

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

BALBOA INSURANCE COMPANY,)
)
) Plaintiff,)
)
 vs.)
)
 CAL JOHNSON,)
)
) Defendant.)

No. 76-C-428-B

FILED

MAY 31 1977

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

JUDGMENT

The Plaintiff having filed its Complaint herein on August 13, 1976, and Defendant having acknowledged receipt of a copy of the Complaint filed herein and having withdrawn his Answer and waiving answer and all defenses to said Complaint, and Plaintiff and Defendant having agreed upon a basis for settlement of this action including the entry of Final Judgment, and Plaintiff and Defendant having entered into a Stipulation for Consent Decree dated May 27, 1977, the original of which has been filed with this Court, and it appearing that no notice of hearing upon the entry of said Final Judgment by Consent need be given;

Now, Therefore, upon the Stipulation of Consent Decree between Plaintiff Balboa Insurance Company and Defendant Cal Johnson, dated May 27, 1977, upon all prior proceedings had herein, and upon the consent of the parties hereto, it is

ORDERED, ADJUDGED AND DECREED that the Plaintiff Balboa Insurance Company is granted judgment against Defendant Cal Johnson for the sum of \$37,816.32, with interest thereon at the rate of ten percent per annum as provided by law, and its costs of this action including attorneys' fees in the amount of \$2,000.00.

DATED this 31st day of May, 1977.

Allen E. Barrow

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

note in the sum of \$9,500.00 with 6 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Leon Bowman and Katherine Bowman, 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 \$9,219.59 as unpaid principal with interest thereon at the rate of 6 percent per annum from July 1, 1976, until paid, plus the cost of this action accrued and accruing.

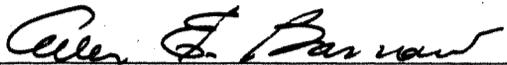
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendants, Leon Bowman and Katherine Bowman, in rem, for the sum of \$9,219.59 with interest thereon at the rate of 6 percent per annum from July 1, 1976, plus the cost of this action accrued and accruing, 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, Mary Drew.

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

bcs

The Court further finds that Defendants, Kenneth Cantrell and Josephine Cantrell, 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 \$8,696.21 as unpaid principal with interest thereon at the rate of 6 percent per annum from August 1, 1976, 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 Cantrell and Josephine Cantrell, in rem, for the sum of \$8,696.21 with interest thereon at the rate of 6 percent per annum from August 1, 1976, 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.

Cecil E. Barrow
UNITED STATES DISTRICT JUDGE

APPROVED

Robert P. Santee

ROBERT P. SANTEE
Assistant United States Attorney

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

FILED

MAY 27 1977 J.

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

JOHNNY BEATY,

)
)
Plaintiff)

-vs-

PACER OIL COMPANY,

)
)
Defendant)

NO. 77-C-15 ✓

DISMISSAL WITH PREJUDICE

Comes now the Plaintiff, JOHNNY BEATH, and dismisses with prejudice the Complaint against the defendant, PACER OIL COMPANY, filed in the above-styled cause.

Frederick L. Boss, Jr.

Frederick L. Boss, Jr.
Attorney for Plaintiff

STATE OF OKLAHOMA)

) ss:

COUNTY OF TULSA)

JOHNNY BEATY, being first duly sworn, upon oath states: He is the plaintiff above named; he has read the within and foregoing Dismissal with Prejudice and knows the contents thereof, and the facts and statements therein set forth and contained are true.

Johnny Beaty

Johnny Beaty

Subscribed and sworn to before me this 26 day of May 1977.

(SEAL)

Janet Bulls

Notary Public

My Commission Expires:

April 12, 1981

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

FILED

MAY 21 1977

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

UNITED STATES OF AMERICA and
CONRAD CARSON, Revenue Agent,
Internal Revenue Service,

Petitioners,

vs.

THE HORTER COMPANY and JIM
MITCHELL, General Manager
of The Horter Company,

Respondents,

and

KENNETH F. LUNDBERG and
EUNICE L. LUNDBERG,

Respondents in Intervention.

76-C-194-B

JUDGMENT

Based on the Findings of Fact and Conclusions of Law filed
this date,

IT IS ORDERED that the complaint of the United States of
America and Conrad Carson, Revenue Agent, Internal Revenue Service,
is hereby dismissed , and the Order to Show Cause is hereby discharged.

ENTERED this 26th day of May, 1977.



CHIEF UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
)
 vs.)
)
)
 IONA L. McNACK a/k/a IONA McNACK,)
 a Single Person, MORNING STAR)
 VILLAGE, INC., HOUSING AUTHORITY)
 OF THE CITY OF TULSA, and THE)
 HOME INDEMNITY COMPANY, a)
 Corporation,)
)
) Defendants.)

CIVIL ACTION NO. 77-C-35-B ✓

FILED

MAY 20 1977

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 26th
day of May, 1977, the Plaintiff appearing by Robert P. Santee,
Assistant United States Attorney; and the Defendants, Iona L.
McNack a/k/a Iona McNack, Morning Star Village, Inc., Housing
Authority of the City of Tulsa, and The Home Indemnity Company,
a Corporation, appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant, Iona L. McNack a/k/a Iona
McNack, was served by publication as shown on the Proof of
Publication filed herein; that Defendant, The Home Indemnity
Company, a Corporation, was served with Summons and Complaint
on February 3, 1977; that Defendant, Housing Authority of the
City of Tulsa, was served with Summons and Complaint on
February 16, 1977; and, that Defendant, Morning Star Village,
Inc., was served with Summons and Complaint on February 22,
1977; all as appears from the United States Marshal's Service
herein.

It appearing that the Defendants, Iona L. McNack a/k/a
Iona McNack, Morning Star Village, Inc., Housing Authority of
the City of Tulsa, and the Home Indemnity Company, a Corporation,
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 Eight (8), Block Five (5), HARTFORD HILLS ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

THAT the Defendant, Iona L. McNack, did, on the 26th day of August, 1975, execute and deliver to the Administrator of Veterans Affairs, her mortgage and mortgage note in the sum of \$9,500.00 with 8 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendant, Iona L. McNack, made default under the terms of the aforesaid mortgage note by reason of her failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the sum of \$9,568.65 as unpaid principal with interest thereon at the rate of 8 1/2 percent per annum from January 1, 1976, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Iona L. McNack, in rem, for the sum of \$9,568.65 with interest thereon at the rate of 8 1/2 percent per annum from January 1, 1976, 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, Morning Star Village, Inc., Housing Authority of the City of Tulsa, and The Home Indemnity Company, a Corporation.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisal 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
MAY 26 1977
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 77-C-16-B —
)	
)	
JAMES M. RICHARDSON and)	
LUELLA M. RICHARDSON,)	
)	
Defendants.)	

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 26th day of May, 1977, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney; and the Defendants, James M. Richardson and Luella M. Richardson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, James M. Richardson and Luella M. Richardson, were served by publication as shown on the Proof of Publication filed herein.

It appearing that the Defendants, James M. Richardson and Luella M. Richardson, 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 Twenty-Three (23), Block Three (3), LYNNWOOD ADDITION, A Subdivision to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants, James M. Richardson and Luella M. Richardson, did, on the 19th day of December, 1975, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$9,500.00 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, James M. Richardson and Luella M. Richardson, 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 \$9,558.54 as unpaid principal with interest thereon at the rate of 9 percent per annum from June 1, 1976, 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, James M. Richardson and Luella M. Richardson, in rem, for the sum of \$9,558.54 with interest thereon at the rate of 9 percent per annum from June 1, 1976, 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

FILED

MAY 26 1977

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

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

HARVEY LEE BURCHETT,)
)
)
v.)
)
THE CITY OF TULSA, ET AL.,)
)
)
)

Petitioner,

NO. 77-C-121-B ✓

Respondents.

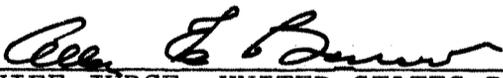
O R D E R

The Court has for consideration the petition for writ of habeas corpus of Harvey Lee Burchett. Petitioner in this Federal Court under sentence of the Municipal Criminal Court of the City of Tulsa, State of Oklahoma, upon conviction on a plea of guilty in case No. 231123 to an information charging a violation of the Tulsa Municipal Ordinance T37 S275A.

The Court, being fully advised in the premises, finds that the Petitioner was allowed by the Municipal Criminal Court in and for the City of Tulsa, State of Oklahoma, to withdraw his plea of guilty and plead anew in case No. 231123. Therefore, the petition for writ of habeas corpus before this Court is moot and should be denied and the case dismissed.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of Harvey Lee Burchett be and it is hereby denied as moot and the case is dismissed.

Dated this 25th day of May, 1977, at Tulsa, Oklahoma.



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

FILED

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

MAY 25 1977

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

SALLY MARTIN COTTEN,)
)
 Plaintiff,)
)
 v.)
)
 THE RESOURCE SCIENCES CORPORATION,)
)
 Defendant.)

Civil Action No.
76-C-409-C

ORDER OF DISMISSAL

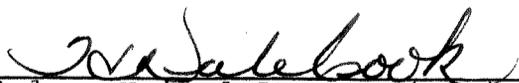
This Court, by its Order of May 3, 1977, gave Plaintiff Sally Martin Cotten until May 23, 1977 to answer Defendant's First Interrogatories and to file a proper statement of her intention to prosecute this action. However, the Court finds that although Plaintiff's counsel has attempted to notify Plaintiff of said Order, and to forward a copy of said Order to Plaintiff by the best means available, Plaintiff has failed to answer said Interrogatories, or to file such statement, or to contact her counsel herein, and the time allowed her by the Court for doing so has expired.

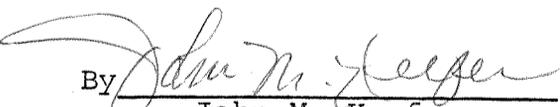
IT IS THEREFORE ORDERED that this lawsuit and Plaintiff's cause of action herein be, and it hereby is, dismissed with prejudice for want of prosecution effective May 23, 1977; and

IT IS FURTHER ORDERED that John M. Keefer and Jarboe, Keefer & Thompson, Attorneys at Law, Plaintiff's counsel herein, be, and they hereby are, allowed to withdraw as Plaintiff's counsel of record herein.

Dated this 25th day of May, 1977.

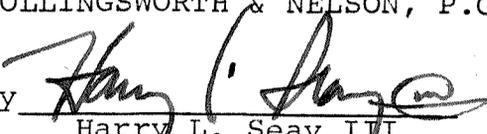
APPROVED AS TO FORM:
JARBOE, KEEFER & THOMPSON


Judge, United States District
Court for the Northern District
of Oklahoma

By 
John M. Keefer

ATTORNEYS FOR PLAINTIFF

HALL, ESTILL, HARDWICK, GABLE,
COLLINGSWORTH & NELSON, P.C.

By 
Harry L. Seay III

ATTORNEYS FOR DEFENDANT

FILED

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

MAY 25 1977

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 77-C-34-C
)	
)	
LUTHER ROBINSON, JR. and)	
ANNA ROBINSON,)	
)	
Defendants.)	

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 25th day of May, 1977, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney; and the Defendants, Luther Robinson, Jr. and Anna Robinson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, Luther Robinson, Jr. and Anna Robinson, were served by publication as shown on the Proof of Publication filed herein.

It appearing that the Defendants, Luther Robinson, Jr. and Anna Robinson, 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 Eighteen (18), Block Two (2), of the Amended Plat of SUBURBAN ACRES ADDITION to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Luther Robinson, Jr. and Anna Robinson, did, on the 22nd day of April, 1975, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$7,800.00 with 8 1/2 percent interest

per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Luther Robinson, Jr. and Anna Robinson, 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 \$7,747.34 as unpaid principal with interest thereon at the rate of 8 1/2 percent per annum from January 18, 1977, 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, Luther Robinson, Jr. and Anna Robinson, in rem, for the sum of \$7,747.34 with interest thereon at the rate of 8 1/2 percent per annum from January 18, 1977, 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.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED



ROBERT P. SANTEE
Assistant United States Attorney

FILED

MAY 24 1977

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

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

VIRGIL HONEYCUTT,

Plaintiff,

vs.

SECRETARY OF DEPARTMENT OF
HEALTH, EDUCATION & WELFARE,
SOECIAL SECURITY ADMINISTRATION,
U.S.A.,

Defendant.

76-C-122-B

ORDER

The Court has for consideration the Plaintiff's Motion for Rehearing; the briefs in support and opposition thereto, and, having carefully perused the entire file and being fully advised in the premises, finds:

That Plaintiff's Motion for Rehearing should be overruled.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Rehearing be and the same is hereby overruled.

ENTERED this 24th day of May, 1977.



CHIEF UNITED STATES DISTRICT JUDGE

IEU:vb
5/23/77

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

DISTRICT COURT

MAY 24 1977

TIRE WAREHOUSE, INC.
a corporation,

Plaintiff,

vs.

SUNACO, INC.
a corporation,

Defendant.

CLERK
TULSA COUNTY

No. 77-C-178-C

FILED

MAY 24 1977

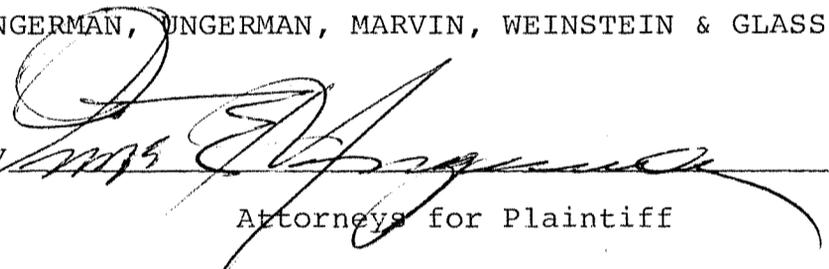
Jack C. Silver, Clerk
U.S. DISTRICT COURT

DISMISSAL WITHOUT PREJUDICE

COMES NOW the above-named Plaintiff and hereby dis-
misses its cause of action as contained in the above styled and
numbered matter without prejudice in that the Defendant herein
has made satisfactory arrangements for the liquidation of the
debt involved herein and the said Defendant has not heretofore
entered any appearance in the above styled and numbered matter.

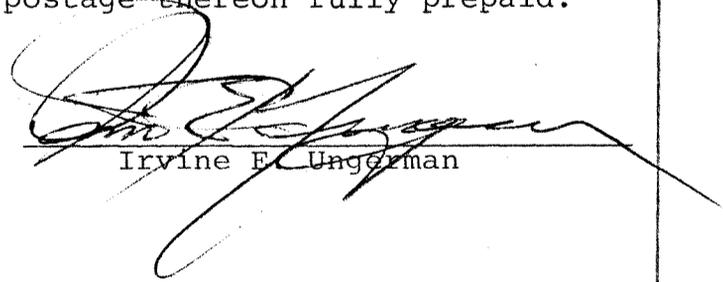
Dated at Tulsa, Oklahoma, this 20th day of May, 1977.

UNGERMAN, UNGERMAN, MARVIN, WEINSTEIN & GLASS

By 
Attorneys for Plaintiff

Certificate of Service

The undersigned hereby certifies that he is one of the
attorneys for the above named Plaintiff; that on the 20th day
of May, 1977, he mailed a true and correct copy of the foregoing
Dismissal Without Prejudice to Sunaco, Inc., P. O. Box 966, Sand
Springs, Oklahoma 74063, by depositing same in the United States
Mails at Tulsa, Oklahoma, with postage thereon fully prepaid.


Irvine E. Ungerman

LAW OFFICES
UNGERMAN,
UNGERMAN,
MARVIN,
WEINSTEIN &
GLASS

SIXTH FLOOR
WRIGHT BUILDING
TULSA, OKLAHOMA

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

PAUL DeCOSTER and GWEN DeCOSTER,)
d/b/a COAST-TO-COAST STORES,)

Plaintiffs,)

vs.)

No. 77-C-84-C ✓

SAN TEEN PRODUCTS, a Minnesota)
corporation, and CONTINENTAL)
NATIONAL AMERICAN (CNA), an)
Illinois corporation,)

Defendants.)

FILED

SUNBEAM PLASTICS, INC. and)
MONSANTO COMPANY, a Delaware)
corporation,)

MAY 23 1977 *ph*

Third Party Defendants.)

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

O R D E R

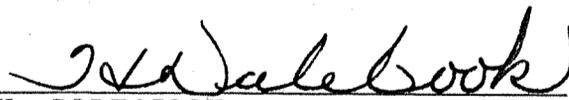
This is an action for a declaratory judgment, brought by plaintiffs pursuant to Title 28 U.S.C. § 2201 to determine certain alleged obligations of the defendants under an insurance policy in which plaintiffs claim to be named as an additional insured. Plaintiffs Paul and Gwen DeCoster operate a franchise Coast-To-Coast Store in Pryor, Oklahoma and sell, among other products, a product known as S-T Drain Opener, manufactured by defendant San Teen Products. Now pending in the District Court of Mayes County is an action, brought by one Mary Louise Janz against Paul and Gwen DeCoster and San Teen Products, in which Janz alleges that the container in which the S-T Drain Opener had been placed, and the container cap, were defective, which defects resulted in severe chemical burns to her legs when she attempted to use the product. Paul and Gwen DeCoster subsequently brought this action for a declaratory judgment, alleging that, by virtue of a policy of insurance issued by defendant Continental National American (CNA), one or both of the defendants are obligated to protect, defend, hold harmless and indemnify the plaintiffs from and against all liability, cost and

based upon their alleged status as the original manufacturers of the bottle and cap claimed to be defective and not upon any alleged status of these corporations under the policy of insurance which is the subject matter of this declaratory judgment action. Therefore, the matters asserted against the third-party defendants cannot properly be resolved in this action, and they should be dismissed from it. In addition, third-party Monsanto Company alleges, in its brief in support of its motion to dismiss, that a third-party petition has been filed in the Mayes County District Court, raising the same issues presented to this Court in the third-party complaint filed in the instant case. This Court should decline to exercise jurisdiction over a declaratory judgment action raising state law issues which are being presented contemporaneously to state courts. Miller v. Miller, 423 F.2d 145 (10th Cir. 1970).

It is therefore ORDERED that the defendants be permitted to file their amended answer and third-party complaint.

It is FURTHER ORDERED that the motions to dismiss filed by third-party defendants Sunbeam Plastics, Inc. and Monsanto Company are hereby sustained.

It is so Ordered this 23rd day of May, 1977.


H. DALE COOK
United States District Judge

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

RAY REYNOLDS,)
Plaintiff,)
vs.)
McGRAW-EDISON COMPANY and)
JERRY E. WHITEHURSE,)
Defendants.)

NO. 76-C-539-C

FILED *g*

MAY 20 1977

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

DISMISSAL

NOW on this 20th day of May, 1977, the Court, after receiving the litigants' Stipulation of Settlement and being fully advised in the premises, finds that all rights and obligations of the parties to this litigation have been extinguished and the suit should be dismissed.

Therefore it is ORDERED, ADJUDGED AND DECREED that the above referenced matter is hereby dismissed with prejudice.

H. Dale Cook
H. DALE COOK
Judge of the United States
District Court, Northern District
of Oklahoma

APPROVED:

Leslie V. Williams
LESLIE V. WILLIAMS
Attorney for defendant McGraw-
Edison Company

Robert GEE
ROBERT GEE
Attorney for Plaintiff

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

DALE E. CROWDER,)
)
) Petitioner,)
)
vs.)
)
EDWARD H. LEVI,)
U. S. Attorney General,)
)
) Respondent.)

No. 76-C-638-C

FILED

MAY 19 1977

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

O R D E R

The petitioner in this case, Dale E. Crowder, filed a petition for writ of habeas corpus on December 20, 1976. This petition was dismissed by the Court on January 11, 1976. A motion to modify this dismissal was filed by petitioner on January 19, 1977, and overruled by the Court on January 24, 1977. On February 7, 1977, petitioner filed a "nunc pro tunc" motion for injunctive relief, asking this Court to enjoin a pending prosecution against him in the Tulsa County District Court. On March 29, 1977, petitioner filed a motion to incorporate the record of his state court conviction in case number C.R.F. 762667 into his records in this Court, and on April 13, 1977, he filed a motion for relief from judgment or order.

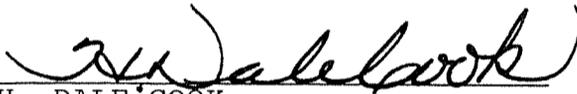
As to the "nunc pro tunc" motion for injunctive relief, it appears that the prosecution which petitioner asked the Court to enjoin has already been conducted and has resulted in petitioner's conviction on a charge of robbery with firearms. This motion is therefore moot.

Petitioner's motion to incorporate raises allegations relating to the conduct of the state court trial proceedings. Allegations such as these should be raised in a petition for habeas corpus pursuant to Title 28 U.S.C. § 2254. Because petitioner's motion does not meet the requirements of this Court for the filing of such a petition, and because there are no proceedings pending in this Court in which a state

trial record may be incorporated, petitioner's motion is hereby overruled. The Court notes that even if a proper petition had been filed raising these allegations, it appears that petitioner has made no attempt to exhaust any remedies available to him in the state courts, and thus this Court could not consider any allegations raised in such a petition. Hoggatt v. Page, 432 F.2d 41 (10th Cir. 1970).

In his motion for relief from judgment or order, petitioner asks the Court to modify its previous orders on the ground of mistake or inadvertence. Because the Court does not believe that there was any mistake or inadvertence involved in its prior orders, this motion is hereby overruled.

It is so Ordered this 19th day of May, 1977.


H. DALE COOK
United States District Judge

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

FILED

MAY 19 1977

REPUBLIC ALUMINUM COMPANY,)
a Texas corporation,)
)
Plaintiff,)
)
vs.)
)
CUSTOM PRODUCTS, INC., an)
Oklahoma corporation, and GARY)
PINALTO,)

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

NO. 77-C-125-B

JUDGMENT

The defendant Gary Pinalto having failed to plead or otherwise defend in this action and his default having been entered,

Now, upon application of the plaintiff and upon affidavit that defendant is indebted to plaintiff in the sum of \$41,264.74, that defendant has been defaulted for failure to appear and that defendant is not an infant or incompetent person, and is not in the military service of the United States, it is hereby

ORDERED, ADJUDGED AND DECREED that plaintiff recover of defendant the sum of \$41,264.74, together with interest thereon at the rate of 18% per annum in the amount of \$1,448.46, and costs in the sum of \$50.00, which judgment shall bear interest at the rate of 18% per annum until paid.

13/ Jack C. Silver
United States Court Clerk

Dated May 19th, 1977

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 76-C-514-B

Truck Insurance Exchange

Plaintiff,

vs.

Dale Treat, Erwanda Treat and
Billy Earnest Sanders,

Defendants.

JUDGMENT

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

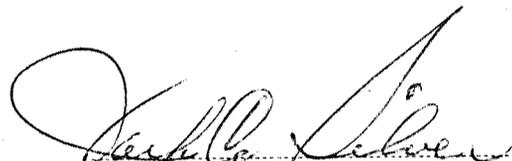
It is Ordered and Adjudged that the Plaintiff take nothing and that the Defendants
recover of the Plaintiff their costs of action.

FILED

MAY 19 1977

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

Dated at Tulsa, Oklahoma, this 18th day
of May, 19 77.


Clerk of Court

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

HI PERFORMANCE MARINE, INC.,)
)
Plaintiff,)
)
vs.)
)
HARTFORD ACCIDENT AND INDEMNITY)
COMPANY,)
)
Defendant,)
)
HARTFORD ACCIDENT AND INDEMNITY)
COMPANY,)
)
Third Party Plaintiff,)
)
vs.)
)
GAIL WEST,)
)
Third Party Defendant.)

No. 76-C-364-B

FILED

MAY 18 1977

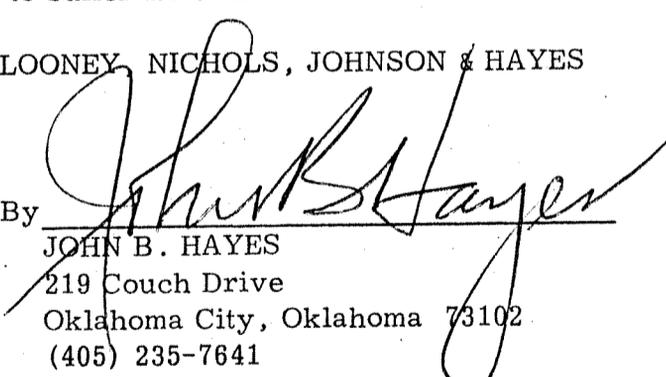
Jack C. Silver, Clerk
U. S. DISTRICT COURT

MOTION TO DISMISS

Hartford Accident and Indemnity Company respectfully moves the Court to dismiss without prejudice its third party complaint and cause of action against Gail West, with each party to suffer its own costs.

LOONEY, NICHOLS, JOHNSON & HAYES

By


JOHN B. HAYES
219 Couch Drive
Oklahoma City, Oklahoma 73102
(405) 235-7641

Attorneys for Defendant and Third Party
Plaintiff

ORDER OF DISMISSAL

The Court, upon motion of defendant and third party plaintiff, hereby dismisses without prejudice the third party complaint and cause of action by the Hartford Accident and Indemnity Company against the third party defendant, Gail West, with each party to suffer its own costs.

Entered: May 18, 1977.



ALLEN E. BARROW
UNITED STATES DISTRICT JUDGE

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

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

STEPHEN L. ENGS,)	
)	
)	Petitioner,
v.)	
)	
)	NO. 77-C-126
TULSA COUNTY JAIL,)	
)	
)	Respondent.

O R D E R

The Court has for consideration a pro se, in forma pauperis petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by Stephen L. Engs.

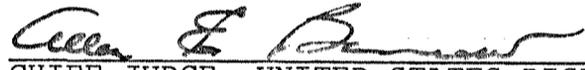
As ground therefor, Petitioner asserts that the State Courts have violated his right not to be required to post excessive bail as guaranteed by the Eighth Amendment to the Constitution of the United States. In support of this assertion, he states that he is charged in nine State cases, CRF-76-2081, CRF-76-2463, CRF-76-2464, CRF-76-2465, CRF-76-2466, CRF-76-2467, CRF-76-2468, CRF-76-2469, and CRF-76-2470, with uttering forged instruments, and his bail in these cases is set at \$90,000; which is the equivalent of \$10,000 bail in each case. He contends that bail in that amount is too high as he has no prior convictions, he is unable to make it, and a lower bail has been set for others facing the same charge. He further states that he asked for and received a bond reduction hearing in the District Court of Tulsa County which was denied, and that he thereby has exhausted his State remedies.

Petitioner is mistaken. He makes no allegation or showing that the bail as set, or the denial of a reduction, is an abuse of discretion by the State Judge amounting to a denial of constitutional rights or that the decisions were arbitrary or unreasonable. Further, the Statutes of the State of Oklahoma provide by habeas corpus procedure, 12 O.S.A. § 1344, for the high Court of the State of Oklahoma to determine whether bail is excessive. Until Petitioner has availed himself of this adequate procedure, his State remedies are not exhausted and any petition to this Court is premature. No principle in the realm of Federal habeas corpus is better settled than that adequate and available State remedies must be exhausted.

Petitioner was notified that the Court had reviewed his petition for writ of habeas corpus and planned to deny it for failure to exhaust adequate and available State remedies as provided by 12 O.S.A. § 1344 without requiring response or hearing. Petitioner was given an opportunity to file evidence or brief showing that his State remedies had been exhausted. He has failed to do so, and accordingly Judgment should be entered.

IT IS, THEREFORE, ORDERED that the petition for writ of habeas corpus of Stephen L. Engsbach and it is hereby denied for failure to exhaust adequate and available State remedies and the case is dismissed.

Dated this 18~~th~~ day of May, 1977, at Tulsa, Oklahoma.


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

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

JERRY DWAYNE LONG by his father)
and next of friend, JERRY E. LONG,)
)
Plaintiff,)
)
vs.)
)
JACK PURDIE, Chief of Police)
TULSA POLICE DEPARTMENT;)
HONORABLE JOE JENNINGS, Judge of)
the District Court, Juvenile)
Division, Tulsa County, Oklahoma,)
)
Defendants.)

No. 76-C-243

FILED

MAY 17 1977

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

JUDGMENT

Plaintiff brings this action seeking an order directing the expungement of all records relating to his arrest of December 3, 1973. Jurisdiction of this Court is invoked under Title 28 U.S.C. § 1343, Title 42 U.S.C. §§ 1938, 1983 and 1988, and the Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution. At a pretrial conference held on September 30, 1976 the parties agreed to submit the matter to the Court for a decision based upon stipulated facts and briefs in support of their positions.

Plaintiff was arrested by a security guard in a retail store located in Tulsa, Oklahoma on December 3, 1973 for petit larceny from a retailer. An arrest report was made, plaintiff was released to his father, and no charges were filed or further action taken except to mark the arrest record "JUVENILE, RELEASE INFORMATION TO LAW ENFORCEMENT OFFICERS ONLY." The records indicate that the arrest was made when the security guard observed plaintiff attempting to conceal one pair of slacks in his jacket. Plaintiff was sixteen (16) years of age at the time of the arrest. He alleges that certain records of his arrest were made by the Tulsa Police Department and forwarded to the Federal Bureau of Investigation and that additional records are contained in the files of the Juvenile Division of the Tulsa County District

Court. Plaintiff asks this Court to order the expungement of all of these records ". . . to protect his basic civil rights by the destruction of records made in flagrant violation of the Fourth Amendment which would subject him to harsh penalties without due process of law, and denies him equal protection of the law and invades his right of privacy." Defendant Jennings was dismissed from this action on March 24, 1977, upon the application of the plaintiff. Defendant Purdie has denied, by affidavit of the Deputy Chief of Police, that any records were forwarded to the Federal Bureau of Investigation. He contends that the Court is without jurisdiction to order the requested expungement and that he has no authority to destroy criminal records or police and crime reports.

In determining the propriety of an order directing expungement, the Court must attempt to balance the harm caused to the individual by the existence of such records against the interest of the State in maintaining them. Paton v. LaPrade, 524 F.2d 862 (3rd Cir. 1975). The fact that the records are maintained by the State injects policy considerations into such a balancing process but does not put the records outside the scope of federal control. Wilson v. Webster, 467 F.2d 1282 (9th Cir. 1972). Federal courts have the power to expunge arrest records when necessary to preserve basic legal rights. United States v. McMains, 540 F.2d 387 (8th Cir. 1976); Sullivan v. Murphy, 478 F.2d 938 (D.C. Cir. 1973), cert. denied 414 U.S. 880, 94 S.Ct. 162, 38 L.Ed.2d 125 (1973). However, such power is of extremely narrow scope and is to be exercised only under extraordinary

circumstances. United States v. McMain, supra; Rogers v. Slaughter, 469 F.2d 1084 (5th Cir. 1972); United States v. Dooley, 364 F.Supp. 75 (E.D. Penn. 1973); Wheeler v. Goodman, 306 F. Supp. 58 (W.D.N.C. 1969). A brief examination of some of the cases in which a Federal court has ordered the expungement of State records as part of the relief granted in a Civil Rights action will indicate how narrowly this power has been construed.

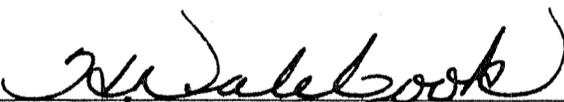
Many of the cases have dealt with incidents of mass arrests. Sullivan v. Murphy, supra, involved the mass arrest of 14,517 persons during the "May Day" demonstrations in Washington, D. C. in 1971. The Court recognized that it was all but inevitable that many of those arrested were innocent of any wrongdoing and held that under the "unusual circumstances" of the case some limitation should be placed on the dissemination of the arrest records. However, even under the extraordinary circumstances present in that case, the Court noted that measures short of the physical destruction of the records might be adequate to remedy any harm caused by unlawful police action. In Bilick v. Dudley, 356 F.Supp. 945 (S.D.N.Y. 1973), 87 high school and college students were arrested at a party and charged with congregating for the purpose of using narcotics and disorderly conduct. The charges were dismissed for lack of evidence. The Court ordered the expungement of all arrest records, noting that the case involved elements of the First Amendment freedoms of assembly and speech as well as unlawful arrests under the Fourth Amendment. The Court in Hughes v. Rizzo, 282 F.Supp. 881 (E.D. Penn. 1968), ordered the expungement of the records of two arrests of 27 and 20 minors, who were arrested simply because they were "hippies". No charges were ever brought, and the Court characterized the arrests as "totally unjustified."

Other cases in which expungement has been ordered involved arrests under unconstitutional statutes. For instance, in Wheeler v. Goodman, supra, twelve minors, characterized as "hippies",

were arrested under a state vagrancy statute. While the Court noted that expungement should not be ordered in the absence of "extreme circumstances," it held the statute unconstitutional and ordered the expungement of arrest records, citing the "extreme misbehavior" of the police. The Court in Herschel v. Dyra, 365 F.2d 17 (7th Cir. 1966), refused to order the expungement of records of an arrest made under a handbill anti-litter ordinance, even though it recognized that the plaintiff was exercising a First Amendment right at the time of his arrest and that the complaint alleged more than a "simple innocent false arrest."

The Court has been unable to locate any cases in which a Federal Court ordered the expungement of State records of an arrest of a single individual under circumstances approximating those present in the instant case. The Court does not find the circumstances of this case to be of such an extraordinary nature as to be within the narrow scope of its authority to order the expungement of State arrest records. For this reason, judgment is hereby entered in favor of the defendants.

It is so Ordered this 17th day of May, 1977.


H. DALE COOK
United States District Judge

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

HOMER BRADY and DELORES
BRADY,

Plaintiff,

vs.

GREAT CENTRAL INSURANCE COM-
PANY, an Illinois corporation,

Defendant.

75-C-466-B

FILED

MAY 17 1977

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The parties having agreed to submit this cause for determination on the merits, based on the stipulations, affidavits and briefs, and the Court having carefully examined the entire file, and, being fully advised in the premises, makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Plaintiffs purchased a policy of insurance on a dwelling located at 719 North Yorktown, Tulsa, Oklahoma, on November 21, 1974. (Complaint; Plaintiffs' Answers to Interrogatories Number 26). The policy was delivered approximately 30-45 days after the initial purchase of the contract of insurance (Plaintiffs' Answers to Interrogatories Number 27).

2. The named insured on the policy issued by the defendant were Homer and Delores Brady, 5031 So. 34th West Avenue, Tulsa, Oklahoma. (Policy of Insurance marked Exhibit "A" to the Complaint).

3. One of the provisions of said policy recites the following:

"Conditions, suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring *** (b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; ***."

4. The affidavit of Fred D. Holloway, the broker of insurance who wrote the policy, dated July 26, 1976, reveals the following statement, in pertinent part:

"I am an insurance broker doing business within the City of Tulsa, Oklahoma, and have various clients for whom I secure insurance coverage of all types. I have been in the insurance business since 1966 and I am generally familiar with the Oklahoma Statutory Fire Policy.

"I have never been a writing or general agent for Great Central Insurance Company and have never been an employee or servant of S & W Agency or Great Central. At all times material herein I was acting as a licensed broker for and on behalf of Mr. and Mrs. Brady in attempting to place coverage on their rental house.

"In November, 1974, I was contacted by Brady to secure insurance on the property in question. I was informed that the property was at that time vacant, but had been acquired by them for rental property and would be tenant occupied; my recollection is that I advised Ruth LeFlan, a employee of S & W Agency of this when I called and asked that such agency bind coverage.

"It is further my recollection that it was represented to me that Mr. Brady had inherited the property and was going to rent same, this is why same was insured as 'rental property'.

"As I have explained in a earlier Affidavit Farmers Insurance Company would not insure a residence if same is vacant, regardless of intent to occupy or rent same after insurance is in effect. The reason I did not attempt to place such coverage with Farmers, whom I normally secure insurance with, was the low value and condition of property. I know of no insurance company writing in Oklahoma which would write coverage for a residence if same is to be vacant during the insured period. It was my understanding that the Bradys were to rent the property after insuring same; I have no reason to anticipate that the house would continue to be unoccupied for as long as the sixty day period allowed in the Statutory Policy. At no time was I requested to secure a 'vacancy permit' a rider modifying the occupancy clause of said policy or any other modification of the Statutory terms of said policy.

"After the coverage was bound through S & W Agency with Great Central Insurance Company, I was never contacted, nor was any request ever made of me to secure a 'vacancy permit' or any rider, modification, or addition to the policy of insurance as issued by Great Central Insurance Company for such change in the statutory form of policy."

The affidavit of Fred D. Holloway dated July 13, 1976, does not alter the affidavit of July 22, 1976.

5. Mrs. Ruth LeFan, who was an employee of S & W Agency, made the following affidavit, dated July 21, 1976:

"I, Mrs. Ruth LeFan, being of lawful age and first duly sworn upon oath, stated that I was on November 4, 1974, an employee of S & W Agency. That Fred Holloway was known to me to be an independent insurance broker, and he would on occasion request S & W Agency to secure on behalf of his client certain insurance coverages. When the policy, which is the subject matter of his lawsuit was issued, I was told that the property was 'tenant occupied', and upon that representation David A. Simmons of S & W Agency did issue the policy in question.

"I was never advised before, at or after policy inception date and before the loss of May 7, 1975, that the property insured was unoccupied, and if I had been so advised I would have reported same to Mr. Simmons."

6. David Simmons, who was an employee of S & W Agency at the time in question, made an affidavit dated July 22, 1976, which stated, in pertinent part:

"Prior to November, 1974, neither I nor S & W Agency had any business with Homer and Delores Brady to my knowledge.

"Fred D. Holloway was known to me to be an independent insurance broker, who would on behalf of various clients secure for them insurance with other companies or through general agents, but at no time had Mr. Holloway had any agency relationship with me or S & W Agency, nor has he ever acted as our employee, servant or agent in any respect.

"To my knowledge our agency had never been requested to secure insurance for Mr. and Mrs. Brady, nor had we insured them in the past.

"Immediately prior to our binding coverage and request for policy on the property in question, a request for such coverage had been made by Fred Holloway who advised that the property in question was 'tenant occupied' and this was noted and related to Great Central Insurance Company, and in fact is clear upon the face of the policy.

"There was at no time any request for a 'vacancy permit' or other endorsement upon the policy which would modify, waive, or void the normal occupancy provisions of the standard fire policy which is statutory in the State of Oklahoma. In fact, I am aware of no such endorsement available with Great Central Insurance Company.

"When such coverage was requested it was represented to us that the property was owned by Homer and Delores Brady, and we at no time were advised that they were not the owners of such property, nor that it was vacant or would at anytime become vacant for more than sixty days, as provided in said occupancy clause.

"After issuance of the policy we had no communication whatever from Mr. and Mrs. Brady or their broker Mr. Holloway concerning vacancy of the insured premises.

"The undersigned did employ Ruth LeFlan as a Clerk in my office, and she to my knowledge has never been an authorized agent of Great Central Insurance Company.

"To my knowledge of the underwriting rules and regulations of Great Central Insurance Company, no policy of insurance would have been authorized or written in the event it had been known that the property in question was unoccupied, and certainly if said property was to remain unoccupied for an indefinite period of time."

7. A fire occurred at the premises located at 719 North Yorktown, Tulsa, Oklahoma, on May 7, 1975.

8. On May 22, 1975, Homer Brady gave the following written statement:

"I, Homer Brady, do live at the above address (his home address and not the property here involved) and have so lived here for the past 11 years. I am married, ***.

"I own the property at 719 N. Yorktown and have so owned it for the past 2 years. I purchased this property for rental purposes. It was never rented from the time of purchase to the present. I did know that the City of Tulsa did put a substandard petition on my property as of 2-19-75. ***."

9. On June 27, 1975, Mrs. Homer Brady gave the following written statement:

"I am Mrs. Homer Brady. My husband and I do own the property located at 719 North Yorktown.

"We purchased the property either in late August or September of 1973. We purchased the property from the Sharp Finance Co. and borrowed the money to do so. We purchased the property for rental purposes but it had not been occupied since the time of purchase and was not occupied or rented when we purchased it. ***."

10. The affidavit of Stephen C. Wilkerson, dated June 11, 1976, states:

"That he is one of the attorneys for the defendant herein. That on June 9, 1976, he personally checked the grantor-grantee index for Tulsa County Book 4020, Page 232, in the office of the County Clerk of Tulsa County concerning a certain residence located at Lot 13, Block 12, Cherokee Heights Addition to Tulsa, Tulsa County, Oklahoma. That the above mentioned index reflected the last know(sic) grantee of said property to be George Reid, said reference being filed on the 9th day of March, 1972. That no other grantee of said property or instruments additional or further grantees were reflected in said index from March 9, 1972, to the present date."

11. The exhibits in the file reflect that on July 22, 1974, Homer Lee Brady filed "Petition for Letters of Administration" of the estate of George E. Reid, who was represented to have departed this life on February 19, 1973, listing the subject property at a value of \$4,500.00 as the only asset of the estate and Homer Lee Brady, nephew, as the sole heir at law of the decedent. Homer Lee Brady was appointed Administrator of the Estate on August 5, 1974, and Letters of Administration were issued on September 5, 1974.

12. A Creditor's Claim, attached as an Exhibit, in said estate lists a claim by Sharp Finance Corporation, delineated as balance due on homestead and abstract fees, in the amount of \$1,543.32, and said claim was approved by Homer Lee Brady as Administrator and by Judge McDougal.

13. In answer to interrogatory number 23, plaintiffs stated: "Subsequent to the death of George E. Reid on February 19, 1973, no individual or family occupied the premises as such."

14. In answer to interrogatory number 31 the plaintiffs answered: "Subsequent to the death of George E. Reid, the house had remained at times unoccupied but the same had never been completely vacant, as such."

15. In answer to interrogatory number 35, the plaintiffs responded that the contents had been purchased by George E. Reid during his lifetime, and they could not submit an itemization of same indicating the approximate date of purchase.

16. In the pre-trial order filed in this case, the following fact was admitted: "That Plaintiffs are proper parties to bring this action."

17. That on December 3, 1974, plaintiff paid the premium on the subject insurance policy in the amount of \$95.00.

18. The coverage afforded by the policy was 80% of \$10,000.00 for the structure and 80% of \$3,000.00 for the contents.

19. That on the 20th day of May, 1975, after the loss, additional premium was requested in the amount of \$19.00, which plaintiffs paid.

20. That due notice and proof of the fire loss was given to the defendant, including demand for payment, and payment was refused.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Court makes the following Conclusions of Law.

1. This Court has jurisdiction of the parties and subject matter by reason of diversity of citizenship and the amount in controversy.

2. The Standard Fire Insurance Policy Form provided by Title 36 O.S.A. Section 4803 contains the following language:

"This entire policy shall be void, if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning the insurance of the subject thereon, or the interest of the insured therein."

Such policy provides further:

"Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring *** (b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; ***."

3. The parties herein entered into a valid and binding written contract of insurance with specific obligations and benefits according to its terms and provisions. There have not been raised by any of the parties the issue of reformation of the contract of incapacity of the parties.

4. The contract of insurance herein was written in accordance with the Oklahoma Standard Fire Policy provision above quoted. The Court finds that said property was in fact vacant and unoccupied for more than six months; there was a suspension of coverage and defendant is not liable for loss occurring as the result of the fire in question on May 7, 1975.

5. The Court finds, in accordance with the substantive law of the State of Oklahoma that said statutory provision, and policy provisions above quoted, are enforceable and valid provisions of any fire policy within the State of Oklahoma.

6. The Court finds that there is no proper evidence of either waiver or estoppel of the defendant relating to the occupancy clause as aforestated and a legal insufficiency of evidence of such knowledge between the contracting parties to legally presume that the parties contemplated that the property would not be occupied within the specified time of sixty days. If any presumption could arise that knowledge passed between plaintiffs and the agent, Holloway, that such period of time as provided would be insufficient or inadequate, same would be immaterial as to the liability or responsibilities of the defendant for the reason that it is apparent that Holloway was plaintiffs' agent and he admittedly had no such mutual understanding with this defendant or its agent. Couch on Insurance, Volume 4, Section 970; *Dunton v. Connecticut Fire Insurance Company*, 371 F.2d 329 (7th Cir. 1967).

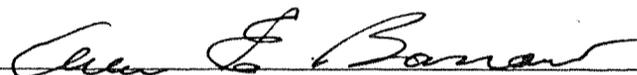
7. The mere knowledge that said property is vacant when insured, as urged by plaintiffs, standing alone is immaterial. Prudence suggests that in most cases a purchaser will insure property prior to occupancy. Absent proof of a mutual understanding contrary to or in variance with the clear terms of said contract provisions, there can be no waiver of same. *Old Colony Insurance Company v. Garvey*, 253 F.2d 299 (4th Cir., 1958); *Providence Washington Insurance Company v. Stanley*, 403 F.2d 844 (5th Cir., 1968).

8. The contract of insurance being in conformance with Oklahoma law and binding upon each party herein as to its terms and provisions, and there being an a sence of fact to substantiate either waiver or estoppel of the defendant to rely upon such contract provisions, this Court finds there can be no avoidance of said contractual terms which exclude coverage to the loss in question.

9. By reason of the pre-trial order and because the policy in question does not require legal ownership as a prerequisite to insuring such property, and by reason of this matter being submitted to the Court on stipulation and briefs, the defendant's Motion to Dismiss raising the issue of real party in interest is overruled as being moot.

10. The Court finds that judgment should be entered in favor of the defendant and against the plaintiff.

ENTERED this 17th day of May, 1977.

A handwritten signature in cursive script, reading "Allen J. Bonar", is written over a horizontal line.

CHIEF UNITED STATES DISTRICT JUDGE

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

HOMER BRADY and
DELORIS BRADY,

Plaintiffs,

vs.

GREAT CENTRAL INSURANCE
COMPANY, an Illinois
corporation,

Defendant.

75-C-466-B

FILED

MAY 17 1977

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

JUDGMENT

Based on the Findings of Fact and Conclusions of Law entered
this date,

IT IS ORDERED that Judgment be entered in favor of the defen-
dant, Great Central Insurance Company, and against the plaintiffs,
Homer Brady and Deloris Brady.

ENTERED this 17th day of May, 1977.



CHIEF UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

MAY 16 1977

UNITED STATES OF AMERICA)
By)
RAY MARSHALL, Secretary of Labor,)
United States Department of Labor)
)
Plaintiff,)
)
v.)
)
LENHART AND BENNETT, INCORPORATED)
)
Defendant.)

Jack G. Schar, Clerk
U. S. DISTRICT COURT

Civil Action File

No. 77-C-123-B

ORDER OF DISMISSAL

This matter having come on before the court on Plaintiff's Motion for Dismissal and the court being advised that Defendant, Lenhart and Bennett, Incorporated, has paid to Plaintiff One Hundred Thirty-six and 66/100 Dollars (\$136.66), representing the unpaid civil penalty, plus interest, due and owing by Defendant to Plaintiff for violations of the Occupational Safety and Health Act of 1970, plus Forty-nine and 40/100 Dollars (\$49.40) representing the court costs due and owing by Defendant to Plaintiff, and the court being otherwise fully advised in the premises, it is hereby

ore ORDERED that Plaintiff's Complaint/^{*and cause of action*}be, and ~~it~~ ^{*they*} hereby ~~is~~ dismissed with prejudice.

Dated this 16th day of May, 1977.

Allen E. Bonar
UNITED STATES DISTRICT JUDGE

Plaintiff moves for entry of the foregoing Order:

Carin Ann Clauss
Solicitor of Labor

Ronald M. Gaswirth
Regional Solicitor

Heriberto de Leon
Counsel for Occupational Safety
and Health

By _____
George K. Weber
Attorney

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

FILED

MAY 16 1977 J.

LIBERTY INVESTORS LIFE INSURANCE)
COMPANY,)
)
Plaintiff,)
)
vs.)
)
B. CYRIL ROGERS, et al.)
)
Defendants.)

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

No. 72-C-409 ✓

ORDER OF DISMISSAL WITH PREJUDICE

NOW, on this 16th day of May, 1977, there comes on for consideration the Motion for Dismissal With Prejudice of the plaintiff, Liberty Investors Life Insurance Company, and having reviewed said Motion and the terms and provisions of the Settlement Agreement which is attached to and made a part of said Motion, and being fully advised in the premises, the Court specifically finds and concludes:

1. That the terms and provisions of said Settlement Agreement are fair, equitable and a proper method of settling and compromising this lawsuit as between the plaintiff and defendants B. Cyril Rogers, Cleeta John Rogers, and A. Bob Jordan, and that plaintiff's Motion for Dismissal With Prejudice as to said defendants is in compliance with one of the provisions of said Settlement Agreement.

2. That based on the evidence presented at the trial of this cause, a Dismissal With Prejudice of defendant William Wilson, as requested by plaintiff, should be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED by the Court, that this cause of action be dismissed as against the defendants B. Cyril Rogers, Cleeta John Rogers, A. Bob Jordan and William Wilson, with prejudice to its refiling, and that plaintiff and the aforesaid defendants each bear their respective costs herein, including attorneys' fees.


CHIEF JUDGE OF THE DISTRICT COURT

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 76-C-543-B

EMMETT H. BURKE,

Plaintiff

vs.

STATE FARM FIRE AND CASUALTY COMPANY,

Defendant.

JUDGMENT

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

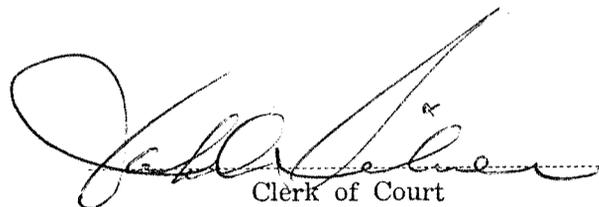
It is Ordered and Adjudged that the Plaintiff take nothing and that the Defendant recover of the Plaintiff their costs of action.

FILED

MAY 16 1977

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

Dated at Tulsa, Oklahoma, this 13th day
of May, 19 77.


Clerk of Court

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

STILLINGS PETROLEUM CORPORATION,)
An Oklahoma Corporation,)
)
Plaintiff,)
)
vs.)
)
ROBERT M. BURR,)
)
Defendant.)

FILED

MAY 13 1977

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

No. 76-C-552

JOINT STIPULATION OF DISMISSAL

COME NOW the plaintiff and defendant and, pursuant to Rule 41(a), Federal Rules of Civil Procedure, voluntarily dismiss the complaint and counterclaim filed herein respectively, with prejudice.

PRICHARD, NORMAN, REED & WOHLGEMUTH

By Jerry C. Reed
Jerry C. Reed
1100 Philtower Building
Tulsa, Oklahoma 74103

Attorneys for the Plaintiff.

HODGES & KERR
Raymond C. Kerr
1508 First City National Bank Building
Houston, Texas 77002

SNEED, LANG, TROTTER & ADAMS

By James C. Lang
James C. Lang
411 Thurston National Building
Tulsa, Oklahoma 74103

Attorneys for the Defendant.

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

FILED

MAY 13 1977

JOHN D. TIMMONS,)
)
 Plaintiff,)
)
 vs.)
)
 ROYAL GLOBE INSURANCE COMPANY,)
 d/b/a Royal Indemnity Company,)
 a foreign insurance corporation;)
 DAVID SOWARDS, an individual;)
 JOHN DOE I, an individual; and)
 JOHN DOE II, an individual;)
)
 Defendants.)

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

No. 76-C-602-C

O R D E R

NOW on this 5th day May, 1977, there came on for hearing the defendants' Motion for Remand and the Court, after being advised, examing the file, and hearing argument of counsel finds that the defendant, David Sowards and the plaintiff, John D. Timmons are both residents of the State of Oklahoma and that therefore diversity of citizenship does not exist between these parties and said case should be remanded to the District Court of Creek County, Bristow Division, State of Oklahoma.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above captioned case be, and the same is remanded to the District Court of Creek County, Bristow Division, State of Oklahoma.

(Signed) H. Dale Cook

H. Dale Cook
United States District Judge for
the Northern District of Oklahoma

MAY 12 1977

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

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

BOBBY GENE STEWART,)	
)	
)	Petitioner,
v.)	
CHARLIE CARTER, WARDEN)	
MCLEOD HONOR FARM,)	
)	Respondent.

NO. 77-C-179

O R D E R

The Court has for consideration the pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by the Petitioner, Bobby Gene Stewart.

Upon review thereof, the Court finds that Petitioner is a prisoner at the McLeod Honor Farm, Farris, Oklahoma, pursuant to conviction by jury of Second Degree Burglary after former conviction of a felony and sentence to 50 years imprisonment in the District Court of Oklahoma County, State of Oklahoma, Case No. CRF-73-193. The Court finds that the State Court wherein the Petitioner was convicted and sentenced is within the territorial jurisdiction of the United States District Court for the Western District of Oklahoma, and the institution wherein the Petitioner is in custody is within the territorial jurisdiction of the United States District Court for the Eastern District of Oklahoma. Each of these United States District Courts has concurrent jurisdiction to entertain the petition, however, should an evidentiary hearing be required herein, in furtherance of justice this cause should be transferred to the Western District of Oklahoma pursuant to 28 U.S.C. § 2241(d) for determination.

IT IS, THEREFORE, ORDERED that this cause be and it is hereby transferred to the United States District Court for the Western District of Oklahoma for any necessary hearings and for determination of the petition for writ of habeas corpus of Bobby Gene Stewart.

Dated this 12th day of May, 1977, at Tulsa, Oklahoma.


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

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

GARY MOONEY,

Plaintiff,

vs.

BUCK MYERS, d/b/a BUCK MYERS
MOTOR COMPANY,

Defendant and Third Party
Plaintiff,

vs.

JOPLIN AUTOMOBILE AUCTION COMPANY,
Inc., a corporation, et al.,

Third Party Defendants.

76-C-25-B

FILED

MAY 11 1977

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

ORDER

The Court has for consideration the application for dismissal with prejudice filed by the defendant and third party plaintiff, Buck Myers d/b/a Buck Myers Motor Company, wherein it is sought to dismiss the third party petition against Donges Bros. Ford, Inc., pursuant to Rule 41, (a)(2) and (c) of the Federal Rules of Civil Procedure; the objection to application for dismissal with prejudice and application for attorney fees and costs filed by Doengen Bros. Ford, Inc.; and, having carefully perused the entire file, and, being fully advised in the premises, finds:

Rule 41(c) covers Dismissal of counterclaim, cross-claim or third-party claim and states:

"The provisions of this rule apply to the dismissal of any counterclaim, cross-claim, or third-party claim. A voluntary dismissal by the claimant alone pursuant to paragraph (1) of subdivision (a) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing."

Subdivision (c) adopts the principle of subdivision (a)(1).

Where the right to dismiss voluntarily has been cut off by the filing of an answer, the court may allow the dismissal of a third-party claim by stipulation or by order of the court.

Rule 41(a)(2) of the Federal Rules of Civil Procedure provides for dismissal on condition.

It is fundamental, under this rule, that it is an abuse of discretion by the Court not to require the payment of costs.

In many cases where conditions have been imposed the amount of costs has been nominal. Later decisions, however, have extended the scope of the rule, holding that plaintiff may be required to make the defendant whole not merely for the statutory costs and attorney fees, but for all of his reasonable expenses in preparing for trial. Donges Bros. Ford, Inc., has stated in its brief in support of its objection that it has incurred an attorney fee in the amount of \$264.00 and asks the Court to condition any dismissal on payment of such costs. Itemized statements are attached to said brief in support of said figure for attorney fees. The Court notes that only one cost item appears on said statement, a figure of \$1.50 for copies; the rest of the fee constitutes attorney fees.

After reviewing the file, the Court finds that Doenges Bros. Ford, Inc. is entitled, as a condition of dismissal by the third-party plaintiff, Buck Myers, the sum of \$132.00 to be deposited with the Clerk of this Court within 15 days.

IT IS, THEREFORE, ORDERED that the application for dismissal with prejudice filed by the defendant and third party plaintiff, Buck Myers d/b/a Buck Myers Motor Company, as to Doenges Bros. Ford, Inc. be and the same is hereby granted, conditioned upon said third party plaintiff depositing with the Clerk of this Court, for payment to Doenges Bros. Ford, Inc., the sum of \$132.00. If said sum is not paid within 15 days from this date, this dismissal will not be operative.

ENTERED this 10th day of May, 1977.



CHIEF UNITED STATES DISTRICT JUDGE

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

JOYCE NADINE RIST,

Plaintiff,

vs.

ZEBCO DIVISION, BRUNSWICK
CORPORATION, a foreign
corporation,

Defendant.

77-C-133-B

FILED

MAY 11 1977

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

ORDER REMANDING CASE

The Court has for consideration the Plaintiff's Motion to Remand, the briefs in support and opposing thereto, and, being fully advised in the premises, finds:

That this action was originally commenced in the District Court for Tulsa County, Oklahoma, and was removed by the defendant.

That plaintiff's action is predicated on 85 O.S.A. Section 5 which provides:

"No person, firm, partnership or corporation may discharge any employee because the employee has in good faith filed a claim, or has retained a lawyer to represent him in said claim, instituted or caused to be instituted, in good faith, any proceeding under the provisions of Title 85 of the Oklahoma Statutes, or has testified or is about to testify in any such proceeding. ***."

The annotation under this section states that this is "An act relating to workmen's compensation: prohibiting discrimination against employee participating in workmen's compensation proceeding; providing remedy for violation; and establishing jurisdiction."

Title 28 U.S.C. Section 1445(c) provides in pertinent part:

"A civil action in any State court arising under the workmen's compensation laws of such State may not be removed to any district court of the United States."

IT IS, THEREFORE, ORDERED that plaintiff's Motion to Remand be and the same is hereby sustained and this cause of action and

complaint are hereby remanded to the District Court for Tulsa
County, Oklahoma.

ENTERED this 10th day of May, 1977.

Clem E. Barrow

CHIEF UNITED STATES DISTRICT JUDGE

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

CAPITAL RESOURCES REAL)
ESTATE PARTNERSHIP II,)
a limited partnership,)
)
Plaintiff,)
)
v.)
)
THE BROOKHOLLOW JOINT)
VENTURE, a joint venture)
composed of Hal R. Sundvahl,)
II, J. Donald Walker, Fred)
N. Chadsey and Harold R. Patrick,)
)
Defendants)

NO. 75 C 152 - B^v

FILED

MAY 10 1977 K

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

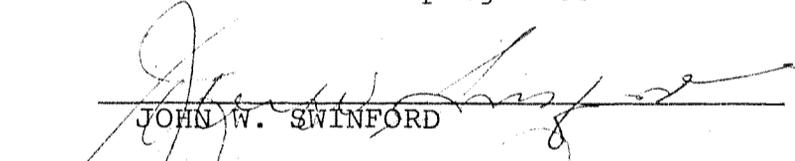
STIPULATION AND ORDER OF DISMISSAL

It is stipulated and agreed by and between plaintiff and defendant, HAL R. SUNDV AHL, II, that the above entitled cause may be dismissed, without prejudice, as against the said defendant only and that the cross petitions of said defendant may also be dismissed without prejudice.

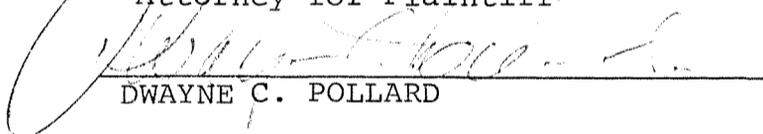
FILED

MAY 11 1977

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


JOHN W. SWINFORD

Attorney for Plaintiff

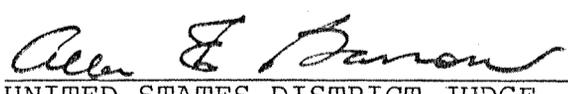

DWAYNE C. POLLARD

Attorney for Hal R. Sundvahl, II.

O R D E R

The foregoing Stipulation is approved and plaintiff's cause of action ^{and Complaint} against the defendant, Hal R. Sundvahl, together with his cross petition ^{are} ~~is~~ hereby dismissed without prejudice.

Dated this 10th day of May, 1976.


UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MAY 9 1977

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

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 109.85 Acres of Land, More or)
 Less, Situate in Osage County,)
 State of Oklahoma, and Anita L.)
 Whitlatch, et al., and Unknown)
 Owners,)
)
 Defendants.)

CIVIL ACTION NO. 76-C-520-B
Master File No. 398-7
Tracts Nos. 306-1, 306-2,
306E-1, 306E-2, 306E-3,
and 306E-4

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 237.21 Acres of Land, More or)
 Less, Situate in Osage County,)
 State of Oklahoma and Anita)
 L. Whitlatch, et al., and)
 Unknown Owners,)
)
 Defendants.)

CIVIL ACTION NO. 76-C-521-B
Tract No. 312

(Included in D.T. filed in
Master File #398-7)

J U D G M E N T

1.

NOW, on this 2nd day of May, 1977, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Report of Commissioners filed herein on April 20, 1977, and the Court, after having examined the files in these actions and being advised by counsel for the Plaintiff, finds that:

2.

This judgment applies to the entire estates taken in all of the tracts included in both of the cases listed in the caption above, as such estates and tracts are described in the Complaints filed in these cases.

3.

The Court has jurisdiction of the parties and the subject matter of these actions.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal

Rules of Civil Procedure, on all parties defendant in these cases who are interested in subject tracts.

5.

The Acts of Congress set out in paragraph 2 of the Complaints filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on October 18, 1976, the United States of America filed its Declaration of Taking of certain estates in such tracts of land, and title to such property should be vested in the United States of America, as of the date of filing such instrument.

6.

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

7.

The Report of Commissioners filed herein on April 20, 1977, is accepted and adopted as a finding of fact as to subject property. The amount of just compensation as to the estates taken in subject tracts as fixed by the Commission is set out below in paragraph 12.

8.

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

9.

The defendants named in paragraph 12 as owners of the estates taken in subject tracts are the only defendants asserting any interest in such estates. All other defendants having either

disclaimed or defaulted, the named defendants were (as of the date of taking) the owners of the estates condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tracts, as they are described in the Complaints filed herein, and such property, to the extent of the estates described in such Complaints is condemned, and title thereto is vested in the United States of America, as of October 18, 1976, and all defendants herein and all other persons are forever barred from asserting any claim to such estates.

11.

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

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners, filed herein on April 20, 1977, hereby is confirmed and the sum therein fixed, together with other considerations as stated, is adopted as the award of just compensation for the estates taken in subject tracts, and such award is allocated among the owners, as shown by the following schedule:

ALL ESTATES TAKEN IN
ALL TRACTS IN BOTH CASES

OWNERS:

1. Anita L. Whitlatch owned all of subject property, except the Turkey Creek Store buildings on Tract 312, and a lease on such land as was used in connection with said Store.
2. Wesley Bray and Nettie Bray, owned only the Turkey Creek Store buildings, situated on Tract 312, and a lease on such land as was used in connection with said Store.

AWARD OF JUST COMPENSATION (Total award for all interests):

1. Cash compensation for all interests ----- \$272,500.00
2. Additional compensation in the form of property:
 - A. Revestment in the former owners, of title to all improvements taken in both of the subject cases,
 - B. Revestment of the right of the former owners to retain possession of all land taken in both of the subject cases, until September 30, 1977,
 - C. Revestment of the right in the former owners, to remove all improvements taken in both of the subject cases, on or before September 30, 1977.
 - D. Provided: That if any of the improvements situated upon the subject tracts are not removed on or before September 30, 1977, by the Defendants in whom title has been revested hereby, then title to such unremoved improvements shall revert to the United States of America, to do with the same as the United States of America sees fit.

ALLOCATION OF AWARD OF JUST COMPENSATION:

1. To Anita L. Whitlatch:
 - A. For 157.21 acres of restricted Indian land taken, (being part of Tract 312) ----- \$148,197.00 cash
 - B. For her interest in the balance of the land taken ----- \$117,303.00 cash,
Total cash award -- \$265,500.00
 - C. In addition to the cash award shown in A and B, immediately above, Anita L. Whitlatch is awarded the following property:
 - (1) Title to all improvements taken in both of subject cases, except the Turkey Creek Store buildings situated on Tract 312, is hereby revested in said Anita L. Whitlatch,
 - (2) The right to hold possession, of all of the land taken from her in both of the subject cases, to and including September 30, 1977, is hereby revested in said Anita L. Whitlatch,
 - (3) The right to remove the improvements described in C(1) above from the subject land, is hereby revested in the said Anita L. Whitlatch, subject to the proviso set forth above in this schedule under "2-D. of Award of Just Compensation".
2. To Wesley Bray and Nettie Bray:
 - A. For the Turkey Creek Store buildings, and their lease on the land used in connection with said Store ----- \$7,000.00 cash
 - B. In addition to their cash award, shown in A immediately above, these owners are awarded the following property:

for the benefit of the owners the deposit deficiency for the subject tract as shown in paragraph 12, in the total amount of \$43,540.00, and such sum shall be placed in the deposit for Civil Action No. 76-C-521-B.

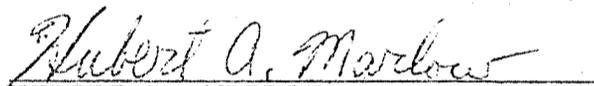
After such deficiency deposit has been made, the Clerk of this Court shall disburse the entire sum then on deposit in said Civil Action 76-C-521-B to the owners as follows:

Anita L. Whitlatch -----	\$42,540.00
Wesley Bray and Nettie Bray, jointly -----	\$ 1,000.00.

Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:


HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

MAY 9 1977

United States of America,)
)
 Plaintiff,)
)
 vs.) CIVIL ACTION NO. 76-C-520-B
)
 109.85 Acres of Land, More or) Master File No. 398-7
 Less, Situate in Osage County,)
 State of Oklahoma, and Anita L.) Tracts Nos. 306-1, 306-2,
 Whitlatch, et al., and Unknown) 306E-1, 306E-2, 306E-3,
 Owners,) and 306E-4
)
 Defendants.)

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

United States of America,)
)
 Plaintiff,)
)
 vs.) CIVIL ACTION NO. 76-C-521-B ✓
)
 237.21 Acres of Land, More or) Tract No. 312
 Less, Situate in Osage County,)
 State of Oklahoma and Anita)
 L. Whitlatch, et al., and)
 Unknown Owners,)
)
 Defendants.) (Included in D.T. filed in
 Master File #398-7)

J U D G M E N T

1.

NOW, on this Ind day of May, 1977, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Report of Commissioners filed herein on April 20, 1977, and the Court, after having examined the files in these actions and being advised by counsel for the Plaintiff, finds that:

2.

This judgment applies to the entire estates taken in all of the tracts included in both of the cases listed in the caption above, as such estates and tracts are described in the Complaints filed in these cases.

3.

The Court has jurisdiction of the parties and the subject matter of these actions.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal

Rules of Civil Procedure, on all parties defendant in these cases who are interested in subject tracts.

5.

The Acts of Congress set out in paragraph 2 of the Complaints filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on October 18, 1976, the United States of America filed its Declaration of Taking of certain estates in such tracts of land, and title to such property should be vested in the United States of America, as of the date of filing such instrument.

6.

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

7.

The Report of Commissioners filed herein on April 20, 1977, is accepted and adopted as a finding of fact as to subject property. The amount of just compensation as to the estates taken in subject tracts as fixed by the Commission is set out below in paragraph 12.

8.

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

9.

The defendants named in paragraph 12 as owners of the estates taken in subject tracts are the only defendants asserting any interest in such estates. All other defendants having either

disclaimed or defaulted, the named defendants were (as of the date of taking) the owners of the estates condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tracts, as they are described in the Complaints filed herein, and such property, to the extent of the estates described in such Complaints is condemned, and title thereto is vested in the United States of America, as of October 18, 1976, and all defendants herein and all other persons are forever barred from asserting any claim to such estates.

11.

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

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners, filed herein on April 20, 1977, hereby is confirmed and the sum therein fixed, together with other considerations as stated, is adopted as the award of just compensation for the estates taken in subject tracts, and such award is allocated among the owners, as shown by the following schedule:

ALL ESTATES TAKEN IN
ALL TRACTS IN BOTH CASES

OWNERS:

1. Anita L. Whitlatch owned all of subject property, except the Turkey Creek Store buildings on Tract 312, and a lease on such land as was used in connection with said Store.
2. Wesley Bray and Nettie Bray, owned only the Turkey Creek Store buildings, situated on Tract 312, and a lease on such land as was used in connection with said Store.

AWARD OF JUST COMPENSATION (Total award for all interests):

1. Cash compensation for all interests ----- \$272,500.00
2. Additional compensation in the form of property:
 - A. Revestment in the former owners, of title to all improvements taken in both of the subject cases,
 - B. Revestment of the right of the former owners to retain possession of all land taken in both of the subject cases, until September 30, 1977,
 - C. Revestment of the right in the former owners, to remove all improvements taken in both of the subject cases, on or before September 30, 1977.
 - D. Provided: That if any of the improvements situated upon the subject tracts are not removed on or before September 30, 1977, by the Defendants in whom title has been revested hereby, then title to such unremoved improvements shall revert to the United States of America, to do with the same as the United States of America sees fit.

ALLOCATION OF AWARD OF JUST COMPENSATION:

1. To Anita L. Whitlatch:
 - A. For 157.21 acres of restricted Indian land taken, (being part of Tract 312) ----- \$148,197.00 cash
 - B. For her interest in the balance of the land taken ----- \$117,303.00 cash,
Total cash award -- \$265,500.00
 - C. In addition to the cash award shown in A and B, immediately above, Anita L. Whitlatch is awarded the following property:
 - (1) Title to all improvements taken in both of subject cases, except the Turkey Creek Store buildings situated on Tract 312, is hereby revested in said Anita L. Whitlatch,
 - (2) The right to hold possession, of all of the land taken from her in both of the subject cases, to and including September 30, 1977, is hereby revested in said Anita L. Whitlatch,
 - (3) The right to remove the improvements described in C(1) above from the subject land, is hereby revested in the said Anita L. Whitlatch, subject to the proviso set forth above in this schedule under "2-D. of Award of Just Compensation".
2. To Wesley Bray and Nettie Bray:
 - A. For the Turkey Creek Store buildings, and their lease on the land used in connection with said Store ----- \$7,000.00 cash
 - B. In addition to their cash award, shown in A immediately above, these owners are awarded the following property:

- (1) Title to the Turkey Creek Store buildings situated upon Tract 312, is hereby revested in the said Wesley Bray and Nettie Bray,
- (2) The right to hold possession of the leased land used in connection with said Turkey Creek Store, to and including September 30, 1977, is hereby revested in said Wesley Bray and Nettie Bray,
- (3) The right to remove the above described Turkey Creek Store buildings from the subject land is hereby revested in the said Wesley Bray and Nettie Bray, subject to the proviso set forth above in this schedule under "2-D. of Award of Just Compensation".

COMPUTATION OF CASH DEPOSIT DEFICIENCY:

Total award of cash compensation -----	\$272,500.00
Total deposit of estimated compensation	
(76-C-520-B ----- \$ 42,260.00)	
(76-C-521-B ----- \$186,700.00)	
Total -----	<u>\$228,960.00</u>
Deposit deficiency -----	\$ 43,540.00

DISBURSALS AND BALANCES DUE TO OWNERS:

1. Whitlatch interest:

Total cash award -----	\$265,500.00
Disbursed to Anita L. Whitlatch:	
(76-C-520-B) ---- \$ 42,260.00)	
(76-C-521-B) ---- <u>\$180,700.00)</u>	
Total -----	<u>\$222,960.00</u>
Balance due to Anita L. Whitlatch --	\$ 42,540.00

2. Bray interest:

Total cash award -----	\$ 7,000.00
Disbursed to Brays -----	<u>\$ 6,000.00</u>
Balance due to Wesley Bray, and Nettie Bray -----	\$ 1,000.00

13.

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

for the benefit of the owners the deposit deficiency for the subject tract as shown in paragraph 12, in the total amount of \$43,540.00, and such sum shall be placed in the deposit for Civil Action No. 76-C-521-B.

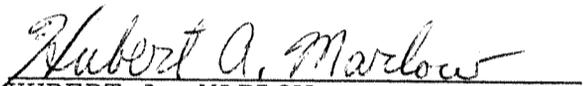
After such deficiency deposit has been made, the Clerk of this Court shall disburse the entire sum then on deposit in said Civil Action 76-C-521-B to the owners as follows:

Anita L. Whitlatch ----- \$42,540.00

Wesley Bray and
Nettie Bray, jointly ----- \$ 1,000.00.


UNITED STATES DISTRICT JUDGE

APPROVED:


HUBERT A. MARLOW
Assistant United States Attorney

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

FILED

MAY 9 1977

VICTOR E. SEBERT,

Plaintiff

vs

ST. LOUIS-SAN FRANCISCO RAILWAY
COMPANY, A Corporation,

Defendant

No. 76-C-607(B)

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

ORDER OF DISMISSAL

On this the 9th day of May, 1977, it appearing to the Court from Stipulation for Dismissal With Prejudice, with costs taxed against plaintiff, filed by the plaintiff 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 are hereby dismissed with prejudice.


United States District Judge

FILED

MAY 6 1977

110

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

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JOHNNIE B. WHITTAKER and)
 OKLAHOMA TAX COMMISSION,)
)
 Defendants.)

CIVIL ACTION NO. 77-C-74-C ✓

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 6th
day of May, 1977, the Plaintiff appearing by Robert P. Santee,
Assistant United States Attorney; and the Defendant, Oklahoma
Tax Commission, appearing by its attorney, Clyde E. Fosdyke;
and, the Defendant, Johnnie B. Whittaker, appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant, Oklahoma Tax Commission,
was served with Summons and Complaint on March 7, 1977, and
that Defendant, Johnnie B. Whittaker, was served with Summons
and Complaint on April 6, 1977, both as appears from the United
States Marshal's Service herein.

It appearing that the Defendant, Oklahoma Tax Commission,
has duly filed its Disclaimer on April 26, 1977; and, that
Defendant, Johnnie B. Whittaker, has failed to answer herein
and that default has been entered by the Clerk of this Court.

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

Lot Thirty-Five (35), Block Four (4), HARTFORD
HILLS ADDITION to the City of Tulsa, Tulsa County,
State of Oklahoma, according to the recorded plat
thereof.

THAT the Defendant, Johnnie B. Whittaker, did, on the 27th day of June, 1975, execute and deliver to the Administrator of Veterans Affairs, his mortgage and mortgage note in the sum of \$9,000.00 with 8 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

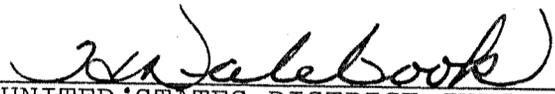
The Court further finds that Defendant, Johnnie B. Whittaker, made default under the terms of the aforesaid mortgage note by reason of his failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the sum of \$9,035.41 as unpaid principal with interest thereon at the rate of 8 1/2 percent per annum from May 1, 1976, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Johnnie B. Whittaker, in personam, for the sum of \$9,035.41 with interest thereon at the rate of 8 1/2 percent per annum from May 1, 1976, 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 Defendant to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisal 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

RAY REYNOLDS,

Plaintiff,

vs.

McGRAW-EDISON COMPANY and
JERRY E. WHITEHURSE,

Defendants.

NO. 76-C-539-C ✓

FILED

MAY - 6 1977

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

ORDER

NOW on this 6th day of may, 1977, the Defendant's, McGraw-Edison Company, application to withdraw its previous application and set aside the subsequent Order joining Mission Equity Insurance Company as a co-party plaintiff came on for hearing.

The Court being fully advised in the premises finds that said application of the Defendant, McGraw-Edison Company, is allowed to withdraw its application to join and the Court's order joining Mission Equity Insurance Company as a co-party plaintiff is set aside.



H. DALE COOK
UNITED STATES DISTRICT JUDGE

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

STATE FARM MUTUAL AUTOMOBILE INSURANCE)
COMPANY, a corporation,)
)
Plaintiff)
)
vs.)
)
ANN LYNETTE RUDD, et al,)
)
Defendants)

No. 77-C-110-C

FILED

MAY 5 - 1977

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

ORDER

There came on for hearing pursuant to regular assignment the Motion for Default Judgment of the plaintiff herein against defendant John Thomas Vance.

After a review of the Complaint and allegations therein, the Court finds that State Farm Mutual Automobile Insurance Company, plaintiff, is licensed to do business in the State of Oklahoma and its citizenship and place of doing business is in the State of Indiana. The Court further finds the amount in controversy, exclusive of interest and costs, exceeds Ten Thousand Dollars (10,000.00). The Court specifically finds that it has jurisdiction and venue of the case.

The Court further finds that notice has been transmitted to defendant John Thomas Vance of the Motion for Default Judgment and that the plaintiff is entitled to the relief prayed for.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that plaintiff is granted judgment against the defendant, John Thomas Vance, and IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff's policy of insurance does not provide coverage for or indemnity to the defendant John Thomas Vance, for the accident which occurred on September 17, 1976, and that said State Farm Mutual Automobile Insurance Company is not required or obligated to defend nor indemnify nor satisfy in any manner the existing or future claim of the defendant John Thomas Vance as a result of said accident.

(Signed) H. Dale Cook

JUDGE OF THE DISTRICT COURT

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

FILED

MAY 5 1977/rm

KENNETH B. BOWLINE and V. N.)
YOUTSEY d/b/a T.K.O. MOTOR)
HOMES,)
)
Plaintiffs,)
)
-vs-)
)
WINNEBAGO INDUSTRIES, INC.,)
an Iowa corporation,)
)
Defendant.)

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

Civil Action

Case No. 75-C-132 ✓

O R D E R

In conformance with the Findings of Fact and Conclusions of Law filed in the above captioned case by Royce H. Savage, Special Master, the Court hereby enters judgment for the plaintiffs, Kenneth B. Bowline and V. N. Youtsey d/b/a T.K.O. Motor Homes, and against the defendant, Winnebago Industries, Inc., an Iowa corporation, for money damages in the sum of \$75,000.00 together with attorneys' fees in the amount of \$20,000.00 and the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the plaintiffs, Kenneth B. Bowline and V. N. Youtsey d/b/a T.K.O. Motor Homes, have against the defendant, Winnebago Industries, Inc., a judgment in the amount of \$75,000.00 plus attorneys' fees of \$20,000.00 and the costs of the action.

DATED this 5th day of May, 1977.



ALLEN E. BARROW
Chief United States District Judge

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

FILED

LEAGUE OF WOMEN VOTERS OF TULSA,)
INC., a non-profit corporation;)
LEAGUE OF WOMEN VOTERS OF OKLAHOMA)
INC., a non-profit corporation;)
PATRICIA LANER, SUDYE NEFF)
KIRKPATRICK, AND KATHY GROSHONG,)

MAY - 5 1977

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

Plaintiffs,)

vs.)

No. 77-C-54-C ✓

THE UNITED STATES OF AMERICA ex)
rel THE DEPARTMENT OF DEFENSE AND)
THE UNITED STATES CORPS OF)
ENGINEERS AND HON. HAROLD BROWN,)
Secretary of Defense; LIEUTENANT)
GENERAL JOHN W. MORRIS, Commanding)
Officer United States Corps of)
Engineers and COLONEL ANTHONY A.)
SMITH, Commanding Officer, United)
States Corps of Engineers, Tulsa)
District,)

Defendants,)

And)

THE UNITED STATES OF AMERICA ex)
rel THE DEPARTMENT OF INTERIOR and)
BUREAU OF INDIAN AFFAIRS and HON.)
CECIL ANDRUS, Secretary of Inter-)
ior,)
Director Bureau of Indian Affairs)

Additional)
Defendants.)

O R D E R

In this action, plaintiffs seek to enjoin the United States Army Corps of Engineers from executing a contract with the City of Tulsa for water storage rights in the Oologah Reservoir in northeastern Oklahoma. Plaintiffs contend that the execution of such a contract should be enjoined pending compliance by the Corps of Engineers with the provisions of the National Environmental Policy Act of 1969, (NEPA) Title 42 U.S.C. § 4331 et seq. Several motions are now pending before the Court.

Plaintiffs have asked the Court to issue a preliminary injunction to prevent the execution of a contract between

the Corps of Engineers and the City of Tulsa prior to a hearing on the merits of the instant case. A hearing on plaintiffs' application for a preliminary injunction was held on April 26, 1977, and plaintiffs offered the testimony of several witnesses in support of their application. The purpose of a preliminary injunction is to preserve the status quo until the merits of a case can be adjudicated. Morgan v. Fletcher, 518 F.2d 236 (5th Cir. 1975). A successful applicant for a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure must show:

"(1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the preliminary injunction will not disserve the public interest." Id. at 239.

The granting of the injunction is within the discretion of the trial judge, Id., and the burden is on the party seeking the injunction to make a prima facie case showing a reasonable probability that he will ultimately be entitled to the relief sought and that irreparable injury will result if the injunction does not issue. Crowther v. Seaborg, 415 F.2d 437 (10th Cir. 1969). A preliminary injunction is an extraordinary and drastic remedy which should not be granted unless the movant has clearly carried the burden of persuasion concerning the existence and application of the four prerequisites. State of Texas v. Seatrain International, S.A., 518 F.2d 175 (5th Cir. 1975). Plaintiffs have failed to carry the burden of persuasion in the instant case. They did not even attempt to demonstrate, through their witnesses at the hearing, that any immediate harm was threatened or that any injury caused to them would be irreparable. Rather, most of the testimony appeared to be directed toward the issue of plaintiffs' standing to bring this lawsuit. The documents introduced by plaintiffs in support of their

application likewise demonstrate no immediate threat of irreparable injury. To the contrary, the facts show that the proposed draft of the contract which is the subject of this litigation has neither been approved by the Secretary of the Army nor presented to the City of Tulsa for its review. It therefore does not appear to the Court that at this time defendants are committing or threatening the immediate commission of any act that will cause irreparable injury to plaintiffs or which would destroy the status quo before a full hearing can be heard upon the merits of the case, and plaintiffs' application for a preliminary injunction is denied.

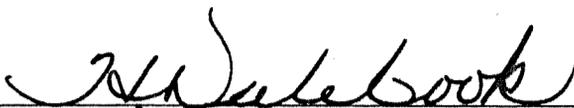
The Department of Defense and the Honorable Harold Brown, Secretary of Defense, have filed a motion to dismiss the action as against them for failure to state a claim upon which relief can be granted, in that these defendants have no authority over the Civil Works Program of the Corps of Engineers. At the hearing on April 26th, the Court granted plaintiffs' request to add the Secretary of the Army as a party defendant based in part upon the statements of plaintiffs' counsel that discovery had revealed that the Secretary of Defense was not a proper party defendant. However, the order submitted to the Court contained neither this fact nor a dismissal of the Department of Defense and Secretary of Defense. Based upon the prior representations of plaintiffs' counsel, the Court hereby sustains the motion to dismiss of the Department of Defense and the Secretary of Defense.

The additional defendants, the Department of Interior, the Bureau of Indian Affairs, the Secretary of Interior and the Director of the Bureau of Indian Affairs, have also filed a motion to dismiss the action against them for failure to state a claim upon which relief can be granted.

Plaintiffs have asked the Court to realign these additional defendants as involuntary plaintiffs in this action, based

the Secretary of Interior and the Director of the Bureau of Indian Affairs is sustained.

It is so Ordered this 4th day of May, 1977.


H. DALE COOK
United States District Judge

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

ALLIED PRINTERS AND)
PUBLISHERS, INC.,)
an Oklahoma corporation,)
)
Plaintiff,)
)
vs.)
)
AIRLINE PASSENGER)
ASSOCIATION, INC.,)
a Delaware corporation.)
)
Defendant.)

Case No. 76-C-592-C ✓

E I L E D

MAY 5 - 1977 *ph*

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

ORDER TRANSFERRING ACTION

NOW on this 5th day of May, 1977,
this matter comes on for hearing before me, the undersigned
United States District Judge, upon the Joint Motion for
Transfer filed by Plaintiff and Defendant, seeking transfer
of the above-styled action, pursuant to 28 U.S.C. §1404, to
the United States District Court for the Northern District
of Texas, Dallas Division. The Court finds that said Motion
is made for good cause and should be granted.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED
that the above-styled action be, and it is hereby transferred
to the United States District Court for the Northern District
of Texas, Dallas Division, pursuant to 28 U.S.C. §1404.

H. Dale Cook
H. DALE COOK,
United States District Judge

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

GEORGIA L. SEHON,)
)
 Plaintiff,)
)
 vs.)
)
 DAVID MATHEWS, SECRETARY OF)
 HEALTH, EDUCATION, AND)
 WELFARE OF THE UNITED STATES)
 OF AMERICA,)
)
 Defendant.)

No. 76-C-448-C

FILED
MAY - 4 1977
Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

This is an action brought by the plaintiff, Georgia L. Sehon, formerly Nelson, to review the final determination of the defendant, Secretary of the Department of Health, Education and Welfare, denying disability benefits under Sections 216(i) and 223 of the Social Security Act, as amended. (42 U.S.C. §§ 416(i) and 423.)

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 an Administrative Law Judge of the Bureau of Hearings and Appeals of the Social Security Administration whose written decision was issued September 10, 1975, in which it was found that the claimant was entitled to a period of disability insurance benefits under §§ 216(i) and 223, respectively, of the Social Security Act, as amended for the period of February 5, 1973 through may 27, 1975. The Judge further held that

claimant had not been under a disability, as defined by the Act, for any period subsequent to May 27, 1975. Thereafter the decision of the Administrative Law Judge denying permanent disability was appealed to the Appeals Council of the Bureau of Hearings and Appeals which Council on June 22, 1976 issued its Order finding that the decision of the Administrative Law Judge 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 Administrative Law Judge 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, Georgia L. Schon, and 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 under a disability as defined by the Social Security Act at any time prior to the date of that decision.

Section 223(d)(1) of the Social Security Act defines disability, as pertinent to the matters here in issue, as the "inability 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." Section 223(d)(2)(A) further provides that "an individual (Except a widow, surviving divorced wife, or widower for purposes of § 202(e) or (f)) 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 discloses, beginning on page 57 thereof, that a vocational expert testified at the hearing concerning the residual and transferable skills retained by the claimant and gave his opinion as to work positions which exist in the national economy which claimant was capable and qualified to perform. The Administrative Law Judge found that subsequent to May 27, 1975 claimant was able to engage in work requiring at least sedentary and light physical activity including jobs such as cashier and manager of a beauty shop, and that such jobs exist in significant numbers in our national economy, including the region where claimant lives. His finding is supported by the testimony of the

vocational expert.

The Court finds that the determination of the Administrative Law Judge to the effect that even though plaintiff was unable to engage in her previous employment, she could, considering her age, education and work experience, engage in other substantial gainful work activity which did exist in the national economy is supported by substantial evidence. The findings of the Secretary thus being supported by substantial evidence of record are affirmed, and Judgment is hereby entered on behalf of the defendant.

It is so Ordered this 4th day of May, 1977.


H. DALE COOK
United States District Judge

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

FILED
MAY - 4 1977
Jack A. Silver, Clerk
U. S. DISTRICT COURT
ph

RUBY A. McKENZIE,)
)
 Plaintiff)
)
 vs.)
)
 BRAZOS TRANSPORT COMPANY,)
 TRANSPORT INSURANCE COMPANY,)
 a foreign insurance company,)
 and ERNEST SOWARDS,)
)
 Defendants)

No. 76-C-603 ✓

APPLICATION FOR DISMISSAL

COMES now the plaintiff, and advises the Court that all differences have been resolved in this case and no controversy remains to be contested, and therefore moves the Court for an Order of Dismissal with Prejudice.

4/5/77
per Joe Best defendant
has no objection.

Ruby A. McKenzie
Ruby A. McKenzie, Plaintiff

Robert J. Hepburn
Attorney for Plaintiff

ORDER OF DISMISSAL

NOW on this 4th day of May, 1977, upon plaintiff's Application for an Order of Dismissal with Prejudice, the Court finds that the same should be granted and herewith dismisses this cause with prejudice to the filing of a future action.

W. Dalebook
UNITED STATES DISTRICT JUDGE

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

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 -v-)
)
 JOHN W. BOONE, ET AL.,)
)
 Defendants.)

MAY - 4 1977
Jack C. Silver, Clerk
U. S. DISTRICT COURT

Civil Action No. 76-C-263 C ✓

JUDGMENT OF FORECLOSURE

THIS MATTER comes on for consideration this 4th day
of May, 1977, the plaintiff appearing by Robert P.
Santee, Assistant United States Attorney; the defendants County
Treasurer, Osage County, and Board of County Commissioners,
Osage County, appearing by William Hall, District Attorney; the
defendant Homemakers Finance Service, Inc. appearing by its
attorney, Neil E. Bogan; and the defendants John W. Boone and
Gloria J. Boone appearing not.

The Court, being fully advised and having examined
the file herein, finds that John W. Boone, Gloria J. Boone,
County Treasurer, Osage County; and Board of County Commissioners,
Osage County, were served with Summons and Complaint on June 24,
1976; and that Homemakers Finance Service, Inc. was served with
Summons and Complaint on June 18, 1976, as appears from the Mar-
shal's Returns of Service filed herein.

It appears that County Treasurer, Osage County, and
Board of County Commissioners, Osage County, have duly filed
their Answer herein on July 6, 1976; that Homemakers Finance Ser-
vice, Inc. has filed its Answer and Cross-Petition on November 3,
1976; and that John W. Boone and Gloria J. Boone 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 secur-
ing said mortgage note, covering the following-described real

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

Lot 6, Block 37, Original Townsite of Pawhuska, Osage County, Oklahoma.

That the defendants John W. Boone and Gloria J. Boone did, on the 8th day of May, 1970, execute and deliver to the United States of America, acting through the Farmers Home Administration, their mortgage and mortgage note in the amount of \$10,500.00, with 6-1/4 percent interest per annum, and further providing for the payment of annual installments of principal and interest.

The Court further finds that the defendants John W. Boone and Gloria J. Boone made default under the terms of the aforesaid mortgage note by reason of their failure to make annual installments due thereon, which default has continued and that by reason thereof, the above-named defendants are now indebted to the plaintiff in the amount of \$10,939.10, as of August 31, 1976, plus interest from and after said date at the rate of 6-1/4 percent per annum, until paid, plus the cost of this action, accrued and accruing.

The Court further finds that there is due and owing to Osage County, Oklahoma, from defendants John W. Boone and Gloria J. Boone the sum of \$27.21 for personal property taxes for 1975 and that Osage County, Oklahoma should have judgment, in rem, for said amount, but that such judgment is subject to and inferior to the first mortgage lien of the plaintiff herein.

The Court further finds that there is due and owing to Homemakers Finance Service, Inc. from defendants John W. Boone and Gloria J. Boone the sum of \$2,376.25 as of November 3, 1976, plus interest of 18 percent per annum and attorney's fees, and that Homemakers Finance Service, Inc. should have judgment, in personam, 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 John W. Boone and Gloria J. Boone, in personam, for the sum of \$10,939.10, with interest thereon at the rate of 6-1/4 percent per annum from August 31, 1976, 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.

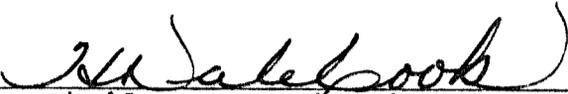
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the County of Osage, Oklahoma have and recover judgment, in rem, against the defendants John W. Boone and Gloria J. Boone for the sum of \$27.21, plus interest according to law, but that such judgment is subject to and inferior to the first mortgage lien of the plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Homemakers Finance Service, Inc. have and recover judgment, in personam, against defendants John W. Boone and Gloria J. Boone for the sum of \$2,376.25 as of November 3, 1976, plus interest of 18 percent per annum and attorney's fees, 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 the plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

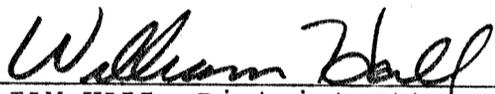
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this

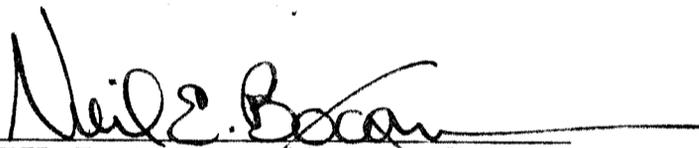
judgment and decree, all of the defendants, and each of them, and all persons claiming under them since the filing of the complaint herein, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED:


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


WILLIAM HALL, District Attorney
Osage County, Oklahoma
Attorney for Defendants, County
Treasurer and Board of County
Commissioners, Osage County,
Oklahoma


NEIL E. BOGAN, Attorney for
Homemakers Finance Service, Inc.

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

FILED

MAY 4 1977

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

LINDA PAULINE DENNY,

Plaintiff,

-vs-

No. 76-C-236-C

EDDIE PIERCE, CHARLES PORTER
and JIM BIETER,

Defendants.

ORDER TO DISMISS

The motion of the plaintiff, Linda Pauline Denny, to dismiss the above-entitled action with prejudice having come on to be heard on the 3rd day of May 1977 and it appearing to the court that the subject matter of this action has been fully compromised and settled between the parties thereto,

It is hereby ordered that the above-entitled action be and the same is hereby, dismissed with prejudice.

It is further ordered that the Clerk of this Court enter this dismissal with prejudice in the record of this Court.

Dated this 3rd day of May 1977 at Tulsa, Oklahoma.



H. Dale Cook
United States District Judge
Northern District of Oklahoma

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

9

FILED

MR. AND MRS. W. F. WHITNEY,)
)
 Plaintiffs,)
)
 vs.)
)
 R. J. BINGHAM, JR., MR. BAKER,)
 AND SWEET CHARIOTS, INC.,)
)
 Defendants.)

MAY - 3 1977

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

Case No. 76-C-429-C ✓

ORDER

It is hereby ordered pursuant to stipulation of the parties and settlement agreement reached thereto, this cause be and hereby is dismissed with prejudice as to all parties hereto.


United States District Court Judge

//

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

SOUTHWESTERN INSURANCE GROUP,)
)
 Plaintiff,)
)
 vs.)
)
 MILTON ROBINSON, CARLOS)
 WILSON, CHARLES H. CLARK,)
 and MRS . JAYNE CLARK, individually)
 and on behalf of their deceased)
 son, DOUGLAS JAY CLARK; and)
 MRS. AILEEN BLAIR, individually)
 and as surviving parent of MARTY)
 JOE BLAIR, deceased; and ROBERT)
 G. FREIWALD,)
)
 Defendants.)

No. 76-C-449-C

FILED
IN OPEN COURT
MAY 3 1977
JACK C. SILVER, CLERK
U. S. DISTRICT COURT

FINDINGS OF FACT
AND
ORDER OF DISTRIBUTION

This matter came on for hearing this 3 day of MAY,
1977, pursuant to stipulations entered into by the Defendants herein.

This Court having examined the pleadings herein, and having
examined the stipulations, and heard presentation of counsel for the
Plaintiff, makes the following findings of fact:

I.

All party Defendants have been properly served with process,
or entered their appearance herein, and all persons in representative
capacity have stipulated that they are the sole surviving heirs at law
of those parties involved in the accident complained of and since become
deceased. The Court has jurisdiction of the parties and the subject matter
of this action.

II.

The Plaintiff insurance company had, prior to January 18, 1976,
issued an automobile liability policy of insurance to and covering herein,
said policy providing liability coverage on a certain Chevrolet pickup
at all times complained of herein operated by Darrell D. McLaughlin. Said
automobile liability policy provided a maximum payment of TEN THOUSAND
AND NO/100 DOLLARS (\$10,000.00) liability limits as a result of any one

accident.

III.

As a result of an automobile accident which occurred January 18, 1976, the Plaintiff has deposited with the Court Clerk of this Court the sum of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) to be distributed to those persons who might be entitled to recover a Judgment against Darrell D. McLaughlin or any insured under said policy as a result of said accident.

IV.

The Court further finds that the Plaintiff is not liable for any amount of money as a result of said insurance policy or accident stated in excess of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00).

V.

The Defendants have entered into a Stipulation which has been presented to the Court whereby the parties agree on certain findings and distribution of the funds on deposit and move this Court to enter its Order of Distribution of the Funds now deposited with the Court Clerk of this Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that all parties Defendant above named, or any persons claiming as heirs at law of said deceased persons, are liquidating their claims herein by agreement and upon receipt of the funds distributed by this Order and are forever barred from executing against, or making further claim against, the Plaintiff or their insured as a result of liability in said accident or as a result of the insurance policy in question in this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from the funds on deposit with the Court Clerk of this Court that the Clerk distribute said funds as follows:

a. To Richard D. Wagner, Attorney for Southwestern Insurance Group, for court costs and reasonable attorney fee for the bringing of this action, the sum of ^{Four}~~SIX~~ HUNDRED AND NO/100 DOLLARS (~~\$~~600.00).

b. To Milton Robinson and Carlos Marroro Wilson, and their

Richard D. Gibbon, the sum of TWO THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$2,400.00).

c. To Charles H. Clark and Mrs. Jayne Clark, the surviving parents and sole legal heirs of Douglas J. Clark, and their Attorney Joseph Lapan, the sum of TWO THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$2,400.00).

d. To Mrs. Aileen Blair, the sole surviving heir of Marty Joe Blair, deceased, and her Attorney James M. Kehn, the sum of TWO THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$2,400.00).

e. To Robert G. Freiwald, and his Attorney Michelle Mulvey, the sum of TWO THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$2,400.00).

TOTAL AMOUNT: TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00)


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

APPROVALS:

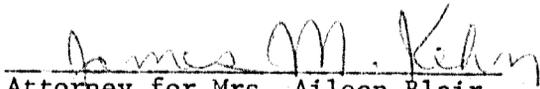
RICHARD D. GIBBON


Attorney for Milton Robinson
and Carlos Marrero Wilson

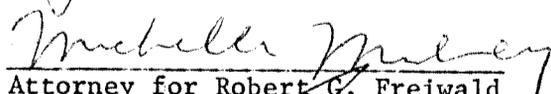
JOSEPH LAPAN


Attorney for Mr. Charles H.
Clark and Mrs. Jayne Clark

JAMES M. KEHN


Attorney for Mrs. Aileen Blair

MICHELLE MULVEY


Attorney for Robert G. Freiwald

RICHARD D. WAGNER


Attorney for the Plaintiff


ROBERT FREIWALD, IN PRO PER

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

GARY MOONEY,)
)
 Plaintiff,)
)
 vs.) No. 76-C-25-B
)
 BUCK MYERS, d/b/a BUCK MYERS)
 MOTOR COMPANY,)
)
 Defendant and)
 Third Party)
 Plaintiff,)
)
 vs.)
)
 JOPLIN AUTOMOBILE AUCTION)
 COMPANY, INC., a corporation,)
 RICHARD ABEL, an individual;)
 DEALERS' AUTO AUCTION, INC.,)
 a corporation; and DOENGES)
 BROS. FORD, INC., a corpor-)
 ation,)
)
 Third Party)
 Defendants.)

FILED
MAY 3 - 1977
Jack C. Silver, Clerk
U. S. DISTRICT COURT

STIPULATION OF DISMISSAL

COMES NOW Buck Myers d/b/a Buck Myers Motor Company Defendant and Third Party Plaintiff by and through his attorney of record, Mr. Harry A. Lentz, Jr., and Joplin Automobile Auction Company, Inc., a corporation and Dealers' Auto Auction, Inc., a corporation by and through their attorney of record, Mr. George Hooper and would stipulate that the Third Party Complaint as against said two Third Party Defendants, can be by stipulation of the parties, be dismissed as against the two said Defendants without prejudice.

WHEREFORE, premises considered, Buck Myers d/b/a Buck Myers Motor Company, Defendant and Third Party Plaintiff and Joplin Automobile Aucation Company, Inc., a corporation and Dealers' Auto Auction, Inc., a corporation make this motion to the Court to dimiss the Third Party Complaint as against the said two Defendants, without prejudice.

DATED this day of April, 1977.

- WORKS & LENTZ -

By: _____

HARRY A. LENTZ, JR.
Attorney for Buck Myers
d/b/a Buck Myers Motor Co.
201 West 5th Street
Tulsa, Oklahoma 74103
(918) 582-3191

GEORGE G. HOOPER
Attorney for Joplin Auto Auction
Company, Inc., a corporation and
Dealers' Auto Auction, a corporation
217 West 5th Street
Tulsa, Oklahoma 74103
(918) 582-3222

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

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

CIVIL ACTION NO. 77-C-100-B)

Articles of drug which are in the)
possession of Medical Products)
Systems, Inc., 2100 Patridge)
Road, Dewey, Oklahoma, consisting)
of the following:)

1,177 tablets, more or less, each)
tablet contained in a unit dose)
packet, labeled in part:)

(packet))

"SLOW K (KCL) 600 MG (8 MEQ) Fed.)
Law prohibits ***")

1,000 capsules, more or less, each)
capsule contained in a unit dose)
packet, labeled in part:)

(packet))

"LIBRAX Fed. Law prohibits ***")

447 tablets, more or less, each)
tablet contained in a unit dose)
packet, labeled in part:)

(packet))

"MOTRIN 400 MG (Ibuprofen) Fed.)
Law prohibits ***")

400 tablets, more or less, each)
tablet contained in a unit dose)
packet, labeled in part:)

(packet))

"POLARAMINE 6 MG ***")

underdetermined quantities of the)
aforesaid articles labeled and)
packaged as aforesaid;)

and undetermined quantities of)
drugs which have been repacked)
at the establishment of Medical)
Products Systems, Inc., 2100)
Patridge Road, Dewey, Oklahoma)
from bulk drugs that have been)
shipped in interstate commerce,)

Defendant.)

FILED
IN OPEN COURT

MAY 3 1977

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

O R D E R

NOW on this 3rd day of ~~April~~ ^{May}, 1977, there came on for consideration the Motion of the United States to abate the Temporary Restraining Order entered herein on March 18, 1977, and continued thereafter by Order dated March 23, 1977. The Court finds said Motion is well taken.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that the Temporary Restraining Order previously entered herein be and the same is hereby abated and dissolved.


CHIEF UNITED STATES DISTRICT JUDGE

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

HENRY A. RUTTER,)
c/o Hydro Hoist Company)
820 West 10th Street)
Claremore, Oklahoma 74017)

Plaintiff,)

v.)

BARNEY V. WILLIAMS,)
418 "C" Southwest Street)
Miami, Oklahoma 74354)

Defendant.)

Civil Action No. 72-C-347

FILED

MAY 02 1977 *hw*

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

JUDGMENT AND ORDER

The mandate of the Court of Appeals for the Tenth Circuit having been handed down, no further appeal having been lodged, and the time for further appeal having lapsed, it is hereby ordered and adjudged:

1. This Court has jurisdiction of the subject matter of this suit and the parties hereto.
2. The Plaintiff, Henry A. Rutter, is the owner of the entire right, title and interest in and to United States Letters Patent No. Re. 27,090.
3. Claims 1 and 2 of United States Letters Patent No. Re. 27,090 are invalid.
4. Costs are taxed to the Plaintiff, which costs have been satisfied.

Signed and entered this 2 day of May, 1977.

Fred Daugherty
Fred Daugherty
United States District Judge

APPROVED AS TO FORM:

William S. Dorman
William S. Dorman
Attorney for Plaintiff

Paul H. Johnson
Paul H. Johnson
Attorney for Defendant

IEU:slb
4/9/77

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

H. C. PRODUCTS COMPANY,)	
a corporation,)	
)	
Plaintiff,)	Civil Action
)	
vs.)	No. 76-C-616-B ✓
)	
GLIDEWELL'S DISTRIBUTING, INC.,)	
a corporation,)	
)	
Defendant.)	

FILED

MAY - 2 1977 *μ*

ORDER DISMISSING ACTION WITH PREJUDICE

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

NOW, on this 2nd day of May, 1977, there having been presented to the undersigned Chief U. S. District Judge for the Northern District of Oklahoma the joint application filed herein by the Plaintiff and Defendant seeking an Order dismissing the above styled and numbered matter with prejudice, and the Court having considered the same and being well and sufficiently advised in the premises finds that said Order should issue, in that all of the matters involved herein have been fully compromised and settled to the satisfaction of all of the parties involved.

IT IS THEREFORE ORDERED BY THIS COURT that the above styled and numbered matter be, and the same is hereby ordered dismissed with prejudice.

Allen E. Brown
Chief U. S. District Judge

APPROVED:
Irvine E. Ungerman
Irvine E. Ungerman,
Attorney for Plaintiff

Bland Williamson
Bland Williamson,
Attorney for Defendant

LAW OFFICES
UNGERMAN,
UNGERMAN,
MARVIN,
WEINSTEIN &
GLASS

SIXTH FLOOR
WRIGHT BUILDING
TULSA, OKLAHOMA

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

LEO GASTON SIMONDS,)
)
Plaintiff,)
)
vs)
)
LOUIS CUMMINGS, JOHN DOE)
and SAFEWAY STORES, INC.,)
)
Defendants.)

NO. 76-C-39 - B[✓]

FILED

MAY - 2 1977 K

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

ORDER OF DISMISSAL WITH PREJUDICE

WHEREAS, the parties have stipulated that all questions and issues existing between the parties have been fully and completely disposed of by settlement, and have requested the entrance of an order of dismissal with prejudice.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the cause should be and the same is hereby dismissed with prejudice and the matter fully, finally and completely disposed of hereby.

DATED this ^{May} ~~2nd~~ day of ~~April~~, 1977.

Cecilia E. Barrow
UNITED STATES DISTRICT JUDGE

APPROVED:

Joe Sam Vassar
Joe Sam Vassar
Attorney for Plaintiff

Richard Carpenter
Richard Carpenter
Attorney for Defendant

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

N-REN CORPORATION, a Delaware Corporation, CHEROKEE NITROGEN DIVISION,
Plaintiff,
vs.
WORLD WIDE CONSTRUCTION SERVICES, INC., a Kansas Corporation,
Defendant,

FILED

MAY - 2 1977

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

No. 76-C-506

ORDER OF DISMISSAL

The Plaintiff, N-Ren Corporation, Cherokee Nitrogen Division, and Defendant, World Wide Construction Services, Inc., having filed their Stipulation for Dismissal with prejudice herein on the 25th day of April, 1977, wherein it was stipulated that the above action be dismissed with prejudice with each of the parties to bear its own costs.

BE IT THEREFORE ORDERED that the actions as alleged ^{of action and complaint} in said cause be dismissed with prejudice and that each party bear its own costs.

Dated This 2nd day of May, 1977.

Allen E. Brown

U. S. DISTRICT JUDGE

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

FILED

T & W INVESTMENT COMPANY, INC.,)
an Oklahoma corporation,)

MAY - 2 1977

Plaintiff,)

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

vs.)

No. 76-C-594-C

THOMAS KURTZ and AETNA)
CASUALTY AND SURETY COMPANY,)

Defendants.)

ORDER

The application of the plaintiff to dismiss the defendant, Aetna Casualty and Surety Company, without prejudice is sustained.

NOW, THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED by the Court that the application of the plaintiff, T & W Investment Company, Inc., an Oklahoma corporation, to dismiss the defendant, Aetna Casualty and Surety Company, be and the same is hereby sustained and Aetna Casualty and Surety Company is hereby and by these presents dismissed as a party defendant in this action without prejudice.

Dated this 23rd day of March, 1977.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

David H. Sanders
Attorney for Plaintiff.

Attorney for Aetna Casualty and
Surety Company.

meet the requirements of the law and your claim must be denied."

3. On May 14, 1974, plaintiff filed a "Request for Reconsideration". (Exhibit 3).

4. On June 24, 1974, a "Notice of Proposed Reconsideration Determination" was issued wherein plaintiff was once again denied black lung benefits. (Exhibit 5)

5. On September 12, 1975, a hearing was had on plaintiff's claim before an Administrative Law Judge.

6. On November 13, 1975, the Administrative Law Judge rendered a decision, denying plaintiff benefits.

7. On February 25, 1976, the Appeals Council rendered its decision, determining that the decision of the Administrative Law Judge was correct.

8. This action was commenced on March 23, 1976.

9. Plaintiff was born July 22, 1910 and has an eighth grade education. He is married. He is presently receiving Social Security Administration Disability Insurance Benefits.

10. Documentary evidence submitted reveals that plaintiff was in coal mining employment from 1934 through 1946. He was an underground miner.

11. In 1946 plaintiff was employed by Patterson Steel Company and worked for such employer through November 13, 1970, when he was found to be totally disabled. He was a spray painter and so worked for some 24 years.

12. The only testimony in the record as to any lung disorder while plaintiff was employed in the coal mines was that of his wife, who testified that plaintiff first complained of chest pains prior to leaving the mines in Kentucky. She testified that he coughed considerably and that his problem progressed to his present condition.

13. The continuation sheet for disability determination dated March 11, 1971 (Exhibit 6) stated in part:

"Wage earner had lung surgery for tumor about 15 years ago, doctor thought possibly due to fungus infection in childhood.***"

The report went on to say:

"This 60-year old wage earner alleges disability due to numerous impairments. Medical information reveals weakness, tremor of upper extremities, dizzy spells. Text showed slowing of circulation and arteriosclerotic disease. EEG abnormal. X-rays revealed advanced arthritis of hips and knees. Lab. studies were abnormal. Recent examination showed additional impairments of possible cerebral vascular insufficiency, early Parkinsonism, diverticulosis of colon. ***."

The report concluded with the following statement:

"***Due to his age and significant impairments, wage earner is found under a disability as alleged. Condition is expected to last 12 months or longer."

14. Exhibit 8 is a copy of Report of Disability Interview dated January 12, 1971. The following statement is found:

"Claimant had lung surgery for lung tumor about 15 years ago. Doctor thought possibly due to fungus infection in childhood. Also treated for lead poisoning before surgery could be performed. ***."

15. Exhibit 12 is a copy of a Hillcrest Medical Center, Department of Pathology report, signed by Dr. Charles E. Wilbanks, and dated December 3, 1958. In that report the present illness was described as follows:

"This 49 year old white man who is a spray painter in a steel company was well until about 2 months ago, at which time he began to feel run down and just did not feel good in general. He also developed a cough which has persisted for the past 2 months. He describes this cough as a dry cough and non-productive. ***."

The pathology report indicated the diagnosis was "tumor, right lung, also possible lead poisoning."

16. Exhibit 13 is a copy of a report from Glass-Nelson Clinic, dated October 22, 1970, to Patterson Steel Company. The past medical history is noted as follows:

"He had a granuloma removed from his right lung in 1961 at Hillcrest Medical Center. He had a left inguinal herniorrhaphy 25 years ago. ***."

The impression delineated in said report is as follows:

"1. Generalized arteriosclerosis. His peripheral vascular disease is causing approximately 25% impairment of the whole man, according to the Guide to the Evaluation of Permanent Impairment of the Cardiovascular System, published by the Committee on Medical Rating of Physical Impairment and The Journal of the American Medical Association, March 5, 1960.

"2. Nephrosclerosis is suspected because of the increase in the BUN. The renal impairment, plus the impairment mentioned above, would amount to a 33% permanent impairment of the whole man. This figure is based on Guide to the Evaluation of Permanent Impairment of the Urinary System, also published by the Committee on Medical Rating of Physical Impairment. This was published in November, 1967, in The Journal of the American Medical Association.

"3. Advanced osteoarthritis of hips and knees.

"4. Weakly reactive VDRL. FTA pending.

"Benign prostatic hypertrophy."

17. Exhibit 15 is a copy of the Hillcrest Medical Center records, dated November 16, 1970. The Discharge Summary indicates the following diagnosis:

"Possibility of cerebral vascular insufficiency.

"Arthritis of the spine and feet.

"Possible early Parkinsonism.

"Diverticulosis of the colon."

18. A report to Patterson Steel Company from Glass-Nelson Clinic, dated January 26, 1971 (Exhibit 18) states, in pertinent part:

"It is the opinion of, we, in the clinic, who have examined the patient that he is 100% disabled as far as pursuing any type of gainful employment. We further feel that this disability results from progressive debilitating disease, particularly arthritis and arteriosclerosis, and is not due to any specific injury."

19. Exhibit 22 is Examination Authorization--Black Lung Benefit Case, signed by Dr. Walter E. Brown, Glass-Nelson Clinic, dated December 6, 1973, which contains this comment:

"There is no x-ray evidence of pneumoconiosis. Old resection of 6th rib on right side noted. Thickened pleural folds are evident in the lower half of the right lung field. There is no indication of any recently active pulmonary disease."

20. Exhibit 28 is a copy of a medical report of Dr. Joe Burge, M.D., dated September 5, 1975, written to plaintiff's attorney. It states:

"At your request, I have reviewed and re-reviewed Mr. Honeycutt's chart on several separate occasions, going over his more recent as well as the distant medical history. I think it very evident that I'd be unable to give a good history of the patient's capabilities from my own personal observation because when first seen by me the patient had stroked and suffered disabling features associated with this. However, historically, he has, according to his wife, worked in the mines some fifteen plus years and has had respiratory problems for an undetermined but prolonged period of time. I think the most striking feature supporting this, is that he had lung pathology in 1963 warranting further searching of his respiratory capabilities and a lung biopsy taken at that time. It is a matter of record that this came back as a granulomatous or histoplasmatic inflammatory disease with no mention of peripheral lung pathology. My information on the patient's respiratory system is that he initially and more recently had frequent respiratory flareups and that pulmonary function studies have shown progressive degeneration in his respiratory functions. The cause would be a matter of judgement(sic).

"With the past history and personal desire to give the patient the benefit of the doubt, I am committed to the supposition that he is a victim of his previous mine experience, i.e., black lung disease. I am further of the opinion that the patient's physical and medical status would make his appearance as a witness, essentially without meaning. He is extremely emotionally liable and forgetful."

Attached to this exhibit is a copy of pulmonary function study evidently performed at Hillcrest Medical Center on 11/22/74, which reflects "pneumonia" and the following comments: "Severe Pulmonary restriction. Mild Pulmonary obstruction. Compared to spirogram done 11-19-70, there has been some diminution in the patient's pulmonary function studies."

21. Exhibit 29 is a Black Lung Reporting Ventilatory Function Tests, dated August 25, 1975, reflecting Vital Capacity, total 2.325 and Vital Capacity, 1 sec. 1.375". Dyspnoca is noted as "severe" and cooperation as "good"

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Court makes the following Conclusions of Law.

1. This Court has jurisdiction of the subject matter of this litigation and the parties, pursuant to §415(b) of the

Federal Coal Mine Health and Safety Act, as amended 20 U.S.C. §923, § 410.670a of the Social Security Administration Regulations No. 10 (20 C.F.R. 410.670a), and §422.210 of the Social Security Administration Regulations No. 22 (20 C.F.R. 422.10).

2. 20 C.F.R. §410.426(a) provides, in pertinent part:

"Pneumoconiosis which constitutes neither an impairment listed in the appendix to this subpart (see §410.424) nor the medical equivalent thereof, shall nevertheless be found totally disabling if because of the severity of such impairment, the miner is (or was) not only unable to do his previous coal mine work, but also cannot (or could not), considering his age, his education, and work experience, engage in any other kind of comparable and gainful work (see §410.412(a)(1)) available to him in the immediate area of his residence. A miner shall be determined to be under a disability only if his pneumoconiosis is (or was) the primary reason for his inability to engage in such comparable and gainful work. Medical impairments other than pneumoconiosis may not be considered.***."

3. 20 C.F.R. §410.90 provides, in pertinent part:

"(a) Basis for rules. In enacting the Black Lung Act of 1972, the Congress noted that adjudication of the large backlog of claims generated by the earlier law could not await the establishment of facilities and development of medical tests not presently available to evaluate disability due to pneumoconiosis, and that such claims must be handled under present circumstances in the light of limited medical resources and techniques. Accordingly, the Congress stated its expectancy that the Secretary would adopt such interim evidentiary rules and disability evaluation criteria as would permit prompt and vigorous processing of the large backlog of claims consistent with the language and intent of the 1972 amendments and that such rules and criteria would give full consideration to the combined employment handicap of the disease and age and provide for the adjudication of claims on the basis of medical evidence other than physical performance tests when it is not feasible to provide such tests. ***."

The criteria (interim) set up was:

"(b) Interim presumption. With respect to a miner who files a claim for benefits before July 1, 1973, and with respect to ***, such miner will be presumed to be totally disabled due to pneumoconiosis, ***, if:

"(1) One of the following medical requirements is met:

(i) A chest roentgenogram (x-ray), biopsy, or autopsy establishes the existence of pneumoconiosis ***; or

(ii) In the case of a miner employed for at least 15 years in underground or comparable coal mine employment, ventilatory studies establish the presence of a chronic respiratory or pulmonary disease ***."

4. 20 C.F.R. §410.412 defines total disability, in pertinent part as follows:

"(a) A miner shall be considered totally disabled due to pneumoconiosis if:

"(1) His pneumoconiosis prevents him from engaging in gainful work in the immediate area of his residence requiring the skills and abilities comparable to those of any work in a mine or mines in which he previously engaged with some regularity and over a substantial period of time ***; and

"(2) His impairment can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months."

5. The Administrative Law Judge correctly summarized the regulations under the permanent criteria (Sections 410.412 through 410.462, as follows:

(1) be suffering from a chronic dust disease of the lung which is diagnosed as 'complicated pneumoconiosis' or;

(2) either establish to existence of pneumoconiosis (by x-ray, or biopsy), or, where a miner has a respiratory or pulmonary impairment (presumed to be pneumoconiosis), demonstrate on the basis of specified values from pulmonary function tests; or

(3) establish through other relevant evidence the existence of a totally disabling chronic respiratory or pulmonary impairment that arose out of employment in a coal mine. Other relevant evidence includes medical tests such as blood gas studies, electrocardiogram, pulmonary function studies, or physical performance tests, and medical history, statements of the miner's physician, affidavits, and other supportive material.

6. The Administrative Law Judge found:

"Under the circumstances here present, and after a careful review of all the evidence, it cannot be found that the decedent(sic) is suffering from pneumoconiosis or chronic lung disease which is totally disabling to him as a result of coal mine employment. Intervening employment of 24 years as a spray painter between the date of the claimant's last coal mine employment and his disability must be considered as a contributing factor to his disability.

"The permanent criteria includes consideration of the severity of a claimant's impairments in the light of his age, education, and previous work experience. While a miner may be precluded from coal mine employment because of his age, the regulations require he be precluded primarily because of pneumoconiosis. "

7. As stated in *Tinkey v. Weinberger*, 391 F.Supp. 264 (USDC W.D.Pa., 1975) the roll of this Court is to determine whether substantial evidence exists to support the Secretary's decision. If substantial evidence exists supporting the denial of disability benefits, the Secretary's determination must be affirmed. *Gentile v. Finch*, 423 F.2d 244 (3rd Cir., 1970). Substantial evidence is more than a scintilla and must do more than create a suspicion of the fact to be established. *Richardson v. Pearles*, 402 U.S. 389 (1971).

8. Based on a review of the record as a whole, the Court is contrained to conclude that substantial evidence to support the decision of the Secretary exists.

9. Therefore, judgment should be entered in favor of the defendant and against the plaintiff.

ENTERED this 2nd day of May, 1977.

Cecilia E. Barrow

CHIEF UNITED STATES DISTRICT JUDGE

FILED

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

MAY 2 1977

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

CITY OF LAMAR, MISSOURI,)
AND CITY OF FULTON, MISSOURI,)
)
) Plaintiffs,)
)
) v.)
)
CECIL D. ANDRUS, et al.,)
)
) Defendants.)

Civil Action Nos.
75-C-216-C
76-C-374-C

ORDER DISMISSING PROCEEDINGS

The parties to this proceeding having held a settle-
ment conference on March 25, 1977 and having agreed to a
"Stipulation of Settlement" which has been filed herein, is
attached hereto and is incorporated in this Order by reference,
and having jointly moved the Court for an Order dismissing
these proceedings; and the Court being fully advised in the
premissis; now, therefore, it is hereby:

ORDERED, that, pursuant to the attached "Stipulation of
Settlement": (1) the said Stipulation is incorporated herein and
made a part hereof; and (2) these proceedings be, and the same
hereby are, dismissed, with prejudice; and (3) the escrow
fund in this proceeding be, and the same hereby is, paid over
to the defendant Southwestern Power Administration, as provided
in the Stipulation; and (4) the City of Lamar shall pay the add-
itional sums set forth in the Stipulation to the Southwestern
Power Administration in accordance with the provisions of that
Stipulation.

W. Dale Book

UNITED STATES DISTRICT COURT JUDGE

DONE and ORDERED this 2nd day of May, 1977.

Agreed

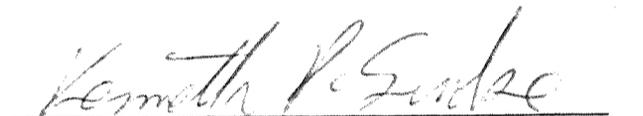

CHARLES F. WHEATLEY, JR.


JAY GALT

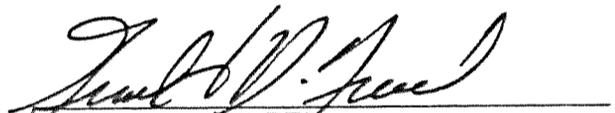
Attorneys for Plaintiffs

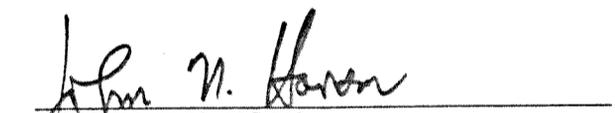

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