty to decide all cases within his jurisdiction that are brought before him, including controversial cases that arouse the most intense feelings in the litigants. His errors may be corrected on appeal, but he should not have to fear that unsatisfied litigants may hound him with litigation charging malice or corruption."  
(Emphasis supplied)

See also Bailey M. Smith v. Supreme Court of Oklahoma (CIV-71-736); Franklin v. Meredith, 386 F.2d 958 (10th Cir. 1967).

In Imbler v. Pachtman, 424 U.S. 409, 417, 418 (1976) the Supreme Court of the United States said:

"Title 42 U.S.C. §1983 provides that '[e]very person' who acts under color of state law to deprive another of a constitutional right shall be answerable to that person in a suit for damages. The statute thus creates a species of tort liability that on its face admits of no immunities and some have argued that it should be applied as stringently as it reads. But that view has

has not prevailed." (Emphasis supplied)

and further at page 418 the Court said:

\*\*\*Before today the Court has had occasion to consider the liability of several types of government officials in addition to legislators. The common-law absolute immunity of judges for 'acts committed within their judicial jurisdiction', see Bradley v. Fisher, 13 Wall. 335 (1872), was found to be preserved under §1983 in Pierson v. Ray, 386 U.S. 547, 554-555 (1967). \*\*\*." (Emphasis supplied)

The Court, therefore, finds, that in the event it be construed that the cause of action alleged by the plaintiff is not barred by the Statute of Limitations, then those acts alleged by the plaintiff, except the issue of the telephone, which will be hereinafter discussed, come within the common-law absolute immunity of Judges for acts committed within their judicial jurisdiction.

Attached to plaintiff's response to the defendant's motion are certain exhibits that will be delineated hereinafter. But, first the Court calls attention to the language contained in plaintiff's response filed June 14, 1976, at page 4:

"Whatever the court might judge as to the affidavit of Bob Bresnahan, there is no other course but to rule that as officers of the law, Judge Robert Simms, a judge on the State Supreme Court, and Assistant Attorney General Paul Duncan, owe a much higher degree of responsibility to the court to uphold the truth than the average citizen. The act of a Judge on the State Supreme Court lying under oath should so shock the conscience of the court that this court should take firm and swift action against Judge Simms and Attorney General Paul Duncan, his confiante(sic). The Documentation presented by the Plaintiff and attached herein makes it crystal clear that the affidavit submitted by Judge Simms is a lie and an attempt to deceive. There is no question but that if such an act were committed by an ordinary citizen, that citizen would be dealt with as a perjurer immediately. Officers of the law should not be allowed the privilege of lying under oath and getting away with it.

"This plaintiff therefore requests that this court instruct the District attorney of the United States for the Northern District of Oklahoma, to file criminal action against Robert D. Simms and Assistant Attorney General Paul Duncan, his confidenate(sic), for committing perjury. Plaintiff further equest that this court submit this matter to the Oklahoma BAR Association for action against both of the above officers of the law, for whatever appropriate disciplinary action the BAR deems necessary."

Thus, the climate and atmosphere for the consideration of the alleged episode of the "disconnected telephone" is set.

Exhibits attached to plaintiff's response that are pertinent to this litigation reveal the following:

Exhibit "A" is a letter from H. D. Walker, Unit Manager, Southwestern Bell Telephone Company, dated October 3, 1972, to plaintiff, which reads as follows:

"To answer your two questions in your letter of September 21, 1972, (1) we were contacted by Judge Robert D. Simms advising us to discontinue the telephone on June 4, 1970, (2) we do have a copy of the check for the refund on your account 425-5558. You will find this duplicate enclosed. We would appreciate it if you would return the duplicate once you have finished with it.

"I hope this information will be of assistance to you and if there is any further question, please write."

Exhibit "D" is a copy of a duplicate Southwestern Bell Telephone Company check, dated June 23, 1970, payable to Thomas J. Clark, in the amount of \$422.82.

Exhibit "B" is a letter from H. D. Walker, Manager, Southwestern Bell Telephone Company, dated March 16, 1973, to plaintiff, which reads as follows:

"The gentleman who talked with you was Mr. William Frost, my District Manager.

"Mr. Frost is no longer in that position. Mr. Charles Fritch has taken his place. If you have any further question, I will be most happy to answer."

Exhibit "C" is a letter from H. D. Walker, Manager, Southwestern Bell Telephone Company, dated March 23, 1973, to plaintiff, which reads as follows:

"As I mentioned in my previous letter, Mr. Frost is no longer the District Manager of the office where you had telephone service and your letter has been referred to me for answering.

"As I mentioned previously, Judge Simms was the person we talked to prior to disconnecting your account. I talked with Mr. Frost and he advised me, to his recollection, he did not remember talking with your wife nor do I. Our records are destroyed at the end of a 12 month period so it has been a year and a half since your records were destroyed.

"I am sorry we are unable to furnish copies of your previous records but I think you find the answer to your question is, we discussed the disconnection of your account with Judge Simms and no one else.

"If you have any further question, please write."

Exhibit "E" is a letter from H. D. Walker, Unit Manager, Southwestern Bell Telephone Company, dated June 10, 1976, to plaintiff, which reads as follows:

"This is in answer to your letter dated June 3, 1976, and your questions on correspondence sent you in Springfield, Missouri.

"All copies of our correspondence has been destroyed due to the length of time involved. I do remember writing you on three occasions in Springfield, but do not remember the exact content of the letters.

"If you have further questions, please call me."

A review of the exhibits submitted by the defendant reveals the following.

H. D. Walker, executed an affidavit dated June 4, 1976, which states the following:

"H. D. WALKER, being first duly sworn, upon oath, deposes and states as follows:

"1. During 1970 Affiant was a Unit Manager of Southwestern Bell Telephone Company in Tulsa, Oklahoma.

"2. On October 3, 1972, March 16, 1973, and March 23, 1973, I wrote letters to Mr. Thomas J. Clark, addressed to him at Post Office Box 4000, Springfield, Missouri, copies of which are attached hereto. Such letters were written by me based only upon my recollection of conversations which I had with Mr. William Frost, then District Manager of Southwestern Bell Telephone Company.

"3. I do not know and have never met Judge Robert D. Simms. I have never talked with Judge Robert D. Simms either in person or by telephone."

The Affidavit of William Forst, Jr., dated June 29, 1976, states:

"William Forst, Jr., being first duly sworn, upon oath, deposes and states as follows:

"1. Affiant presently is employed by American Telephone & Telegraph, with his office in the City of New York and with the title of Manager.

"2. At all times material to the content of this affidavit, Affiant was employed by Southwestern Bell Telephone Company as a District Manager in Tulsa, Oklahoma office.

"3. Some time during the late spring or early summer of 1970, Affiant and Mr. H. D. Walker, Unit Manager for Southwestern Bell Telephone Company, went to the business address of Mr. Thomas J. Clark in Tulsa, Oklahoma, for the purpose of discussing with Mr. Clark his delinquent and unpaid account with Southwestern Bell Telephone Company, which account was then and had been for several months in arrears. Southwestern Bell had previously asked and obtained from Mr. Clark a deposit of approximately \$2,000.00. Such deposit had not been and was not intended to be used to pay the monthly service costs as they accrued, but,

rather was to be kept and maintained to guard against the risk of nonpayment. Affiant and Mr. Walker did not locate Mr. Clark and found the address where the telephone company records indicated the business to be located essentially abandoned. Following this effort to locate Mr. Clark, the telephone service of Mr. Clark was disconnected. (Emphasis supplied)

"4. Subsequently, Mr. Thomas J. Clark came to Affiant's office and spoke with Affiant and asked for the telephone to be reconnected. During the course of the conversation, Mr. Clark advised the Affiant that he had been released from a pending criminal proceeding against him in the District Court of Tulsa County and that he was now able to carry on his regular business and could make the necessary payments. Affiant advised Mr. Clark that under no circumstances could services be reconnected without the payment of all past due bills.

"5. Following the above conversation with Mr. Clark, Affiant telephone the offices of Judge Robert D. Simms, in whose court the criminal proceeding against Mr. Clark was pending, and inquired of one of the court personnel whether the proceeding against Mr. Clark had been dismissed and whether he had been released. The person to whom Affiant talked referred Affiant to Judge Simms. When Judge Simms answered the telephone, Affiant identified himself to Judge Simms and asked if Mr. Clark had been released from a pending criminal proceeding. Affiant was advised by Judge Simms that the proceeding was not complete. Affiant then terminated the telephone conversation with Judge Simms. Affiant did not advise Judge Simms that the telephone of Mr. Clark had been disconnected. The subject of Mr. Clark's telephone was not discussed between Affiant and Judge Simms. Judge Simms did not directly or indirectly request, suggest or require any action to be taken of any nature whatsoever regarding the telephone of Mr. Clark. Affiant has never talked to Judge Simms on any other occasion. (Emphasis supplied)

"6. Subsequently, Southwestern Bell Telephone Company set off against the said deposit all then unpaid billings and refunded the balance of such deposit to Mr. Clark. (Emphasis supplied)

"7. I have been shown copies of letters from Mr. H. D. Walker as Unit Manager of Southwestern Bell Telephone Company, to Mr. Clark dated October 3, 1972, March 16, 1973, and March 26, 1976. The letter of October 3, 1972 is in error in that part of such letter which states '(1) we were contacted by Judge Robert D. Simms advising us to disconnect the telephone on June 4, 1970.' The letter of March 23, 1973 is also in error in that part of such letter which states 'as I mentioned previously, Judge Simms was the person we talked to prior to disconnecting your account', and in that part of such letter which states 'we discussed the disconnection of your account with Judge Simms and no one else.' As stated above, I was not contacted nor was I aware of anyone else under my supervision being contacted at any time by Judge Simms and at no time and in no way did Judge Simms advise or suggest the disconnection or denial of service of Mr. Clark's telephone. As stated above, the only conversation which Affiant has ever had with Judge Simms was subsequent to the disconnection of Mr. Clark's telephone and the subject of the disconnection was not discussed in such conversation with Judge Simms. These portions of such letters are apparently due to some misunderstanding by Mr. Walker of one or more conversations between he and I regarding Mr. Clark." (Emphasis supplied)

Exhibit "I" is the affidavit of Robert E. Bresnahan, dated May 26, 1976, and states:

"Robert E. Bresnahan, of lawful age, being first duly sworn, upon oath, deposes and states as follows:

"That he is the Division Manager for the Tulsa District for Southwestern Bell Telephone and is responsible for the management of an area of the State of Oklahoma including Tulsa County, Oklahoma.

"That affiant has held such management position at all times since 11-1-67.

"That affiant knew Justice Robert D. Simms in 1970 when Justice Simms was Judge of the District Court of Tulsa County, Oklahoma. That affiant was not contacted in 1970 by Judge Robert D. Simms for the purpose of requesting the disconnection of any telephone service then possessed by Thomas J. Clark either residential or business. That any such request for disconnection of any service would have had to have been by written order of the Court before the same would have been accepted. That no oral communication from any Court without written order would be acceptable to Southwestern Bell Telephone for the discontinuation of service to a subscriber. (Emphasis supplied)

"That any written order by any Court would have to be cleared with affiant as Division Manager of Southwestern Bell Telephone. (Emphasis supplied)

"Affiant further states that records on paid customers are maintained only for a period of six (6) months from the date of termination of service and that records on telephone service terminated by reason of nonpayment for services is maintained for a period of five (5) years from the date of termination."

Justice Simms has filed two affidavits in support of his Motion for Summary Judgment.

Exhibit "G" states:

"I, Robert D. Simms, Justice of the Supreme Court of the State of Oklahoma, do upon oath state that at all times referred to in the complaint in Case No. 75-C-217 in the United States District Court for the Northern District of Oklahoma, I was a duly elected and acting District Judge of the Fourteenth Judicial District of the State of Oklahoma. All of my acts and orders in connection with Thomas Jefferson Clark were in my judicial capacity as a State District Judge." (Emphasis supplied)

Exhibit "H" states:

"I, Robert D. Simms, Justice of the Supreme Court of the State of Oklahoma, do upon oath state that while acting as a District Judge of the Fourteenth Judicial District of the State of Oklahoma I never ordered, directly or indirectly, or caused, directly or indirectly, the home or business telephone of Thomas J. Clark, to be disconnected."

It is settled that when a Motion for Summary Judgment is supported by affidavits, the party opposing it may not rest on the mere allegations of his pleadings, but must respond with specific facts showing the existence of genuine issues for trial.

The Court finds, with reference to the allegations of plaintiff as to the "disconnection of his telephone" that there is no genuine issue of fact; that the affidavits and exhibits show that plaintiff put up a deposit of approximately \$2,000 on his telephone; that his bill for said telephone was in arrears; that the only communication with Justice Simms was to ascertain if "Mr. Clark had been released from a pending criminal proceeding". This clearly puts anything that Justice Simms said with reference to the "proceeding was not complete" within the "common-law absolute immunity of Judges for acts committed within their judicial jurisdiction".

Based on the foregoing statement the Court finds, that if it be deemed that the statute of limitations has not barred this action (the Court being of the opinion that it has) then the Motion for Summary Judgment filed by the defendant, Justice Robert D. Simms, should be sustained.

IT IS, THEREFORE, ORDERED that the Motion for Default Judgment filed June 14, 1976, by the plaintiff be and the same is hereby overruled.

IT IS FURTHER ORDERED that the "A Motion for Protection for the Plaintiff" be and the same is hereby overruled.

IT IS FURTHER ORDERED that "A Motion for Further Show the Court that the Plaintiff can further present the necessary evidence and prove that Mr. Leroy Thomas who is a black man and Chairman of the Board for the So-Called Bi-Racial Bank, American State that is located at 569 E. 36th Street North, Telephone No. 428-2211, Tulsa, Oklahoma," be and the same is hereby overruled.

IT IS FURTHER ORDERED that defendant's Motion to Dismiss be and the same is hereby sustained, the cause of action asserted by plaintiff being barred by the applicable Statute of Limitations of the State of Oklahoma.

Alternatively, in the event that it be deemed that the action is not barred by the applicable State Statute of Limitations, then IT IS ORDERED that defendant's Motion for Summary Judgment be and the same is hereby sustained and Judgment entered accordingly.

ENTERED this 7<sup>th</sup> day of October, 1976.

*Allen E. Saraw*

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CHIEF UNITED STATES DISTRICT JUDGE



Corporation was served with Summons and Complaint on November 14, 1975; that the defendant Grays Jewelers, Inc. was served with Summons and Complaint on November 18, 1975; and that the defendants Rose M. Minter a/k/a Rose Marie Minter, Anna Sue Hamilton, Altens, Inc., Myrtle Hamilton, Melvin Minter a/k/a Melvis L. Minter, and Walter James Hamilton a/k/a Walter J. Hamilton were served by publication as appears from the Proof of Publication filed herein on September 8, 1976.

It appearing that Gray's Jewelers, Inc. has duly filed its Disclaimer herein on November 28, 1975; that the defendants Board of County Commissioners and County Treasurer have duly filed their Answers on November 18, 1975; and that the defendants Walter James Hamilton a/k/a Walter J. Hamilton, Anna Sue Hamilton, Rose M. Minter a/k/a Rose Marie Minter, Melvin Minter a/k/a Melvis L. Minter, Myrtle Hamilton, Altens, Inc., Bowery Savings Bank of New York, N.Y., A Corporation, and the Tulsa Adjustment Bureau, Inc. 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 Five (5), in Block Twenty-Four (24), Amended Plat of Northridge Second Addition to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded plat thereof

THAT the defendants Walter James Hamilton and Anna Sue Hamilton did, on the 1st day of December, 1964, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$12,750.00, with 5-1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that the defendants Walter James Hamilton and Anna Sue Hamilton 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 \$10,717.84 as unpaid principal, with interest thereon at the rate of 5-1/2 percent per annum from October 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 Melvin Minter and Rose Marie Minter, the sum of \$46.00 for the year 197<sup>4</sup>, for personal property taxes, 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.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Walter James Hamilton and Anna Sue Hamilton, in rem, for the sum of \$10,717.84, with interest thereon at the rate of 5-1/2 percent per annum from October 1, 1974, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the County of Tulsa have and recover judgment, in rem, against defendants Melvin Minter and Rose M. Minter for the sum of \$46.00 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 plaintiff have and recover judgment, in rem, against the defendants Myrtle Hamilton, Altens, Inc., and Tulsa Adjustment Bureau, Inc.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money

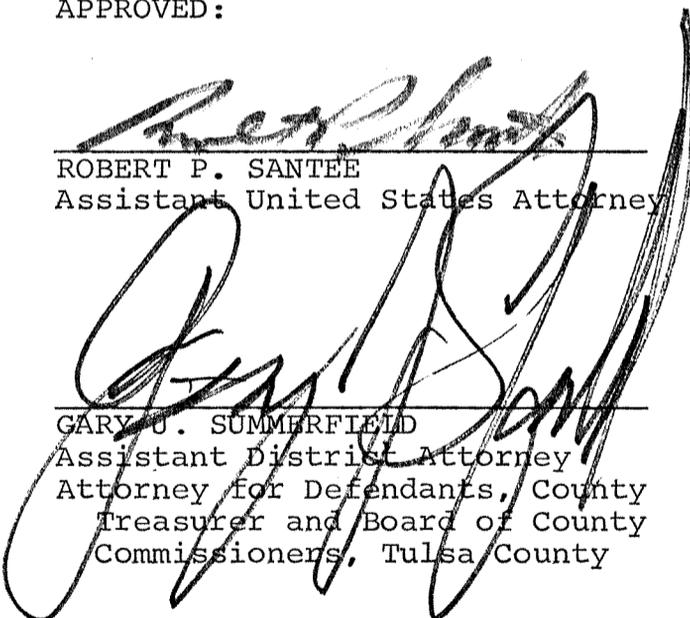
judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, shall be deposited 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

  
GARY 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

KANSAS CITY FIRE & MARINE )  
INSURANCE COMPANY, a )  
corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
W. RILEY FRICK and ANITA L. )  
BAKER, )  
 )  
Defendants. )

FILED

OCT 7 - 1976

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

NO. 75-C-335 - *B -*

ORDER OF DISMISSAL

For good cause shown and upon the application of the  
plaintiff, this cause <sup>*of action & complaint are*</sup> ~~is~~ dismissed with prejudice.

*Cecil E. Bennett*  
UNITED STATES DISTRICT JUDGE

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

KEITH LANE, a Minor, by )  
and through his father and )  
next friend, Burl Lane, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JOHN HIGHLAND, )  
 )  
Defendant. )

No. 76-C-82 (C) **FILED**  
OCT 5 1976 *Jan*  
Jack C. Silver, Clerk  
DISTRICT COURT

ORDER OF DISMISSAL

NOW on this 5<sup>th</sup> day of October, 1976, upon the written applica-  
tion 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 in the total sum of  
THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00) 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  
said sum, less attorney fees, be deposited into a trustee account in the  
name of Burl Lane for the benefit of Keith Lane.

IT IS FURTHER 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 Book*  
\_\_\_\_\_  
JUDGE, DISTRICT COURT OF THE UNITED  
STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVAL:

FRANK HICKMAN

*Frank Hickman*  
\_\_\_\_\_  
Attorney for the Plaintiff

ALFRED B. KNIGHT

*Alfred B. Knight*  
\_\_\_\_\_  
Attorney for the Defendant

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

BURL LANE, )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 76-C-83 (C)  
 )  
 JOHN S. HIGHLAND, )  
 )  
 Defendant. )

ORDER OF DISMISSAL

NOW on this 5<sup>th</sup> day of October, 1976, upon the written applica-  
tion 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 in the total sum of  
TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00) 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.

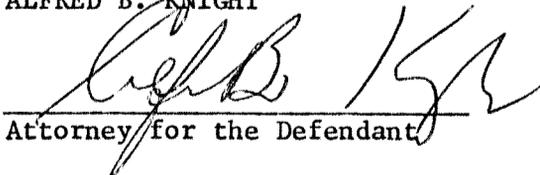
  
\_\_\_\_\_  
JUDGE, DISTRICT COURT OF THE UNITED  
STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVAL:

FRANK HICKMAN

  
\_\_\_\_\_  
Attorney for the Plaintiff

ALFRED B. KNIGHT

  
\_\_\_\_\_  
Attorney for the Defendant

FILED  
OCT 5 1976   
Jack C. Silver, Clerk  
DISTRICT COURT



7. Matron Claudine Henderson
8. Sgt. Butch Hahn
9. Lt. Floyd Dalton
10. Sgt. John Johnson
11. Jail Records Clerk, Roy Kirkland
12. Michael Vinson
13. Teresa Louise Leigh
14. Peggy Prock Nantz
15. Richard Krauser, Tulsa County Jail Inmate
16. Charmaine Krauser
17. Arthur Francis Hettick, Tulsa County Jail Inmate
18. Bobby Kent Walker a/k/a Hong Kong Phooie, Tulsa County Jail Inmate
19. Bob Dale McDaniel a/k/a James Alfred Donald, Tulsa County Jail Inmate
20. Beulah Leigh
21. Lela Campbell a/k/a Sue Campbell
22. Charlie McIntosh, Oklahoma State Penitentiary Inmate

A Summary of the allegations contained in the various pleadings submitted by plaintiffs reveal the following complaints:

1. Extravagant bonds set in their then pending criminal cases;
2. Deprivation of certain visitation rights (which have in effect hindered their defense);
3. Lack of a Notary Public to notarize their papers (in this connection the Court notes that the pleadings submitted by plaintiffs have not been notarized);
4. Alleged lack of action on a Petition for Writ of Mandamus presented to Judge Graham with a lack of case number assignment and lack of setting of said motion;
5. Transfer of matter from Judge Graham to Judge Means;
6. Lack of merit of charges presently pending against them at the time of institution of this litigation;
7. Lack of provision for articles essential to personal hygiene, i.e. toothpaste and toothbrushes alleging that these items are sold and an indigent is forced to do without;
8. Items not provided or offered to sale to female inmates, i. e. douche, powders and instruments for application of powders;
9. Complain of 24 hour lock up for duration of indigent's incarceration without benefit of sunshine which provides essential vitamins for health; incarceration in cells which provide no physical exercise or recreation areas and areas detrimental to health, and which constiute "cruel and unusual punishment". Allege inmates possessing funds are able to acquire freedom by posting bail;
10. Furnishing impartial tribunal to determine and administer punishment for rule infactions for inmates;
11. General complaint concereng jail disciplinary procedures.

In the original complaint filed, it is alleged that Plaintiff, Leigh is aggrieved as follows:

1. His name and reputation have been tainted and ruined;
2. His legal business has been bankruptced and ruined;
3. His wife's affections have been alienated through enforced separation and denial of visitation rights and denial of bond;
4. He has lost the companionship of "his beloved dog, Hoss, who upon being denied the presence of his master, became heartbroken and this faithfully loyal representative of 'Mans' Best Friend' pined away through grief until he could stand it no longer and finally flung himself beneath the wheels of a passing automobile, thereby ending his grief and misery.'

Plaintiffs seek damages in the sum of \$200,000.00.

Plaintiffs also asked the Court to appoint counsel to represent them in these proceedings. In this connection the Court notes that the Tenth Circuit Court of Appeals has often said, and it seems universally agreed, that on one has a constitutional right to assistance of counsel in the prosecution or defense of a civil action. *Bethea v. Crouse*, 417 F.2d 504 (10th Cir. 1969) and cases cited therein; *Lambeth v. O'Shea* (10th Cir., No. 75-1687), decided December 2, 1975; *Harbolt v. Alldredge*, 464 F.2d 1943 (10th Cir. 1972). In a forma pauperis action under 28 U.S.C. §1915(d), the trial court is not required to appoint counsel; *Bethea v. Crouse*, supra; *Lambeth v. O'Shea*, supra. The Court has deferred ruling on the appointment of counsel to investigate the need based on merit and has now found that such appointment should be denied.

The Court now has for consideration the following Motions to Dismiss:

1. Motion to Dismiss filed by the defendants, Dave Faulkner, Roy Kirkland, Claudine Henderson, Butch Hahn, Sgt. John Johnson, Dloyd Dalton and Shirley Richardson;
2. Motion to Dismiss filed on behalf of Mike Callihan and Doris Lynch;
3. Motion to Dismiss filed on behalf of William W. Means, Judge, and Raymond W. Graham, Judge.

The Court, has additionally, considered the briefs in support of said Motions to Dismiss.

In the Response to Defendants' Motion to Dismiss, plaintiffs state in their conclusion:

"Plaintiffs would respectfully request this Honorable Court to disregard Motion to dismiss filed on behalf of defendants, Dave Faulkner, Roy Kirkland, Claudine Henderson, Butch Hahn, Sgt. John Johnson, Floyd Dalton and Shirley Richardson and proceed to trial."

"Plaintiffs would also request at this time that the complaint be dismissed against all other listed defendants except the defendants listed in the above paragraph."  
(Emphasis supplied)

In view of the above statement, and having reviewed the Motion to Dismiss of Mike Callihan and Doris Lynch; William W. Means, Judge and Raymond W. Graham, Judge, the Court finds that their Motions to Dismiss should be sustained.

Turning now to the Motion to Dismiss filed by the defendants, Dave Faulkner, Roy Kirkland, Claudine Henderson, Butch Hahn, Sgt. John Johnson, Floyd Dalton and Shirley Richardson, the Court once again reviewed the contentions of the plaintiffs and find that the allegations as to these defendants appear to be based on alleged cruel and unusual treatment; disciplinary proceedings in the County Jail; and administration of jail facilities.

Simply stated, the test to be applied by this Court as to the remaining defendants is whether the conduct complained of "is sufficiently severe in the circumstances to shock the conscience of a reasonable man". *Bethea v. Crouse*, supra; *Keating v. Raines* (10th Cir., No. 75-1198) decided July 22, 1975; *Prins v. Bennett* (10th Cir. No. 75-1646) decided March 8, 1976; *Bennett v. Albert Passic* (10th Cir. No. 75-1363) decided September 29, 1976.

As was stated in *Bennett v. Albert Passic*, supra, the Tenth Circuit said:

"The circumstances of confinement alleged here are not 'of such character as to shock the general conscience or to be intolerable to fundamental fairness to the extent that the constitutional right to be free from cruel and unusual punishment [was] violated,' a standard embraced by this court as 'expressive of modern concepts of humane treatment in our social order.'"

The Court finds that the actions herein complained of do not amount to "a clear abuse or caprice, resulting in an infringement of constitutional rights." *Bennett v. Albert Passic*, supra; *Dearman v. Woodson*, 429 F.2d 1288, 1290 (10th Cir. 1970).

The Tenth Circuit said in *Prins v. Bennett*, supra:

"It is well settled that correction authorities are given wide discretion regarding internal prison administration and reasonable action within the scope of that discretion does not violate a prisoner's constitutional rights. *Smith v. Schneckloth*, 414 F.2d 680 (9th Cir. 1969). Such internal administration is not subject to judicial review

unless exercised in such manner as constituting a clear abuse or a caprice on the part of prison officials. Paniagua v. Mosley, 451 F.2d 228 (10th Cir. 1971). \*\*\*."

In *Bethea v. Crouse*, supra, the Tenth Circuit said:

"We have consistently adhered to the so-called 'hands off' policy in matters of prison administration according to which we have said that the basic responsibility for the control and management of penal institutions, including the discipline, treatment, and care of those confined, lies with the responsible administrative agency and is not subject to judicial review unless exercised in such a manner as to constitute clear abuse or caprice upon the part of prison officials. (citing cases) But being fully cognizant that one does not lose all his constitutional rights when he enters prison (citing cases) we have never turned a deaf ear to a bona fide claim for relief based upon the deprivation of a constitutional right when asserted by a federal or state prisoner, either in the nature of habeas corpus proceedings or, as here a claim under the Civil Rights Act. \*\*\*."

Judge Murrah went on to say:

"\*\*\*In balancing the necessity for a free hand in prison administration against the basic constitutional rights of prisoners, it seems practical and workable to say, as did the Fourth Circuit in *Edwards v. Duncan*, 355 F.2d 993 (4th Cir. 1966), that '[t]he hands-off doctrine operates reasonably to the extent that it prevents judicial review of deprivations which are necessary or reasonable concomitants of imprisonment.\*\*\*."

The Court, therefore, finds that the Motion to Dismiss of the defendants, Dave Faulkner, Roy Kirkland, Claudine Henderson, Butch Hahn, Sgt. John Johnson, Floyd Dalton and Shirley Richardson should be dismissed for failure to state a claim against these defendants upon which relief can be granted.

IT IS, THEREFORE, ORDERED that plaintiffs' request for appointment of counsel be and the same is hereby denied.

IT IS FURTHER ORDERED that the Motion to Dismiss be and the same are hereby sustained.

ENTERED this 4<sup>th</sup> day of October, 1976.



CHIEF UNITED STATES DISTRICT JUDGE

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

JESSIE T. CATES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 SECRETARY OF HEALTH, EDUCATION, )  
 AND WELFARE OF THE UNITED )  
 STATES OF AMERICA, )  
 )  
 Defendant. )

No. 76-C-109-C

**FILED**

OCT 4 1976

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

JUDGMENT

This is an action brought by the plaintiff, Jessie T. Cates, to review the final determination of the defendant, Secretary of the Department of Health, Education and Welfare, denying disability benefits. The Court in its review has been granted power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a rehearing period. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive. In this action, the plaintiff alleges the record does not support the determination of the Secretary by substantial evidence.

This matter was first heard, on record, by a Hearing Examiner of the Bureau of Hearings and Appeals of the Social Security Administration whose written decision was issued October 6, 1975, in which it was found that the claimant was not disabled within the meaning of Title XVI of the Social Security Act and was, therefore, not entitled to receive Supplemental Security Income Benefits. Thereafter the decision of the Hearing Examiner was appealed to the Appeals Council of the Bureau of Hearings and Appeals which Council on January

16, 1976, issued its order finding that the decision of the Hearing Examiner was correct and that further action by the Council would not result in any change which would benefit the plaintiff. Thus the decision of the Hearing Examiner became the final decision of the Secretary of the Department of Health, Education and Welfare.

Court review of the Secretary's denial of Social Security disability benefits is limited to a consideration of the pleadings and the transcript filed by the Secretary as required by 42 U.S.C. § 405(g), and is not a trial de novo. Atteberry v. Finch, 424 F.2d 36 (10th Cir. 1970); Hobby v. Hodges, 215 F.2d 754 (10th Cir. 1954). The findings of the Secretary and the inferences to be drawn therefrom are not to be disturbed by the courts if there is substantial evidence to support them. 42 U.S.C. § 405(g); Atteberry v. Finch, supra. In National Labor Relations Board v. Columbian Enameling & Stamping Co., 306 U.S. 292, 300, 59 S.Ct. 501, 83 L.Ed. 660 (1939), the court, interpreting what constitutes substantial evidence, stated:

"It must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury."

Atteberry v. Finch, supra; Gardner v. Bishop, 362 F.2d 917 (10th Cir. 1966). See also Haley v. Celebrezze, 351 F.2d 516 (10th Cir. 1965); Folsom v. O'Neal, 250 F.2d 946 (10th Cir. 1957).

The transcript of the entire record of proceedings relating to the application of the plaintiff, Jessie T. Cates, filed of record in this cause, has been carefully reviewed. The principal issue presented herein is whether the record, by substantial evidence, sustains the finding that the plaintiff is not disabled within the meaning of Title XVI of the Social Security Act and is, therefore, not entitled to receive Supplemental Security Income Benefits.

Title 42 U.S.C. § 1382c(a)(3)(A) provides that an individual shall be considered to be disabled if he is unable to engage

in substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. Title 42 U.S.C. § 1382c(a)(3)(B) further provides that "an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. . . ." A review of the record and the medical evidence presented therein indicates that although plaintiff suffers from several minor physical impairments, they are not of a degree which would preclude him from engaging in substantial gainful activity. The record further indicates that plaintiff has previously worked as a mechanic and that he has the physical capability of engaging in employment as a mechanic or in a wide variety of jobs of an unskilled nature which exist in the Tulsa, Oklahoma region, as determined by the Hearing Examiner.

The findings of the Secretary are therefore supported by substantial evidence of record and are affirmed. The Complaint is therefore dismissed.

It is so Ordered this 4<sup>th</sup> day of October, 1976.

  
H. DALE COOK  
United States District Judge

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

C. R. PENNYBACKER, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ALLIED VAN LINES, INC., )  
 a corporation, )  
 )  
 Defendant. )

NO. **F 74-C-1110-B D** ✓

OCT 1 1976 *AK*

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

ORDER OF DISMISSAL

Now on this 1st day of October, 1976, the above styled and numbered cause of action coming on for hearing before the undersigned Judge, upon the Stipulation for Dismissal of the plaintiff and defendant herein; and the Court having examined the pleadings and said Stipulation for Dismissal and being well and fully advised in the premises, is of the opinion that said cause should be dismissed with prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the above styled and numbered cause <sup>of action & complaint</sup> be and the same <sup>are</sup> ~~is~~ hereby dismissed with prejudice.

*Allen E. Barnard*  
United States District Judge

APPROVED:

*C. R. Pennybacker*  
C. R. Pennybacker, Plaintiff

*W. M. Thomas*  
W. M. Thomas  
Attorney for Plaintiff

*John H. Tucker*  
John H. Tucker  
Attorney for Defendant

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

UNITED STATES OF AMERICA  
FOR THE USE AND BENEFIT  
OF DONALD J. HOWE, d/b/a  
HOWE PRE-CAST COMPANY,

Plaintiff,

vs.

COOPER BROS., INC., and  
KANSAS CITY FIRE AND  
MARINE INSURANCE COMPANY,

Defendants.

No. 76-C-92-C

FILED  
IN OPEN COURT

SEP 8 0 1976

JACK C. SILVER, CLERK  
U. S. DISTRICT COURT

ORDER

NOW on this 24th day of September, 1976, there comes on for hearing a Show Cause Order directed to the plaintiff, to show cause why he has not retained new counsel of record and/or to show cause why his complaint should not be dismissed. Plaintiff appeared neither in person nor by counsel. Defendant, Cooper Bros. Inc., appeared by and through J. Dennis Ryan and Theodore P. Gibson, its attorneys of record. The Court, having examined the files, reviewed the record, and heard statements of counsel, finds that plaintiff's original counsel of record had requested permission to withdraw and that permission had been granted. The Court then informed plaintiff to obtain new counsel and pursue this matter, and that if plaintiff failed to obtain new counsel and pursue the matter, the Court would dismiss plaintiff's complaint. Plaintiff had notice for a time in excess of a month and a half, and has not appeared nor designated new counsel of record.

The Court therefore finds that plaintiff's complaint should be dismissed without prejudice, and that the only remaining issue in this lawsuit is the counterclaim of the defendant, Cooper Bros., Inc. against the plaintiff. This matter should be set for pre-trial September 30, 1976 at 3:30 P.M.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that because of plaintiff's failure to obey the previously issued Orders of this Court, plaintiff's complaint is hereby dismissed without prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that the counterclaim of the defendant, Cooper Bros., Inc. against the plaintiff, Donald J. Howe, is the sole remaining issue in this lawsuit, and as it is at issue, it is set for pre-trial before this Court September 30, 1976, at 3:30 P.M.

1814 Dale Cook  
JUDGE

APPROVED AS TO FORM:

1814 Thomas Crewson for Theodore P. Gibson  
Theodore P. Gibson  
Attorney for Cooper Bros., Inc., Defendant