

F I L E D

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

AUG 31 1981

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

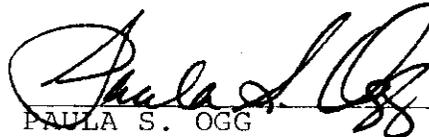
RUBY REVELS, et al.,)	
)	
Plaintiff,)	
)	
vs.	)	CIVIL ACTION NO. 80-C-181-E
)	
VERNON MANOR APARTMENTS,)	
STEPHEN MOSES,)	
MOON LANDRIEU, et al.,)	
)	
Defendants.)	

STIPULATION OF DISMISSAL

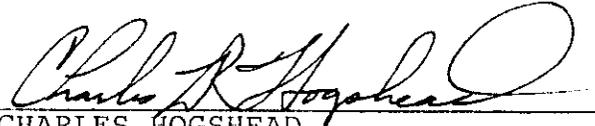
COMES NOW the parties through their attorneys Paula S. Ogg, Charles Hogshead, and Graydon D. Luthey, Jr. and stipulate and agree that this action is hereby dismissed, without prejudice.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney



PAULA S. OGG
Assistant United States Attorney

By 

CHARLES HOGSHEAD
Legal Services of Eastern Oklahoma, Inc.
20 East 5th, Suite 604
Tulsa, OK 74103

By 

GRAYDON D. LUTHEY, JR.
Jones, Givens, Gotcher, Doyle &
Bogan, Inc.
201 West Fifth, Suite 400
Tulsa, OK 74103

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

LOUIE G. ROSS,)
)
 Plaintiff,)
)
 v.) No. 78-C-123-C
)
 RICHARD S. SCHWEIKER, JR.)
 Secretary of Health and)
 Human Services,)
)
 Defendant.)

FILED
AUG 28 1981

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

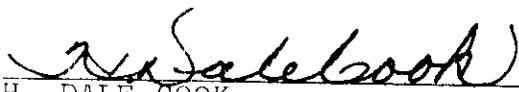
J U D G M E N T

The Court has before it for consideration the Findings and Recommendations of the Magistrate filed on August 12, 1981, in which it is recommended that Plaintiff is not entitled to benefits under the Social Security Act and that Judgment be entered for the Defendant. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the matters presented to it, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

It is hereby Ordered that Judgment be and hereby is entered for the Defendant.

Dated this 28th day of August, 1981.


H. DALE COOK
CHIEF JUDGE

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

FILED

ERNEST E. CIULOW, Jr.,
Plaintiff,
vs.
UNITED STATES OF AMERICA EX REL
VETERANS ADMINISTRATION,
Defendant.

AUG 28 1981

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

Case No. 78-C-234-C

O R D E R

The Court now considers the Application of Plaintiff Ernest E. Clulow, Jr., for leave of Court to dismiss this action against the Defendant United States of America ex rel Veterans Administration. Plaintiff cites Title 28 U.S.C.A. Sec. 351, as amended, previously unknown to Plaintiff, as apparently precluding Plaintiff from effective recovery of tort damages in this case, even if the case went to trial and Plaintiff obtained a judgment herein. This apparently involves the statutory right of the Veterans Administration to set off future payment 100% war-time service connected disability compensation payments against the amount of any tort judgment under the Federal Tort Claims Act, Title 28 U.S.C.A. Sec. 1346 (b).

For the foregoing reasons, it is hereby ORDERED that Plaintiff's Application be granted and that the action against the Defendant United States of America ex rel Veterans Administration be and the same is hereby dismissed with prejudice to the right of the Plaintiff to file the same again.

IT IS SO ORDERED this 28th day of August, 1981.


H. Dale Cook
Chief Judge, U.S. District Court

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

H. J. MAXEY,)
)
 Plaintiff,)
)
 -vs-)
)
 BOARD OF GOVERNORS OF THE)
 REGISTERED DENTISTS OF)
 OKLAHOMA, L. E. LONG, and)
 JAMES E. POE,)
)
 Defendant.)

81-C-345-B

FILED
AUG 28 1981

Jack N. Silver, Jr.
U. S. DISTRICT COURT

NOTICE OF DISMISSAL WITHOUT PREJUDICE

TO: THE BOARD OF GOVERNORS OF THE REGISTERED
DENTISTS OF OKLAHOMA, L. E. LONG AND
JAMES E. POE

Notice is hereby given that H. J. MAXEY elects to
dismiss without prejudice so much of the above-entitled action
as alleges violation of the Clayton Act and Sherman Act, such
dismissal being made pursuant to Rule 41(a)(1) of the Federal
Rules of Civil Procedure before service by the adverse parties
of either Answers or Motions for Summary Judgment.

DATED August 28, 1981.

ALLIS & VANDIVORT, INC.

By 
THOMAS S. VANDIVORT
Attorneys for Plaintiff

Certificate of Mailing

28 I, the undersigned, hereby certify that on this
day of August, 1981, I placed in the United States Mail,
postage prepaid, a true and correct copy of the above and
foregoing Notice of Dismissal Without Prejudice addressed to all
Defendants named herein.


THOMAS S. VANDIVORT

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

FILED

AUG 26 1981

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

RAY SMITH,)
)
Plaintiff,)
)
vs.)
)
ASPEN OIL, INC.,)
a Kansas corporation,)
)
Defendant.)

No. 81-C-115-E

ORDER OF DISMISSAL

On this 26th day of August, 1981, upon the written application of the parties for a Dismissal with Prejudice of the Complaint as to any and all causes of action alleged by the Plaintiff, Ray Smith, against the Defendant, Aspen Oil., Inc., the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff Ray Smith filed herein against the Defendant be and the same hereby is dismissed with prejudice to any future action.

131 W. Dale Cook for
JAMES O. ELLISON, DISTRICT JUDGE

APPROVED AS TO FORM:

RHEAM, NOSS & EVANS

By: Patrick O'Connor
Patrick O'Connor
1000 Thompson Bldg.
Tulsa, OK 74103

Attorneys for the Plaintiff

DOERNER, STUART, SAUNDERS, DANIEL & ANDERSON

By: Richard P. Hix
Richard P. Hix
Cynthia S. Grosse
1200 Atlas Life Building
Tulsa, OK 74103
(918) 582-1211

Attorneys for Defendant

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

F 1 L 11 11
AUG 26 1981

PAT O'HARA,
an individual,

Plaintiff,

vs.

HARRY BECKO and G. W. POLLARD,
individuals d/b/a BECKO
POLLARD OIL COMPANY,

Defendants.

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

No. 80-C-504-E

STIPULATION FOR DISMISSAL
WITH PREJUDICE

Plaintiff, Pat O'Hara, and Defendants, Harry Becko and G. W. Pollard, Jr., individuals d/b/a Becko Pollard Oil Company, hereby stipulate that the claims of the respective Plaintiff and Defendants in captioned matter may be dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure.

It is so stipulated this 24 day of July, 1981.

FELDMAN, HALL, FRANDEN AND WOODARD

By: Joseph R. Farris
Joseph R. Farris
Attorneys for Pat O'Hara
816 Enterprise Building
Tulsa, Oklahoma 74103
(918) 583-7129

SNEED, LANG, ADAMS,
HAMILTON, DOWNIE & BARNETT
By: James C. Lang
James C. Lang
Attorneys for Defendants
Fourth Floor
Six East Fifth Street
Tulsa, Oklahoma 74103

APPROVED:

James O. Ellison
UNITED STATES DISTRICT JUDGE
James O. Ellison

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA AUG 26 1981

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

RUSSELL L. BILBY,
an individual,

Plaintiff,

vs.

HARRY BECKO and G. W. POLLARD,
individuals d/b/a BECKO
POLLARD OIL COMPANY,

Defendants.

No. C-80-414-E

STIPULATION FOR DISMISSAL
WITH PREJUDICE

Plaintiff, Russell Bilby, and Defendants, Harry Becko and G. W. Pollard, Jr., individuals d/b/a Becko Pollard Oil Company, hereby stipulate that the claims of the respective Plaintiff and Defendants in captioned matter may be dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure.

It is so stipulated this 2 day of July, 1981.

BLACKSTOCK, JOYCE, POLLARD,
BLACKSTOCK & MONTGOMERY

By: Philip S. Haney
Philip S. Haney
Attorneys for Russell L. Bilby
515 South Main
Tulsa, Oklahoma 74103

SNEED, LANG, ADAMS,
HAMILTON, DOWNIE & BARNETT

By: James C. Lang
James C. Lang
Attorneys for Defendants
Fourth Floor
Six East Fifth Street
Tulsa, Oklahoma 74103

APPROVED:

151 H. Dale Cook for
UNITED STATES DISTRICT JUDGE

James O. Ellison

F I L E

AUG 26 1981

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

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

JOE KINNARD,)
)
)
Plaintiff)
)
vs.)
)
JAMES S. TODD, III,)
)
)
Defendant)

CIVIL ACTION
NO. 81-C-84-E

ORDER

NOW on this 14th day of August, 1981, this matter coming on for pre-trial conference, pursuant to previous order of this Honorable United States District Court, and counsel for the defendant being present but counsel for the plaintiff not being present, the Court thereupon considers the "Motion To Dismiss For Want of Prosecution" as filed instanter by defendant; premises considered, and after hearing argument of counsel for the defendant, the Court is of the opinion that such motion is well-taken and that same should be sustained; it is therefore, accordingly.

ORDERED, ADJUDGED AND DECREED that the cause of plaintiff be and it hereby is DISMISSED WITH PREJUDICE for failure to prosecute and for failure to obey order of this Court. Costs shall be taxed to plaintiff.

Dated this ²⁶26 day of August, 1981.

James O. Ellison
United States District Judge
James O. Ellison

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

FILED

AUG 26 1981

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

JOHN T. FORSYTHE and)
SHIRLEY FORSYTHE,)
)
Plaintiffs,)
)
vs.)
)
HARRY BECKO and G. W. POLLARD,)
individuals d/b/a BECKO)
POLLARD OIL COMPANY,)
)
Defendants.)

No. 81-C-87-E

STIPULATION FOR DISMISSAL
WITH PREJUDICE

Plaintiffs, John T. Forsythe and Shirley Forsythe, and Defendants, Harry Becko and G. W. Pollard, Jr., individuals d/b/a Becko Pollard Oil Company, hereby stipulate that the claims of the respective Plaintiff and Defendants in captioned matter may be dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure.

It is so stipulated this 2d day of July, 1981.

FELDMAN, HALL, FRANDEN & WOODARD

By: Joseph R. Farris
Joseph R. Farris
Attorneys for John T. Forsythe
and Shirley Forsythe
816 Enterprise Building
Tulsa, Oklahoma 74103
(918) 583-7129

SNEED, LANG, ADAMS,
HAMILTON, DOWNIE & BARNETT

By: James C. Lang
James C. Lang
Attorneys for Defendants
Fourth Floor
Six East Fifth Street
Tulsa, Oklahoma 74103

APPROVED:

151 H. Dale Cook for
UNITED STATES DISTRICT JUDGE
James O. Ellison

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

FILED

AUG 26 1981

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

DARRELL McDANIEL,)
)
Plaintiff,) Case No. 81-C-171-B
)
and)
)
CLIFFORD KUB,)
)
Plaintiff,) Case No. 81-C-172-B
)
and)
)
WAYNE LESTER,)
)
Plaintiff,) Case No. 81-C-173-B
)
vs.)
)
UIP ENGINEERED PRODUCTS)
CORPORATION, a foreign)
Corporation,)
)
Defendant.)

O R D E R

COME NOW before me the undersigned Judge the applications of the parties in the above referenced cases to consolidate the above named cases for trial. The Court, being fully advised in the premises, finds that the following order should issue:

IT IS ORDERED that the above styled cases be consolidated pursuant to Rule 42 (a) of the Federal Rules of Civil Procedure.

COME NOW before me, the undersigned Judge, the joint application of the parties to transfer the above consolidated cases to the Western District of Oklahoma pursuant to 28 U.S.C. § 1404. The Court, being fully advised in the premises, finds that the following order should issue:

IT IS ORDERED that the above consolidated cases be transferred pursuant to 28 U.S.C. § 1404 to the Western District of Oklahoma.

IT IS FURTHER ORDERED that, pursuant to the stipulations of the parties, all objections to venue in these actions are hereby waived.

Dated this 25th day of August, 1981.

Thomas A. Brett
THOMAS A. BRETT, JUDGE OF THE DISTRICT COURT

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

JOHN SWINFORD,)
)
 Plaintiff,)
)
 vs.)
)
 JERRY INMAN TRUCKING, INC.,)
)
 Defendant and Third-)
 Party Plaintiff,)
)
 vs.)
)
 GILVIN & TERRILL, INC., and)
 H. B. ZACHARY COMPANY,)
)
 Third-Party Defendants.)

FILED
AUG 26 1981
Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-550-E

O R D E R

The matter having come on for hearing on August 11, 1981, upon Plaintiff's Motion to Transfer, with the Court having heard the arguments of counsel and being fully advised in the premises finds that the Plaintiff's Motion and arguments in support thereof show good cause for the transfer of this case to the Northern District of Texas, Amarillo Division under 28 U.S.C. §1404 and that Defendant, Jerry Inman Trucking, Inc., does not object thereto and that the cause therefore should be transferred as requested in Plaintiff's Motion.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this cause be hereby transferred to the Northern District of Texas, Amarillo Division under 28 U.S.C. §1404 (a).

131 W. Dale Cook for
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

James O. Ellison

Arthur E. Rubin Esq.
Arthur E. Rubin, Attorney for Plaintiff
John Swinford

Donald Church
Donald Church, Attorney for Defendant,
Jerry Inman Trucking, Inc.

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

FILED

AUG 24 1981

O.A. BANDY,

Plaintiff,

vs.

WILLIAM J. REED and
DAVID R. HUGHES d/b/a
Hughes-Reed Petroleum Ltd.,

Defendants.

Jack ...
U. S. DISTRICT COURT

NO. 81-C-153-E

JUDGMENT AND DECREE

Upon the application of the Plaintiff herein, by and through his attorney of record, G. Lee Jackson, and under the provisions of Rule 55 (B) (1), the undersigned Clerk of the United States District Court For The Northern District of Oklahoma, based upon the application for Journal Entry of Judgment, and the Affidavit appended thereto, hereby enters a judgment by default to the Plaintiff herein against the Defendant, David R. Hughes, in the sum of Two Hundred Eighty Thousand Dollars (\$280,000) and for the cost herein expended by the said Plaintiff.

IT IS THEREFORE THE ORDER OF THIS COURT, that the Plaintiff herein recover from the Defendant, David R. Hughes, the sum of Two Hundred Eighty Thousand Dollars, (\$280,000), and costs of this action against the Defendant, David R. Hughes, for which let execution issue.



JAMES O. ELLISON,
JUDGE

DSB/cfn

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

AMERICAN FIDELITY FIRE INSURANCE)
COMPANY,)
)
Plaintiff,)
)
vs.)
)
KOA DRAKE COOK, BETTY COOK and)
GERY L. ALLEN,)
)
Defendants.)

No. 80-C-65-C ✓

FILED

AUG 24 1981 *je*

Jack C. Silver, Clerk

U.S. DISTRICT COURT

ORDER OF DISMISSAL AS TO DEFENDANT
GERY L. ALLEN

On this 24th day of August, 1981, the above entitled cause comes on upon the application and stipulation of the parties hereto for an Order of Dismissal of this cause and the Court having reviewed the application and stipulation and agreeing to the terms and conditions thereon hereby determines that the said application and stipulation should be accepted and the application sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the above entitled cause be dismissed.


H. Dale Cook
United States District Judge

NOTE: THIS ORDER IS TO BE MAILED BY MOVANT TO ALL COUNSEL AND PRO SE LITIGANTS IMMEDIATELY UPON RECEIPT.

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

PROFESSIONAL INVESTORS COR-)
PORATION, a Delaware corporation,)

Plaintiff,)

vs.)

No. 81-C-80-E

VICTOR PALMIERI AND COMPANY,)

INCORPORATED, a California cor-)

poration, FINANCIAL INDUSTRIES)

CORPORATION, an Ohio corporation,)

CLIFT C. LANE and DOROTHY P.)

LANE, individually, HOWARD)

McDOUGALL, ROBERT J. BAKER,)

THOMAS F. O'MALLEY, LORAN W.)

ROBBINS, EARL L. JENNINGS, JR.,)

HAROLD J. YATES, MARION M. WIN-)

STEAD and R.V. PULLIAM, SR., IN)

THEIR CAPACITIES AS THE TRUSTEES)

OF THE CENTRAL STATES, SOUTH-)

EAST AND SOUTHWEST AREAS PENSION)

FUND, a Trust Fund,)

Defendants.)

E I L E D

AUG 24 1981

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

ORDER AND JUDGMENT

This cause came on for hearing on the pending motions of the following parties on August 11, 1981. Plaintiff Professional Investors Corporation ("Professional") appeared by its attorneys James H. Beauchamp, E. Paul Ferguson, and Dale McDaniel, and Defendants Howard McDougall, Robert J. Baker, Thomas F. O'Malley, Loran W. Robbins, Earl L. Jennings, Jr., Harold J. Yates, Marion M. Winstead and R.V. Pulliam, Sr., in their capacities as the Trustees of the Central States, Southeast and Southwest Areas Pension Fund ("the Trustees") appeared by their attorneys John S. Athens and Keith P. Ellison. No other parties appeared either personally or through counsel.

The Court having reviewed and considered the pleadings, depositions, exhibits, affidavits, stipulation and briefs of the parties filed herein and having heard and considered the oral argument of counsel and having found that

there is no genuine issue of fact in this case and having concluded that the Trustees are entitled to judgment as a matter of law, it is hereby

ORDERED, that Professional's Motion for Summary Judgment be and it is hereby denied, and it is further

ORDERED, that the Trustees' Motion for Summary Judgment be and it is hereby in all respects granted, and it is further

ORDERED, that Professional's Motion to Amend Complaint be and it is hereby denied, and it is further

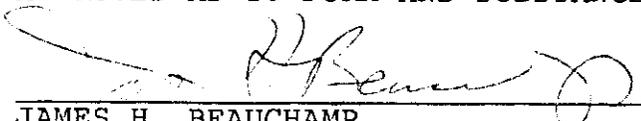
ORDERED, ADJUDGED AND DECREED that Professional's Complaint and action be and they are hereby dismissed on the merits.

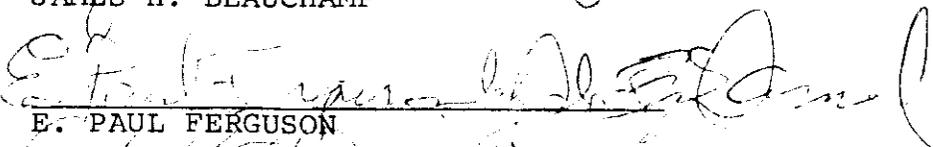
Dated this 21st day of August, 1981.

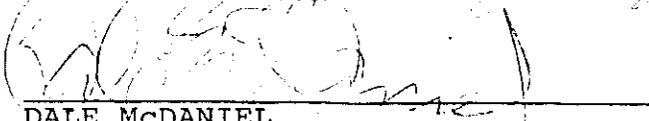
S/ JAMES O. ELLISON

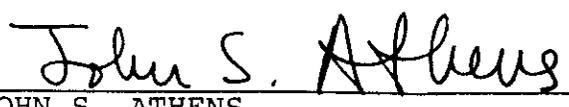
UNITED STATES DISTRICT COURT JUDGE

APPROVED AS TO FORM AND SUBSTANCE:


JAMES H. BEAUCHAMP


E. PAUL FERGUSON


DALE MCDANIEL
Attorneys for Plaintiff Professional
Investors Corporation


JOHN S. ATHENS


KEITH P. ELLISON
Attorneys for Defendant Trustees

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

BRETT M. HARRIS,)
)
 Plaintiff,)
)
 vs.) No. 81-C-49-C
)
 DAVE FAULKNER, Sheriff of)
 Tulsa County, and RAY HANNON,)
 JIM FRAZIER, and JAMES WADE,)
 Deputy Sheriffs of Tulsa)
 County,)
)
 Defendants.)

FILED
AUG 24 1981
Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Now before the Court for its consideration is the motion of the defendants Faulkner, Hannon, and Frazier to dismiss plaintiff's complaint. These defendants allege that the Court lacks jurisdiction over the subject matter of the complaint under Rule 12(b)(1) Fed.R.Civ.P. and because the complaint fails to state a claim upon which relief can be granted.

The plaintiff Harris brings this action against defendants Faulkner, Hannon, Frazier, and Wade pursuant to 42 U.S.C. §1983. Plaintiff alleges that he was subjected to cruel and unusual punishments in violation of the Eighth Amendment. In support of this claim, plaintiff alleges that during confinement as a pretrial detainee in the Tulsa County Jail from August 5, 1980 through October 9, 1980 he was on various occasions denied drinking water, bathroom facilities, such as a sink, toilet stool and shower; he had his shoes taken from him, his head was rammed into a wall, and he was threatened with a straight jacket by jail officials. In addition, he was allegedly physically and verbally abused by defendants Hannon and Wade on November 30, 1980.

Defendants Frazier, Hannon and Faulkner allege that any limitations placed on plaintiff were directed toward the valid purposes of preservation of internal order and discipline in the

prison, and of protection of inmates from violence or the reasonable fear of violence. Defendants Faulkner, Hannon, and Frazier alleged that the plaintiff represented a chronic and substantial threat to the orderly function of the Tulsa County Jail, and that he exhibited frequent assaultive and self-abusive behavior, requiring severe limitations described by plaintiff and admitted by defendant.

As to plaintiff's claims of physical abuse, it is admitted that defendant Hannon used reasonable force to secure plaintiff in his cell on November 30, 1980, and it is alleged that such force was not administered in deliberately malicious, or unnecessary manner, nor has the plaintiff so claimed.

The Court has reviewed the Special Report prepared by the Department of Corrections, as well as all briefs and pleadings herein and concludes that the plaintiff has not suffered deprivation of constitutionally protected rights. Although a pretrial detainee is entitled to be free from any punishment, the effective management of the detention facility may justify deprivations or restrictions as to detainer, Bell v. Wolfish, 441 U.S. 520, 99 S.Ct. 1861, 60 L.Ed.2d 447 (1979). The defendants have established to the satisfaction of the Court that any restrictions applied to plaintiff were reasonable and necessary to the protection of the plaintiff and other prisoners. Feeley, et al., v. Sampson, et al., 570 F.2d 364, 371 (1st Cir. 1978). In addition, verbal threats or abuse are insufficient to establish a constitutional deprivation under §1983. Collins v. Cundy, 603 F.2d 285 (10th Cir. 1979). As to defendants' alleged use of force against plaintiff, plaintiff must show that prison officials intentionally inflicted excessive or grossly severe punishment on him or knowingly maintained conditions so harsh as to shock the general conscience. Gutierrez v. Dept. of Public Safety, 414 U.S. 1146, 94 S.Ct. 900, 39 L.Ed.2d 102 (1974). No such punishment has been shown by plaintiff herein.

The Court authorized commencement of this action in forma pauperis under authority of 28 U.S.C. §1915. Subsection (d) of that statute permits the dismissal of a case when the court is satisfied that the action is frivolous. Moreover, both the Supreme Court and the Tenth Circuit Court of Appeals have held that federal jurisdiction does not lie where a purported civil rights claim is simply unsubstantial. Hagans v. Lavine, 415 U.S. 528, 536 (1973); Wells v. Ward, 470 F.2d 1185, 1187 (10th Cir. 1972).

In view of its holding that the plaintiff has suffered no deprivation of rights constitutionally protected, the Court concludes that this action is frivolous and that plaintiff's claim is unsubstantial. Accordingly, this action is, in all respects, dismissed.

It is so Ordered this 24th day of August, 1981.


H. DALE COOK
Chief Judge, U. S. District Court

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

KIRBY J. THOMPSON)
)
 Plaintiff)
)
 vs.)
)
 STATE FARM FIRE AND CASUALTY)
 COMPANY, a Corporation)
)
 Defendant)
)
 LLOYD PATE, Intervenor as)
)
 Intervening Plaintiff)

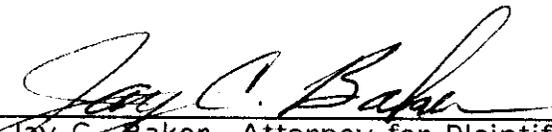
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No. 80-C-590-E AUG 20 1981

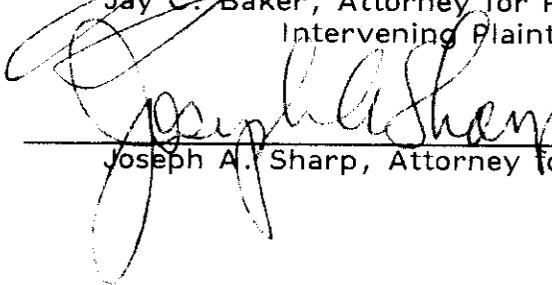
Jack C. Silver, Clerk
U. S. DISTRICT COURT

STIPULATION OF DISMISSAL WITH
PREJUDICE

Comes now the plaintiff, Kirby J. Thompson, and intervening plaintiff, Lloyd Pate, through their attorney, Jay C. Baker, and the defendant, State Farm Fire and Casualty Company, through its attorney, Joseph A. Sharp, and stipulate that the above captioned cause of action be dismissed with prejudice to filing a future action herein.



Jay C. Baker, Attorney for Plaintiff and
Intervening Plaintiff

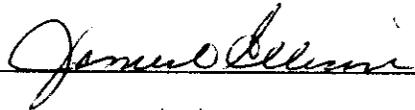


Joseph A. Sharp, Attorney for Defendant

ORDER

And now on this 21st day of August, 1981, there came on for consideration before the undersigned Judge of the United States District Court for the Northern District of Oklahoma, stipulation of the parties hereto of dismissal, parties hereto having advised the Court that all disputes between the parties have been settled.

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



Judge

FILED

AUG 24 1981

**Jack L. Suter, Clerk
U. S. DISTRICT COURT**

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

FILED

AUG 21 1981

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

MIDWEST PRECISION, INC.)

Plaintiff)

v.)

LaBARGE, INC.)

Defendant)

No. 80-C-608-E

ORDER OF DISMISSAL WITH PREJUDICE

Upon consideration of the Stipulation for Dismissal filed herein, it is hereby ordered that the above entitled action shall be, and it is hereby, dismissed with prejudice, each party to bear his own costs.

By: [Signature]

Judge

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

FILED

AUG 21 1981

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

FLORENCE E. RYDBERG,)
)
Plaintiff,)
)
vs.)
)
WALTER D. JACKSON,)
)
Defendant.)

NO. 80-C-283-E

ORDER OF DISMISSAL

ON This 20th day of August, 1981, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

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

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

APPROVALS:

C. B. SAVAGE

Attorney for Plaintiff,

ALFRED B. KNIGHT

Attorney for Defendant.

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

RELIANCE INSURANCE COMPANY,)
a Pennsylvania corporation,)
)
Plaintiff,)
)
vs.)
)
THERMAL-SHIELD, INC., a)
Kansas corporation, and)
PETE MOORE, d/b/a Moore)
Insulation Company,)
)
Defendants.)

No. 80-C-224-E ✓

FILED

AUG 21 1981 *dm*

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

DISMISSAL WITH PREJUDICE

Comes now the plaintiff in the above styled action and
does hereby dismiss its claim against Pete Moore, d/b/a Moore
Insulation Company, with prejudice for further action.

MALLOY & MALLOY, INC.

By *Pat Malloy*
Pat Malloy
Attorneys for Plaintiff
Reliance Insurance Company

810 Utica Bank Tower
1924 South Utica Avenue
Tulsa, Oklahoma 74104

APPROVED

Bill Pigman
Bill Pigman, Attorney for
Pete Moore, d/b/a Moore
Insulation Company

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 79-C-47-E

Donald D. Reimer and Gloria C. Reimer,
Plaintiffs,

vs.

Jefferson J. Baggett; B & D Trucking, Inc.,
and James A. Steelman, d/b/a Beacon Tire Service,
Defendants.

JUDGMENT

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

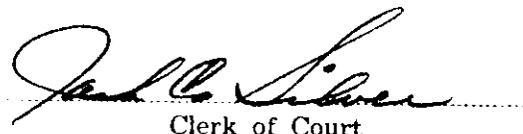
It is Ordered and Adjudged having found in favor of the Defendants, the Plaintiffs' take nothing.

FILED

AUG 21 1981

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

Dated at Tulsa, Oklahoma , this 21st day
of May , 19 81.


Clerk of Court

United States District Court

AUG 20 1981

FOR THE

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

NORTHERN DISTRICT OF OKLAHOMA

STEVE M. BRADSHAW and
ALICE J. BRADSHAW,
Plaintiffs,

CIVIL ACTION FILE NO. 80-C-733-BT

vs.

JUDGMENT

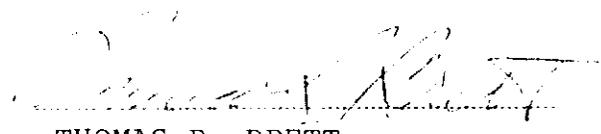
GULF OIL CORPORATION,
Defendant,

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

It is Ordered and Adjudged that the Plaintiffs, Steve M. Bradshaw and
Alice J. Bradshaw, are hereby awarded judgment in the sum of
\$15,000.00, with interest at 12% per annum with costs of this action.

Further, the Defendant, Gulf Oil Corporation is hereby granted judgment
against the Plaintiffs on the issue of punitive damages.

Dated at Tulsa, OK, this 20th day
of Aug., 1981.


THOMAS R. BRETT
U.S. District Judge

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) CIVIL NO. 81-C-401-E
)
PROFESSIONAL AIR TRAFFIC)
CONTROLLERS ORGANIZATION)
(PATCO), et al.,)
)
Defendants.)

FILED

AUG 22 1981

Jack [unclear]
U. S. DISTRICT COURT

NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney, Frank Keating, United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its intent to allow the Temporary Restraining Order to expire by its own terms, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure; and notice of its dismissal of this action, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, without prejudice to any future filing.

Dated this 20th day of August, 1981.

UNITED STATES OF AMERICA

[Signature]
FRANK KEATING
UNITED STATES ATTORNEY

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on counsel of record on the 20th day of August, 1981.

[Signature]
FRANK KEATING
United States Attorney

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

FILED

AUG 19 1981

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

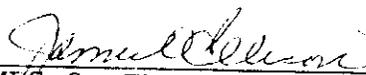
EEOC,)	
)	
Plaintiff,)	
)	
vs.	)	No. 76-C-253-E
)	
ST. LOUIS-SAN FRANCISCO)	
RAILWAY COMPANY,)	
)	
Defendant.)	

O R D E R

The Court has before it for consideration Defendant's application for attorney's fees and expenses. The Court entered Judgment in this case in favor of Defendant on May 7, 1980. Plaintiff served notice of appeal on July 25, 1980. Plaintiff pursued its appeal to the Tenth Circuit before this Court had entered any ruling on Defendant's application for attorney's fees. On June 16, 1981, the Circuit Court dismissed Plaintiff's appeal as premature holding that under its decision in Gurule v. Wilson, 635 F.2d 782 (Tenth Cir. 1980), the judgment rendered against Plaintiff was interlocutory since this Court had not yet entered its ruling on the attorney's fees issue.

On June 30, 1980, a hearing was held before this Court upon Defendant's application. After carefully considering the evidence, the briefs of the parties and the arguments of counsel, it is the Order of this Court that attorney's fees for the Defendant's contract attorneys be awarded in the amount of \$70,461.50 plus an additional \$1,516.50 fees for post-hearing services for a total of \$71,978.00 attorney's fees. The Court finds that the services rendered were reasonable and necessary for the defense of this action. The Court denies that portion of the application requesting \$17,700.45 for the salaried attorney, Mr. Rathman. The Court in addition to the attorney's fees hereby awards the sum of \$3,548.00 as reimbursement of Defendant's expenses.

It is so Ordered this 19th day of August, 1981.



 JAMES O. ELLISON
 UNITED STATES DISTRICT JUDGE

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

FILED
AUG 19 1981
Jack C. Silver, Clerk
U. S. DISTRICT COURT

LESLIE H. BRYCE,)
)
Plaintiff,)
)
vs.) Case No. 80-C-41-E
)
BONNEAU CO., INC.,)
)
Defendant.)

ORDER OF DISMISSAL

This cause having come before me pursuant to the Joint Stipulation for Dismissal With Prejudice, and the Court being fully advised in the premises, it is, therefore,

ORDERED, ADJUDGED AND DECREED that the Complaint herein, together with the causes of action set forth therein, be and hereby is dismissed with prejudice, with each party to bear its own costs.

So Ordered this 19th day of August, 1981.

S/ JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE

FILED
AUG 18 1981
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 LARRY G. ROWLAND,) CIVIL ACTION NO. 81-C-60-B
)
 Defendant.)

DEFAULT JUDGMENT

This matter comes on for consideration this 17th
day of August, 1981, the Plaintiff appearing by Philard L.
Rounds, Jr., Assistant United States Attorney for the Northern
District of Oklahoma, and the Defendant, Larry G. Rowland,
appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant, Larry G. Rowland, was
personally served with Summons and Complaint on March 18, 1981,
and that Defendant has failed to answer herein and that default
has been entered by the Clerk of this Court.

The Court further finds that the time within which
the Defendant could have answered or otherwise moved as to
the Complaint has expired, that the Defendant has not answered
or otherwise moved and that the time for the Defendant to answer
or otherwise move has not been extended, and that Plaintiff
is entitled to Judgment as a matter of law.

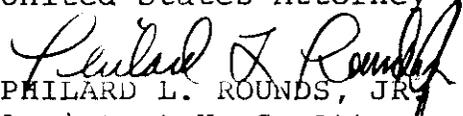
IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant,
Larry G. Rowland, for the principal sum of \$675.00 (less the
sum of \$50.00 which has been paid) plus the accrued interest
of \$342.91 as of January 15, 1981, plus interest at 7% from
January 15, 1981, on the principal sum of \$675.00 (less the
sum of \$50.00) until the date of Judgment, plus interest at

the legal rate on the principal sum of \$675.00 (less the sum of \$50.00) from the date of Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney


PHILARD L. ROUNDS, JR.
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 18 1981

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 KENNY D. ROWLEY,)
)
 Defendant.)

JUD. C. SILVER, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 80-C-519-B

DEFAULT JUDGMENT

This matter comes on for consideration this 17th day of August, 1981, the Plaintiff appearing by Philard L. Pounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Kenny D. Rowley, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Kenny D. Rowley, was personally served with Summons and Complaint on February 3, 1981, and that Defendant has failed to answer herein and that default has been entered by the Clerk of this Court.

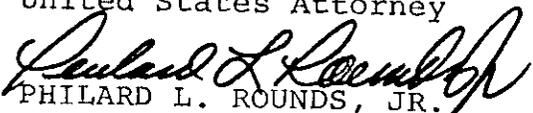
The Court further finds that the time within which the Defendant could have answered or otherwise moved as to the Complaint has expired, that the Defendant has not answered or otherwise moved and that the time for the Defendant to answer or otherwise move has not been extended, and that Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Kenny D. Rowley, for the principal sum of \$1,042.53 (less \$220.00 which has been paid) plus interest at the legal rate from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney


PHILARD L. ROUNDS, JR.
Assistant U. S. Attorney

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

ROBERT E. COTNER,

Plaintiff,

vs.

STATE OF OKLAHOMA, COUNTY OF
TULSA, CITY OF TULSA, et al.,

Defendants.

No. 81-C-199-B

FILED

AUG 18 1981

O R D E R

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

Plaintiff, Robert E. Cotner, having been granted leave to proceed in forma pauperis, prosecuted this action pro se. Although plaintiff cites a multitude of statutes in his Complaint, it appears he complains of alleged violation of his civil rights pursuant to 42 U.S.C. §1981, §1983, 28 U.S.C. §1331, §1334, §1361, §1651, §2201 et seq., and the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution as well as Article III, Section I of the United States Constitution.^{1/}

His Complaint is lodged against the State of Oklahoma; the County of Tulsa and the City of Tulsa.^{2/}

^{1/} The Court is of the opinion the various statutes cited by plaintiff in his Complaint are not relevant in this case and will only consider plaintiff's contentions under 42 U.S.C. §1983.

^{2/} Plaintiff has named the State of Oklahoma, County of Tulsa and City of Tulsa as defendants. However, in the body of the Complaint in identifying the defendants, he states:

"State of Oklahoma is responsible for the acts, and/or nonacts, of 'negligence' of their employees such as the O.S.B.I., Tulsa County Dist. Attorney, County/State Judges, and the Corrections Dept., as well as others.

"County of Tulsa is responsible for the acts, and/or nonacts, of 'negligence' of their employees such as the County Deputy Sheriffs, County Dist. Attorney, and others.

"City of Tulsa is responsible for the acts, and/or nonacts, of 'negligence' of their employees such as the City Organized Crime Unit, and Police Officers in General."

Plaintiff served the State of Oklahoma by serving the Attorney General; the County of Tulsa, by serving S.M. Fallis, Jr., District Attorney; and the City of Tulsa by serving the Mayor and the City Attorney.

Plaintiff contends:

(a) Defendants refused to act on information supplied them concerning certain murders and drug shipments and organized prostitution.

(b) Tulsa officers are guilty of aiding organized crime, of misconduct and malfeasance, intimidation of plaintiff and his witnesses, extortion of services and goods and money, attempted assault and battery upon the plaintiff, attempted murder of the plaintiff, perjury and subordination of perjury, harassing witnesses and jurors, bribery, failure to report a bribe, false arrest and imprisonment, malicious prosecution, negligence, racketeering and conspiracy.

(c) Officials have given false information to federal agencies.

(d) Officials gave statements of falsehoods to local news media from 1975 until 1981.

(e) Defendants have committed libel and slander against plaintiff.

(f) The State of Oklahoma refused to hire plaintiff in May of 1975 after he turned over his private investigatory files to them concerning Senators Gene Stipe and Gene Howard; they entered into a conspiracy by instructing underaged prostitutes and drug users to approach plaintiff and engage him in criminal activities. In 1979 defendants sent an undercover policewoman to convince plaintiff to be a "pimp" and/or to buy drugs. In 1979 defendants refused to stop the shipment of stolen military rifles to Tulsa.

(g) In 1976 defendants stole plaintiff's private investigatory files which showed several Tulsa Police Officers were involved in organized crime.

(h) In 1979 defendants stole plaintiff's private investigatory files on several Tulsa Police Officers, District Attorneys,

and area businessmen who were involved in organized crime, illegal drug shipments and sales and interstate prostitution [which information was to be given to the Texas Rangers].^{3/}

(i) All of the defendants have refused to permit plaintiff to appear in front of any grand juries.

The relief plaintiff requests is:

(a) A hearing to present his evidence in support of his Complaint.

(b) A court order allowing plaintiff to present his evidence, testimony, etc., to grand juries.

(c) Two Million Dollars from each defendant as compensation and/or punitive damages (Six Million Dollars total).

(d) An Order of the Court requiring defendants to correct incorrect records, publically retract false statements and to apologize to plaintiff.

(e) A jury trial on all issues.

The Court has for consideration the following Motions:

1. Motion to Dismiss of the State of Oklahoma;
2. Motion to Dismiss of the City of Tulsa; and
3. Motion to Dismiss of the County of Tulsa made by the Board of County Commissioners of the County of Tulsa.^{4/}

^{3/} In a responsive brief filed May 29, 1981 by plaintiff, he has attached an affidavit of one Ruth Moore concerning a search apparently made of her residence on September 13, 1979. In a Motion for Admission of Genuineness of Documents filed by plaintiff on July 10, 1981, he has attached copies of various documents dealing with a search warrant, etc., filed in a pending case in this Court, 80-C-500-E. There is no allegation in plaintiff's Complaint presently before the Court attacking any alleged constitutionally violative search.

^{4/} In a pleading filed by plaintiff on June 29, 1981, styled "Response to Defendants 'Filings' of 6/18/81", plaintiff states this case is not against the Tulsa County Commissioners, 'except in the event that this Court should rule them a partie(sic) through negligence."

In testing the validity of a Motion to Dismiss for failure to state a claim, F.R.Civ.P. 12(b)(6), the Court must assume the facts alleged in the Complaint are true. Dewell v. Lawson, 489 F.2d 877 (10th Cir. 1974).

In Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972), the Supreme Court, in considering a pro se Complaint, stated that less "stringent standards than formal pleadings drafted by lawyers" be applied when considering Motions to Dismiss. Additionally, F.R.Civ.P. 8(a) provides that pleadings are to be liberally construed.

A plaintiff's claim under §1983 must be grounded on the violation of a right of substance and not merely on a theoretical speculation that some right has been infringed. Holmes v. Finney, 631 F.2d 150 (10th Cir. 1980). A federal constitutional question must exist not in mere form, but in substance, and not in mere assertion, but in essence and effect. Id; see also Freeman v. Flake, 448 F.2d 258, 261 (10th Cir. 1971), cert. denied 405 U.S. 1032 (1972).

The Court concludes plaintiff has failed to allege with sufficient specificity an abridgement of his civil rights. The Court further concludes that the Complaint does not contain an affirmative link between the defendants and the alleged injury to plaintiff. Personal participation is an essential allegation in a §1983 claim. See e.g. Bennett v. Passic, 545 F.2d 1260 (10th Cir. 1976). As the Court stated in Rizzo v. Goode, 423 U.S. 362, 371 (1976):

"As the facts developed, there was no affirmative link between the occurrence of the various incidents of police misconduct and the adoption of any plan or policy by petitioners - express or otherwise - showing their authorization or approval of such misconduct."

As stated above, the Complaint does not specify occurrences which constitute a violation of plaintiff's constitutional rights and does not contain an "affirmative link" between the defendants and the harm to plaintiff.

Although a conspiracy can be the basis for a claim under 42 U.S.C. §1983, Simpson v. Weeks, 570 F.2d 240 (8th Cir. 1978), conclusory allegations cannot withstand a motion to dismiss. Slotnick v. Staviskey, 560 F.2d 31 (1st Cir. 1977), 434 U.S. 1077 (1978).

In an effort to control frivolous conspiracy suits under §1983, federal courts have come to insist that the Complaint state with specificity the facts that, in the plaintiff's mind, show the existence and scope of the alleged conspiracy. Slotnick v. Staviskey, supra at 33. A plaintiff must plead facts supporting his claims, and the court need not conjure up unpleaded facts to support conclusory allegations. O'Brien v. Digrazia, 544 F.2d 543, 546, n.3 (1st Cir. 1976); Ostrer v. Aronwald, 567 F.2d 551 (2nd Cir. 1977).

The Court concludes the Motions to Dismiss for Failure to State a Claim should be sustained.

IT IS, THEREFORE, ORDERED the Motions to Dismiss of the State of Oklahoma, the City of Tulsa, and the County of Tulsa, made by the Board of County Commissioners of the County of Tulsa are sustained.

ENTERED this 17th day of August, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

8/14/81

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

ALLIS-CHALMERS CREDIT
CORPORATION,

Plaintiff,

vs.

ROBERT WILLIAMS,

Defendant.

Case No. 81-C-230-B

AUG 18, 1981

D I S M I S S A L

COMES NOW the Plaintiff and dismisses this action as
against the Defendant.

UNGERMAN, CONNER, LITTLE, UNGERMAN & GOODMAN

By

Attorney for Plaintiff

LAW OFFICES

UNGERMAN,
CONNER,
LITTLE,
UNGERMAN &
GOODMAN

MIDWAY BLDG.
2727 EAST 21 ST.
SUITE 400

P. O. BOX 2099
TULSA, OKLAHOMA
74101

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

Cherokee Lines, Inc., an)
 Oklahoma Corporation,)
)
 Plaintiff,)
)
 v.)
)
 Aetna Insurance Company,)
 a Connecticut corporation,)
)
 Defendant.)

No. 81-C-238-C

ORDER

NOW ON this 18th day of August, 1981, comes on
 before the Court the stipulation of the parties that this matter may be
 dismissed with prejudice to the filing of another action. The Court, in
 consideration of the Stipulation, finds that this action therefore may
 be and hereby is dismissed with prejudice.

B. H. Dale Cook
 Judge of the United States District Court

FILED
17
AUG 28 1981
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 LETITIA F. EVANS a/k/a)
 LETITIA F. WRIGHT,) CIVIL ACTION NO. 81-C-302-B
)
 Defendant.)

DEFAULT JUDGMENT

This matter comes on for consideration this 17th
day of August, 1981, the Plaintiff appearing by Don J. Guy,
Assistant United States Attorney for the Northern District
of Oklahoma, and the Defendant, Letitia F. Evans a/k/a Letitia F.
Wright, appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant, Letitia F. Evans a/k/a
Letitia F. Wright, was personally served with Summons and Complaint
on June 30, 1981, and that Defendant has failed to answer herein
and that default has been entered by the Clerk of this Court.

The Court further finds that the time within which
the Defendant could have answered or otherwise moved as to
the Complaint has expired, that the Defendant has not answered
or otherwise moved and that the time for the Defendant to answer
or otherwise move has not been extended, and that Plaintiff
is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant,
Letitia F. Evans a/k/a Letitia F. Wright, for the principal
sum of \$2,500.00, plus accrued interest of \$1,006.44 as of
July 3, 1981, plus interest at 7% from July 3, 1981, on the
principal sum of \$2,500.00 until the date of Judgment, plus

interest at the legal rate on the principal sum of \$2,500.00
from the date of Judgment until paid.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

DON J. GUY
Assistant U. S. Attorney

b

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

7
AUG 17 1981

U.S. DISTRICT COURT
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
ORIE J. BATISTE,)
)
Defendant.)

CIVIL ACTION NO. 81-C-14-B

DEFAULT JUDGMENT

This matter comes on for consideration this 17th day of August, 1981, the Plaintiff appearing by Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Orie J. Batiste, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Orie J. Batiste, was personally served with Summons and Complaint on June 9, 1981, and that Defendant has failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that the time within which the Defendant could have answered or otherwise moved as to the Complaint has expired, that the Defendant has not answered or otherwise moved and that the time for the Defendant to answer or otherwise move has not been extended, and that Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Orie J. Batiste, for the principal sum of \$3,632.00 plus interest at the legal rate from the date of this Judgment until paid.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Philard L. Rounds, Jr.
PHILARD L. ROUNDS, JR.
Assistant U. S. Attorney

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

AUG 17 1981

U.S. DISTRICT COURT

PATRICIA LEE CLY,)
)
 Plaintiff,)
)
 -vs-)
)
 THOMAS CADILLAC, INC.,)
)
 Defendant.)
)

No. 80-C-280-C

J U D G M E N T

The Court on the 25th day of June, 1981, following the oral arguments of counsel for both parties, announced its Findings of Fact and Conclusions of Law which are hereby incorporated by reference and made a part of this Judgment as if fully set out herein.

IT IS HEREBY ORDERED, ADJUDGED, and DECREED, that judgment be entered in favor of the Plaintiff, Patricia Lee Cly, and against the Defendant, Thomas Cadillac, Inc., for violations of the Equal Pay Act, 29 U.S.C. §206(d), in the amount of Five Thousand Six Hundred Three Dollars and 87/100 (\$5,603.87) as back pay damages;

IT IS FURTHER ORDERED, ADJUDGED, and DECREED, that judgment be entered in favor of the Plaintiff and against the Defendant for the additional sum of Five Thousand Six Hundred Three Dollars and 87/100 (\$5,603.87) as liquidated damages for violations of the Equal Pay Act 29 U.S.C. §206(d);

IT IS FURTHER ORDERED, ADJUDGED, and DECREED, that the judgment be entered in favor of the Plaintiff and against the Defendant for violations of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §2000(e), as back pay, in the amount of Six Thousand Seven Dollars and 84/100 (\$6,007.84) together with interest at the rate of six percent (6%) per annum compounded quarterly from the 19th day of July, 1979, through the 25th day of June, 1981, for a total sum of Seven Thousand Eight Hundred Thirteen Dollars and 48/100 (\$7,813.48);

IT IS FURTHER ORDERED, ADJUDGED, and DECREED, that judgment be entered in favor of the Plaintiff and against the Defendant for the sum of Ten Thousand Four Hundred Dollars and no/100 (\$10,400.00) as

attorneys' fees for the use and benefit of the Plaintiff and her attorneys, Randy A. Rankin and James D. Hurley.

IT IS FURTHER ORDERED, ADJUDGED and DECREED, that judgment be entered in favor of the Plaintiff and against the Defendant for the costs of this action all as more fully set forth in the Bill of Costs attached hereto and marked Exhibit "A" and incorporated by reference.

It IS SO ORDERED THIS 17th day of ~~JULY~~ ^{august}, 1981.



H. DALE COOK
CHIEF JUDGE
UNITED STATES DISTRICT COURT

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE ^{AUG 27 1981}
NORTHERN DISTRICT OF OKLAHOMA

PHILIP M. LOHMAN AND)
PATRICIA J. LOHMAN,)
)
Plaintiffs,)
)
-vs-)
)
NEW YORK LIFE INSURANCE)
COMPANY, a foreign)
insurance corporation,)
)
Defendant.)

Case No. 80-C-378-B

ORDER OF DISMISSAL

On this 17 day of August, 1981, upon written application of the parties for an Order of Dismissal with prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims in the Complaint and have requested the Court to dismiss the Complaint with prejudice to any further action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiffs filed herein against the Defendant be, and the same are hereby dismissed with prejudice to any further action.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. District Judge

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

JOHNNIE LEE STILL,
Plaintiff,

vs.

DAVE FAULKNER,
Defendant.

)
)
)
)
)
)
)
)
)
)
)

No. 80-C-475-E

AUG 14 1981

JUDGMENT

Upon Defendant's Motion for Summary Judgment, the Court, having considered the affidavits and pleadings on file, as is more fully set out in the Memorandum Opinion filed this same date, finds no material issues of fact to be present and finds Defendant to be entitled to judgment in his favor as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment be, and hereby is, granted in favor of Defendant Faulkner and against Plaintiff Still.

It is so Ordered this 13th day of August, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

AUG 13 1981
JAMES W. HARRIS
U. S. DISTRICT COURT

BILLY RADER,)
)
) Petitioner,)
)
 vs.) No. 80-C-535-E ✓
)
) AL MURPHY, et al.,)
)
) Respondents.)

O R D E R

The Court has before it for consideration a Petition for Writ of Habeas Corpus filed by Petitioner Billy Rader. Petitioner is presently incarcerated at the Oklahoma State Penitentiary in McAlester, Oklahoma.

Petitioner was charged, tried by a jury and convicted of robbery with firearms after former conviction of a felony in case No. CRF-73-1481 in the District Court of Tulsa County. He received a thirty-year sentence, later modified to twenty years. On October 17, 1973, after a jury trial in Tulsa County District Court in case No. CRF-73-1482, Petitioner was found guilty of the crime of kidnapping after former conviction of a felony, imposing an additional seven year sentence to run concurrently with the sentence rendered in CRF-73-1481.

The Department of Corrections gained custody of Petitioner in late 1973. Subsequently, on January 12, 1975, Petitioner escaped from the McLeod Correctional Center at McLeod, Oklahoma in Atoka County. The state filed a charge of escape, case No. CRF-75-4, against Petitioner but dismissed that charge on November 28, 1975, without prejudice, due to insufficiency of the evidence.

Within thirteen days of Petitioner's escape, Petitioner was arrested by the state of Indiana and charged with the offense of robbery or commission of a felony while armed. He was convicted and received a sentence of ten years to be served in the Indiana State Penitentiary. On February 19, 1975, Petitioner entered the custody of the Indiana State Prison System. A detainer against Petitioner was entered on his Indiana prison records, at the request of Oklahoma Corrections officials, on March 26, 1975, as to the escape charge only. Upon dismissal of that charge in late 1975, the detainer was then removed, allegedly without knowledge of the state of Oklahoma.

Petitioner was paroled from the Indiana Prison System on January 9, 1976. A short time later Petitioner was arrested in Illinois on an outstanding fugitive warrant from the state of Oklahoma.

Petitioner claims that his due process rights under the United States Constitution have been violated by Respondents' attempt to make him serve the remainder of his sentences in CRF-73-1481 and CRF-73-1482 after a break in that service of three and one-half years during which he served another sentence in another state. Petitioner alleges that to force him to finish these sentences is an impermissible "piecemealing" under Shields v. Beto, 370 F.2d 1003 (Fifth Cir. 1967). Petitioner urges this Court to release him from further confinement. It is apparent from the file that Petitioner has exhausted his state court remedies.

Petitioner instituted this action on September 18, 1980. On October 16, 1980, this Court ordered the Respondents State of Oklahoma, et al. to respond to Petitioner's request for a Writ of Habeas Corpus. Said response has been duly received along with a complete record of earlier state proceedings in this matter. The Court has reviewed the entire file and concludes that the case is now ready for dispositive ruling.

In Townsend v. Sain, 372 U.S. 293 (1963), the Supreme Court laid down the test applicable to a determination of whether the Petitioner was entitled to an evidentiary hearing in a habeas corpus action:

We hold that a federal court must grant an evidentiary hearing to a habeas applicant under the following circumstances: If (1) the merits of the factual dispute were not resolved in the state hearing; (2) the state factual determination is not fairly supported by the record as a whole; (3) the fact-finding procedure employed by the state court was not adequate to afford a full and fair hearing; (4) there is a substantial allegation of newly discovered evidence; (5) the material facts were not adequately developed at the state court hearing; or (6) for any reason it appears that the state trier of fact did not afford the habeas applicant a full and fair fact hearing. 372 U.S. at 313.

In reviewing the record, under the test of Townsend, the Court finds that an evidentiary hearing is not necessary in this case.

The critical issues to be decided by the Court in this case are whether the state of Oklahoma can be said to have waived its jurisdiction over the person of the Petitioner because of the removal of the detainer lodged against Petitioner's file in Indiana and whether requiring Petitioner to resume serving his sentence on the Oklahoma convictions after an interim of three and one-half years served in another jurisdiction's prison is a violation of Petitioner's due process rights under the United States Constitution.

At the outset, the Court takes note of the fact that the circumstances surrounding this case are somewhat unusual. Petitioner came to be in Indiana out of the custody of the Oklahoma Department of Corrections by his own action, i.e., Petitioner escaped from the McLeod Honor Farm in Oklahoma. Petitioner attempts to argue that there is no evidence that he escaped, that he has never been convicted of escape. It is clear to this Court from the many pleadings filed by Petitioner in the habeas corpus proceedings, that Petitioner has in fact admitted that he did escape from the custody of the Oklahoma Department of Corrections. This fact is important because it establishes that at no point did the Oklahoma Department of Corrections voluntarily give up custody of the person of Petitioner.

The circumstances surrounding the release of the detainer lodged against Petitioner in Indiana are not exactly clear. It is not important to know the exact circumstances, however, because the law is clear that a waiver of jurisdiction may be found only in those cases in which the record reflects affirmative evidence that the waiver was intentional. Gaches v. Third Judicial District in and For Salt Lake County, State of Utah, 416 F.Supp. 767, 768 (W.D. Okla. 1976); Williams v. Department of Corrections, 438 F.2d 78 (Ninth Cir. 1971). The record in this case reflects at most negligence on the part of Oklahoma's correction officials. There is a complete lack of evidence that the state ever intended to waive its jurisdiction over Petitioner.

As to Petitioner's claim that it would violate his constitutional right of due process to be required to finish the prison sentences in Oklahoma, the Court takes note of the fact that Shields v. Beto was

not intended to constitute a trap for unwary state officials. "It is founded upon the due process clause of the fourteenth amendment and requires that action by a state through any of its agencies must be consistent with the fundamental principles of liberty and justice." Piper v. Estelle, 485 F.2d 245, 246 (Fifth Cir. 1973). In the Piper case, the Fifth Circuit explained the rationale behind the holding in Shields.

In cases based upon the principles of Shields, it is not sufficient to prove official conduct that merely evidences a lack of eager pursuit or even arguable lack of interest, rather the waiving state's action must be so affirmatively wrong or its inaction so grossly negligent that it would be unequivocally inconsistent with "fundamental principles of liberty and justice" to require a legal sentence to be served in the aftermath of such action or inaction. Piper, supra, at 246.

The Court is mindful that Petitioner's pro se petition must be held to less stringent standards than formal pleadings drafted by attorneys. Haines v. Kerner, 404 U.S. 519, 520 (1972); Brinlee v. Crisp, 608 F.2d 839, 855 (Tenth Cir. 1979). Nonetheless, after a careful review of the entire record in this matter, and bearing in mind the law to be applied, this Court is of the opinion that the dismissal of the detainer under the circumstances in this case does not constitute action or inaction by Respondents which is "unequivocally inconsistent" with fundamental principles of liberty and justice, and that furthermore, Petitioner has suffered no violations of his due process rights as guaranteed by the Constitution of the United States. Accordingly, the Court concludes that the Petition should be denied.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254 should be and the same hereby is, denied.

It is so Ordered this 13th day of August, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

ADMITTED
JUL 11 1978
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
JE

ALLEN JAMES GREEN,)
)
Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,)
ex. rel. DUDLEY BLEVINS, Warden,)
)
Respondents.)

No. 76-CR-137
81-C-120-E

O R D E R

The Court has before it for consideration at this time Petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. The Petitioner contends that the sentence imposed upon him by the Court on July 6, 1978, after the revocation of his probation, was illegal in that his sentence was increased from two to three years, and that his sentence was modified from a YCA sentence to an adult sentence.

Petitioner was sentenced on October 26, 1976, upon his plea of guilty and conviction of having violated 18 U.S.C. §§ 371 and 472 as charged in the indictment. Petitioner was sentenced as follows:

The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

TWO (2) YEARS.

IT IS FURTHER ADJUDGED that the imposition of sentence is hereby suspended and the defendant is placed on probation for a period of two (2) years pursuant to T. 18, U.S.C., Section 4216:5010(a), under the provisions of the Young Adult Youth Correction Act.

On July 6, 1978, upon the revocation of Petitioner's probation, he was sentenced as follows:

IT IS ADJUDGED that the Order of Probation entered on October 26, 1976, be revoked and set aside and the defendant is committed to the custody of the Attorney General for Three (3) years, and further ordered that the defendant may become eligible for parole at such time as the Parole Commission may determine as provided in T. 18, U.S.C., Sec. 4205(b)(2).

Having reviewed the file and the applicable authorities, the Court concludes that the question presented herein is one of law, involving the interpretation of the sentence imposed. No evidentiary

hearing is, therefore, required. Rule 8(a), Rules Governing Section 2255 Proceedings.

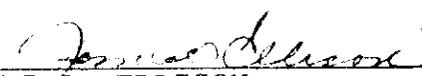
The question here revolves around an interpretation of Judge Barrow's intent in his original sentencing. If his intent was to suspend the imposition of sentence, it is clear that upon the revocation of Petitioner's probation, "any sentence which might originally have been imposed" could have been imposed. 18 U.S.C. § 3653, United States v. Condit, 621 F.2d 1096 (Tenth Cir. 1980). If, on the other hand, his intention was to suspend the execution of sentence, then the sentence imposed upon the revocation of probation was illegal, in that it increased Petitioner's sentence from two to three years, when the only available option was to require Petitioner to "serve the sentence imposed, or any lesser sentence." 18 U.S.C. § 3653; Roberts v. United States, 320 U.S. 264, 64 S.Ct. 113 (1943).

In the original sentence, the Court set a definite term of years - two - and then placed Petitioner upon probation. Such action is consistent with the intent to suspend the execution of the sentence, rather than the imposition of sentence. It is, therefore, the Court's conclusion that the sentence imposed upon Petitioner on July 6, 1978, impermissibly increased his original two year sentence, and that sentence must be reduced from three to two years.

Petitioner's contentions concerning the imposition of an adult sentence following YCA probation are without merit, see United States v. Condit, supra.

IT IS THEREFORE ORDERED that Petitioner's motion to correct sentence be, and the same hereby is granted, and that the sentence imposed upon Petitioner on July 6, 1978, be corrected by reducing the term thereof from three to two years.

It is so Ordered this 13th day of August, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JOHN SWINFORD,)
)
 Plaintiff,)
)
 vs.)
)
 JERRY INMAN TRUCKING, INC.,)
)
 Defendant and)
 Third-Party Plaintiff,)
)
 vs.)
)
 GILVIN & TERRILL, INC., and)
 H. B. ZACHARY COMPANY,)
)
 Third-Party Defendants.)

AUG 12 1981

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

No. 80-C-550-E

O R D E R

Upon the motion of Third Party Defendant Gilvin & Terrill, Inc. to dismiss the complaint of Third Party Plaintiff Jerry Inman Trucking, Inc., and for good cause shown,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the motion to dismiss the third party complaint filed in this cause by Third Party Plaintiff Jerry Inman Trucking, Inc., against Third Party Defendant Gilvin & Terrill, Inc. is sustained by the Court this 12th day of August, 1981.



U. S. DISTRICT JUDGE

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

FILED

AUG 22 1981

JAMES O. ELLISON, CLERK
U. S. DISTRICT COURT

JOHN SWINFORD,)	
)	
Plaintiff,)	
)	
vs.	)	NO. 80-C-550-E
)	
JERRY INMAN TRUCKING, INC.,)	
)	
Defendant and)	
Third-Party Plaintiff,)	
)	
vs.)	
)	
GILVIN & TERRILL, INC., and)	
H. B. ZACHARY COMPANY,)	
)	
Third-Party Defendants.)	

O R D E R

UPON THE Motion of Plaintiff John Swinford to dismiss the
Complaint filed herein against Gilvin & Terrill and for good cause
shown,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion
to Dismiss the Amended Complaint filed in this cause by the Plaintiff
John Swinford against Third-Party Defendant Gilvin & Terrill, Inc. is
sustained by the Court and the cause dismissed against Gilvin & Terrill,
Inc. this ^{12th}~~24~~th day of ^{August}~~June~~, 1981.

JAMES O. ELLISON

James O. Ellison
U. S. DISTRICT JUDGE

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

AUG 12 1981

UNITED STATES OF AMERICA, and)
ANITA M. VAUGHN, Special)
Agent, Internal Revenue)
Service,)

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

Petitioners,)

81-C-213-C

vs.)

No. 81-C-213-~~A~~ Consolidated

FIRST BANK OF OWASSO, ET AL,)

Respondents.)

ORDER OF DISMISSAL

Upon application of the United States of America the records so summoned have been received by the United States of America in accordance with the Court's Order.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that this case be dismissed.

Dated this 12th day of August, 1981.

JAMES O. ELISON *for*

UNITED STATES DISTRICT JUDGE

H. Dale Cook

IN THE UNITED STATES DISTRICT COURT FOR THE ~~THE~~ **L E D**
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, and)
ANITA M. VAUGHN, Special)
Agent, Internal Revenue)
Service,)
)
Petitioners,)
)
vs.)
)
FIRST BANK OF OWASSO, ET AL,)
)
Respondents.)

AUG 12 1981 *jk*
Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 81-C-213-E ✓

ORDER OF DISMISSAL

Upon application of the United States of America the records so summoned have been received by the United States of America in accordance with the Court's Order.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that this case be dismissed.

Dated this 12th day of August, 1981.

James DeLoach for
UNITED STATES DISTRICT JUDGE

H. Bruce Cobb

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

AUG 12 1981

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

United States of America,)	
)	
Plaintiff,	)	CIVIL ACTION NO. 79-C-97-E
)	
vs.	)	Tract No. 269-Part B, Area 2
)	
30.00 Acres of Land, More or	)	As to all interests in the
Less, Situate in Washington	)	estate taken <u>except</u> the oil
County, State of Oklahoma,	)	and gas leasehold interest.
and James D. Wisehart, et al.,)	
and Unknown Owners,)	
	)	(Included in Amended D.T.
Defendants.	)	filed in Master File #400-14)

J U D G M E N T

1.

NOW, on this 12th day of August, 1981, 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 July 23, 1981, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds that:

2.

This judgment applies to the entire estate taken in Tract No. 269-Part B-Area 2, as such estate and tract are described in the Amended Complaint filed in this case.

3.

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

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause.

5.

The Acts of Congress set out in paragraph 2 of the Amended Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on February 13, 1979, the United

States of America filed its Declaration of Taking, and on October 2, 1980 filed an Amendment thereto, declaring that the United States had taken a certain estate in subject property, and title to such property should be vested in the United States of America, as of the date of filing such Amendment.

6.

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

7.

The Report of Commissioners filed herein on July 23, 1981, is accepted and adopted as a finding of fact as to subject tract. The amount of just compensation as to the estate taken in subject tract as fixed by the Commission is set out below in paragraph 12.

8.

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

9.

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

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Amended Complaint filed herein, and such property, to the extent of

the estate described in such Amended Complaint is condemned, and title thereto is vested in the United States of America, as of October 2, 1980, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

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

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on July 23, 1981, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 269-PART B-Area 2

OWNERS:

James D. Wisehart)
 and) ----- 1/2
 Max W. Wisehart)

 Estate of W. H. Stiles,
 deceased ----- 1/2

Award of just compensation pursuant to Commissioners' Report -----	\$12,800.00	\$12,800.00
Deposited as estimated compensation --	4,570.00	
Disbursed to owners -----		<u>None</u>
Balance due to owners -----		<u>\$12,800.00</u> plus interest
Deposit deficiency -----	\$ 8,230.00 plus interest	

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 \$8,230.00, together with interest on such deficiency at the rate of 6% per annum from February 13, 1979, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tract in this civil action.

14.

After the deficiency deposit described in paragraph 13 has been made, the Clerk of this Court shall disburse:

To: James D. Wisehart and Max W. Wisehart, jointly
-- 1/2 of the total sum then on deposit for
subject tract.

Because the records of Washington County, State of Oklahoma, do not reflect that a probate of the estate of W. H. Stiles has ever been made, and do not reflect the identity of the lawful heirs of such deceased person, the other half of the award and accrued interest shall not be disbursed at this time.

15.

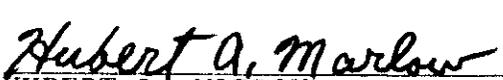
In the event that proof of the determination of the lawful heirs of W. H. Stiles, deceased, is furnished this Court within a period of five years from the date of filing this Judgment, then the Court will enter an appropriate order distributing and disbursing the remaining half of the subject award and accrued interest.

16.

In the event that any part of the award, and accrued interest, for the subject tract remains on deposit for a period of five years from the date of filing this judgment, then, after that period, the Clerk of this Court, without further order, shall disburse the balance on deposit for subject tract to the Treasurer of the United States of America, pursuant to the provisions of Title 28, Section 2042, U.S.C.


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

AUG 12 1981

TELEX COMPUTER PRODUCTS, INC.)

Plaintiff)

vs.)

STORAGE TECHNOLOGY CORPORATION)

Defendant)

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

No. 74-C-194-E

ORDER

Upon stipulation of the parties, the above styled and
numbered cause is dismissed with prejudice.

Dated this 12th day of August, 1981.

S/ JAMES O. ELLISON

United States District Judge

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

MAY 10 1981

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

ROBERT RANDALL ZIEGLER,)	
)	
Plaintiff,)	
)	
vs.)	
)	
TULSA CITY POLICE,)	
et al)	
)	
Defendants.)	

Case No. 77-C-528-BT ✓

O R D E R

This matter comes before the Court on defendant's Motion for Summary Judgment. Pursuant to Court Order entered July 20, 1981, proceedings were stayed in this case for thirty (30) days pending a ruling on the present motion. For the reasons set forth below, defendants' Motion for Summary Judgment is hereby sustained.

This action was originally filed on December 20, 1977. On October 18, 1978 these proceedings were stayed pending plaintiff's appeal to the Oklahoma Court of Criminal Appeals. On June 30, 1981 the Court lifted the stay and ruled on the motions pending at that time. In part, the Order of June 30, 1981 granted plaintiff's Motion to Amend the Original Complaint by deleting all material that would form the basis of an action for habeas corpus under 28 U.S.C.A. §2254. As the Order noted, the effect of this amendment was to leave one issue before the Court: whether the defendants took public hairs from the plaintiff in violation of plaintiff's Fourth Amendment rights such that plaintiff may bring an action under 42 U.S.C.A. §1983.

Defendants bring the present Motion for Summary Judgment pursuant to F.R.Civ. P. 56. It is settled that if there is an indication of a genuine issue as to any material fact, summary judgment cannot be granted. Blood v. Fleming, 161 F.2d 292 (10th Cir. 1947). In determining whether the record presents an issue of material fact, the pleadings, documentary issues, and factual inferences tending to show issues of material fact

should be viewed in the light most favorable to the party opposing summary judgment. Harsha v. United States, 590 F.2d 884 (10th Cir. 1979) Unless the moving party demonstrates its entitlement to summary judgment beyond a reasonable doubt, the motion should be denied. Madison v. Deseret Livestock Co., 574 F.2d 1027 (10th Cir. 1978).

In Pierce v. Ford Motor Company, 190 F.2d 910, 915 (4th Cir. 1951):

"...Even in cases where the judge is of opinion that he will have to direct a verdict for one party or the other on the issues that have been raised, he should ordinarily hear the evidence and direct the verdict rather than attempt to try the case in advance on a motion for summary judgment, which was never intended to enable parties to evade jury trials or have the judge weigh evidence in advance of its being presented..."

In the instant case, defendants assert that the issue before the Court was resolved by the 1980 appellate opinion of the Oklahoma Court of Criminal Appeals. Therefore, the doctrine of collateral estoppel applies and it is not necessary to determine whether a question of material fact is present. The Court agrees with this view.

In Allen v. McCurry, _____ U.S. _____ (1980), 101 S.Ct. 411, the Supreme Court stated as follows:

"The actual basis of the Court of Appeals holding^{1/} appears to be a generally framed principle that every person asserting a federal right is entitled to one unencumbered opportunity to litigate that right in a federal district court, regardless of the legal posture in which the federal claim arises. But the authority for this principle is difficult to discern. It cannot lie in the Constitution, which makes no such guarantee, but leaves the scope of the jurisdiction of the federal district courts to the wisdom of Congress. And no such authority is to be found in §1983 itself. For reasons already discussed at length, nothing in the language or legislative history of §1983 proves any congressional intent to deny binding effect to a state court judgment or decision when the state court, acting within its proper jurisdiction, has given the parties a full and fair opportunity to litigate federal claims, and thereby has shown itself willing and able to protect federal rights. And nothing in the legislative history of §1983 reveals any purpose to afford less deference to judgments in state criminal proceedings than to those in state civil

^{1/} The Court of Appeals held the doctrine of collateral estoppel did not apply to an action under §1983 although the State court had previously denied relief for the same alleged violation of the Fourth Amendment.

"proceedings. There is, in short, no reason to believe that Congress intended to provide a person claiming a federal right an unrestricted opportunity to relitigate an issue already decided in state court simply because the issue arose in a state proceeding in which he would rather not have been engaged at all...

* * *

"The only conceivable basis for finding a universal right to litigate a federal claim in a federal district court is hardly a legal basis at all, but rather a general distrust of the capacity of the state courts to render correct decisions on constitutional issues. It is ironic that Stone v. Powell provides the occasion for the expression of such an attitude in the present litigation, in view of this Court's emphatic reaffirmation in that case of the constitutional obligation of the state courts to uphold federal law, and its expression of confidence in their ability to do so. 428 U.S., at 493-494, n. 35, 96 S.Ct., at 3051-52, n.35; see Robb v. Connolly, 111 U.S. 624, 637, 4 S.Ct. 544, 551, 28 L.Ed.542 (Harlan, J.)."

In the present case, the Oklahoma Court of Appeals took plaintiff's appeal from six convictions in Tulsa County District Court. See Case No. F-78-148 (Okla.Crim. April 15, 1980). The opinion of the Appeals Court addressed 16 alleged errors in the trial court proceedings, including 5 raised by plaintiff's attorney and 11 alleged by plaintiff in a brief filed pro se. The present claim was raised by plaintiff in his pro se brief. In applicable part, the opinion of the Appeals Court states as follows:

"Of the supplemental allegations raised by the defendant in his pro se brief, only one merits discussion. The others have been considered by this Court and rejected either as repetitive or unwarranted. Therefore, we reject the following arguments for reversal ... that the extraction of samples of body hair from the defendant was an illegal search and seizure..."

Id. at 6-7.

The Court concludes that the Oklahoma Court of Criminal Appeals addressed and disposed of the question presented here. The State court specifically found that the extraction of hair samples from plaintiff was not a violation of plaintiff's Fourth Amendment rights. The doctrine of collateral estoppel precludes

plaintiff from raising the claim again by means of this present §1983 action. Compare Allen v. McCurry, supra. Therefore, plaintiff's claim, as amended, brought under §1983 cannot be sustained.

In view of the above, defendants' Motion for Summary Judgment is hereby sustained.

IT IS SO ORDERED.

DATED this 10th day of August, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

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

FILED

AUG 10 1981 *dm*

JUANITA REAGAN,
Social Security No.
557-28-8419,

Plaintiff,

vs.

PATRICIA HARRIS, Secretary
of the Department of Health,
Education, and Welfare,

Defendant.

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

No. 80-C-102-BT ✓

O R D E R

This matter comes before the Court on plaintiff's Motion to Remand pursuant to 42 U.S.C.A. §405(g). For the reasons set forth below, plaintiff's Motion is hereby sustained.

While remand may be appropriate only on "unusual occasions", See e.g. Gaultney v. Weinberger, 505 F.2d 943, 946 (5th Cir. 1974), the statute clearly contemplates that a court should remand a case upon a showing of "good cause." 42 U.S.C.A. §405(g); see also Martin v. Richardson, 325 F.Supp. 686 (W.D. Va.1971). The Court articulated the proper analysis in Blanscet v. Ribicoff, 201 F.Supp. 257, 265 (W.D.Ark. 1962) as follows:

"* * * On the other hand, 'good cause' is a relative and highly abstract term, and its meaning must be determined not only by the verbal context of the statute in which the term is employed, but also by the context of the action and procedures involved and the type of case presented. In this respect it should be remembered that while administrative determinations have, as they must, a weighty effect with a reviewing court, and the conclusions of a Referee must be accepted if based upon substantial evidence, the administrative hearing in this type of action is informal and nonadversary, and the determinations of an administrative body should not be given the stringent protection against new evidence and re-evaluation afforded to final judgments of courts of record. If new evidence were to be presented, none of the cumbersome and time-consuming requirements found in jury trials are imposed upon the administrative body. This is particularly so where the evidence sought to be introduced is written. It should also be remembered that the defendant would not be prejudiced if new evidence were to be required. In the

"administrative hearing, as distinguished from the cause in this court, there are no formal adversaries, and no new preparation by any party will be required. As the court said in Schroeder v. Hobby, 10 Cir., 1955, 222 F.2d 713, at page 715:

'The Social Security Act is to be liberally construed as an aid to the achievement of its Congressional purposes and objectives. Narrow technicalities which proscribe or thwart its policies and purposes are not to be adopted.'

'In these circumstances, courts must not require such a technical and cogent showing of good cause as would justify the vacation of a judgment or the granting of a new trial, where no party will be prejudiced by the acceptance of additional evidence and the evidence offered bears directly and substantially on the matter in dispute.'"

In the present case, the plaintiff requests that upon remand the Administrative Law Judge consider additional medical evidence from two physicians involved in the matter. The Court concludes that the letters in question are relevant to the matter in dispute and therefore merit consideration. The Court further concludes that consideration of additional evidence will not prejudice either party.

In view of the above, plaintiff's Motion to Remand is hereby sustained. The Court directs this case should be remanded for acceptance of the additional evidence submitted by plaintiff.

IT IS SO ORDERED.

DATED this 10th day of August, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

AUG 30 1981

JAMES DWIGHT
U. S. DISTRICT COURT

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

RAYMOND D. BURGESS, d/b/a)
Burgess Hardware,)
)
) Plaintiff,)
)
vs.)
)
EARL P. KENNARD, et al.,)
)
) Defendants.)

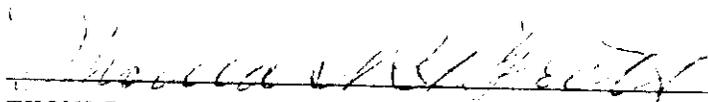
No. 79-C-118-B

J U D G M E N T

Based on the Memorandum Opinion, Findings of Fact and
Conclusions of Law filed simultaneously with this Judgment,

IT IS ORDERED Judgment is entered in favor of the defend-
ants, Earl P. Kennard, Regional Regulatory Administrator,
Department of the Treasury, Bureau of Alcohol, Tobacco and
Firearms, and the United States of America denying plaintiff's
application for renewal of his firearms license and against
the plaintiff.

ENTERED this 10th day of August, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

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

FILED
AUG 10 1981
Jack C. Silver, Clerk
U. S. DISTRICT COURT

RAYMOND D. BURGESS, d/b/a)
Burgess Hardware,)
)
Plaintiff,)
)
vs.)
)
EARL P. KENNARD, et al.,)
)
Defendants.)

No. 79-C-118-B

MEMORANDUM OPINION, FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Plaintiff brings this action pursuant to 18 U.S.C. §923(f)(3) for judicial review of the denial of his application for renewal of his firearms license. Plaintiff's application was denied under 18 U.S.C. §923(d)(1)(C) by the Bureau of Alcohol, Tobacco and Firearms (ATF) because plaintiff was found to have "wilfully violated" certain provisions of the Gun Control Act of 1968 (Act), 18 U.S.C. §921 et seq., and the regulations issued thereunder.

A final administrative decision of the Secretary denying an application for a license is subject to "de novo" judicial review under 18 U.S.C. §923(f)(3). Prino v. Simon, 606 F.2d 449 (4th Cir. 1979); Lewis v. Blumenthal, 590 F.2d 268 (8th Cir. 1979); Powers v. Bureau of Alcohol, Tobacco & Firearms, 505 F.Supp. 695 (N.D. Fla. 1980); Fin & Feather Sport Shop v. United States Treasury, 481 F.Supp. 800 (Neb. 1979); Service Arms Co., Inc. v. U.S., 463 F.Supp. 21 (W.D.Okl.1978); Rich v. United States, 383 F.Supp. 797 (S.D. Ohio, W.D.1974).

A non-jury trial was had on June 22, 1981. Plaintiff appeared in person and by his attorney, Patrick A. Williams; defendants appeared by their attorney, Paula S. Ogg. The Court received evidence, heard testimony and statements of counsel. The Court makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Plaintiff first applied for a license as a dealer in firearms other than destructive devices or ammunition for other

than destructive devices for his business premises located at 1907 S.W. Blvd., Tulsa, Oklahoma. The application was approved and a license was issued.

2. Thereafter, on a yearly basis plaintiff applied for renewal of the license and it was renewed.

3. On September 15, 1977, plaintiff applied for the renewal of his license and Notice of Denial of Application for License dated January 9, 1978, was issued. The basis for the denial was specified as:

"Investigation concerning your application for renewal of your license as a dealer in firearms other than destructive devices or ammunition for other than destructive devices discloses that you do not meet the criteria for licensing under 18 U.S.C. §923(d)(1). Specifically, you have willfully violated provisions of 18 U.S.C. Chapter 44 and the regulations issued thereunder (27 C.F.R. Part 178); therefore, 18 U.S.C. §923(d)(1)(C) prohibits us from issuing the license applied for."

4. On March 6, 1978, an Amended Notice of Denial of Application for License was issued, the amendment being to add additional charges pertaining to multiple sales of firearms.

5. On January 16, 1978, a timely written request for a hearing to review the denial of the application was filed by the plaintiff.

6. On March 6, 1978, a Notice of Hearing was issued to plaintiff, the hearing date being March 23, 1978. Hearing on the matter was held on March 23, 1978 and March 24, 1978. Plaintiff appeared in person at such hearing and by his attorney, Jerry E. Truster. The Government was represented by Bobby S. Tyler, Regional Counsel, Bureau of Alcohol, Tobacco and Firearms.

7. The details of the record keeping violations and the dates thereof are detailed at length in the Findings of Fact and Conclusions of Law issued by Earl P. Kennard, Regional Regulatory Administrator, Bureau of Alcohol, Tobacco and Firearms, on December 18, 1978 (Attachment 26 to the Administrative Record submitted).

8. Plaintiff testified at the administrative hearing and in the non-jury trial that his record keeping violations were the result of mere negligence on his part and were not willful. Plaintiff further testified he is now in compliance with all record keeping required.

9. Plaintiff filed the instant action on February 15, 1979.

10. In an Agreed Pre-Trial Memo filed October 3, 1980, the following facts are stated:

"...Notwithstanding such denial [of his license] the Regional Regulatory Administrator authorized Plaintiff's continued operation under the expired license pending judicial review.

"At a pretrial held in late 1979, the parties agreed to strike this matter so that the Government attorney could request the Bureau of Alcohol, Tobacco, and Firearms to review Plaintiff's procedures within the next sixty days to determine if Plaintiff is in compliance with the Federal Firearms laws and regulations. The purpose of such review, if compliance was indicated, was to allow the Government attorney to recommend to the Bureau of Alcohol, Tobacco, and Firearms that Plaintiff's license be issued and the case dismissed.

"A request was made by Government's counsel to ATF to conduct such a review. However, ATF has declined to review the Plaintiff's operation and is of the opinion that no administrative inspection should be conducted..."

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 the subject matter. 18 U.S.C. §923(f).

2. The administrative record was introduced in evidence in this case and the Court heard any additional testimony and received any additional evidence the parties desired to introduce. The standard of judicial review in this case is a standard consistent with the concept of a "de novo" trial. Therefore, the administrative decision is not clothed in this Court with any presumption of correctness or other advantage. The standards of judicial review of administrative decisions used

in some connections, i.e., the "any credible evidence" standard and the "abuse of discretion" standard, are not applicable to the instant proceeding because they are inconsistent with the concept of having a "de novo" trial in this Court. Weidner v. Kennedy, 309 F.Supp. 1018 (C.D. Calif.1970). The Court must decide whether "the Secretary was ... authorized to deny the application ..." Based on all the evidence adduced before the Court in the "de novo" proceeding, the Court must determine if there is substantial evidence to justify determination by the defendants that the violations are willful. The fact plaintiff in this case states he is now in compliance does not affect the judicial determination as to whether there is substantial evidence to justify the initial determination of violations that were willful.

3. 27 C.F.R. §178.82(2) allows the Bureau to authorize the continued operation under the expired license pending judicial review. The fact the Bureau has allowed plaintiff in this case to operate under his expired license pending judicial decision on his petition for review has no bearing on the ultimate decision of this Court.

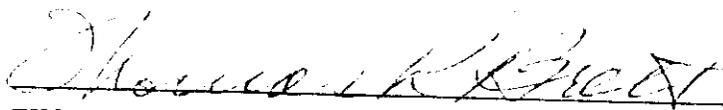
4. Title 18 U.S.C. §923(d)(1)(C) provides that an application for a dealer's license shall be approved if "the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder."

5. To prove a willful violation the Government "must prove that [plaintiff] knew of his legal obligation and purposefully disregarded or was plainly indifferent to the record-keeping requirements." Powers v. Bureau of Alcohol, Tobacco & Firearms, supra, 505 F.Supp. at 698; Shyda v. Director, Bureau of Alcohol, Tobacco and Firearms, 448 F.Supp. 409, 415 (M.D.Pa. 1977); Lewis v. Blumenthal, supra, 590 F.2d 268. There is no requirement of bad purpose as might be imposed were the Court faced with determining the definition of willfulness in a criminal prosecution.

Shyda v. Director, Bureau of Alcohol, Tobacco and Firearms, supra,
at 415. Based on the evidence adduced the Court finds the breach-
es in record keeping by the plaintiff constituted a willful viola-
tion and the defendants were justified in denying the renewal of
plaintiff's application.

6. Therefore, the Court finds the Final Notice of Denial
of plaintiff's application should be affirmed.

ENTERED this 10th day of August, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

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

AUG 10 1981

PAUL SHERMAN,)	
)	
Plaintiff,)	
)	
vs.	)	No. 80-C-623-BT
)	
RICHARD S. SCHWEIKER, JR.,)	
Secretary of Health and)	
Human Services,)	
)	
Defendant.)	

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Plaintiff, Paul Sherman, brings this action pursuant to 42 U.S.C. Section 405(g), seeking judicial review of the final administrative decision of the Secretary of Health and Human Services denying him disability benefits.

On May 20, 1981, the Court entered its Order denying plaintiff's Motion to Remand, with the proviso plaintiff was not precluded from submitting any documentary evidence in support of his medical claim so the Court could determine whether such additional evidence required a remand. The parties have now fully briefed the merits of the case and the Court has reviewed the administrative record submitted.

On July 16, 1980, the Administrative Law Judge made the following Findings (TR 12-13):

1. Claimant stated he was born October 20, 1934, completed a tenth grade education, and has been the owner/operator of a wholesale milk business and a family steakhouse.
2. Claimant met the special earnings requirements of the Act for disability purposes in September 1978, the alleged date of disability onset, and continues to meet said special earnings requirements through the date of this decision.
3. Claimant underwent a saphenous vein bypass in June 1973, had some problems thereafter but was reported as asymptomatic and capable of engaging in full activities following annual physicals in 1974, 1977, and 1978.
4. The attending physicians have noted that claimant has progressive angina and noted that although a treadmill was positive, with chest pain occurring at 140 beats per minute, that it was similar to previous treadmill exercise tests.

5. Claimant's treating physicians have concluded that he should only avoid moderate to heavy exertion and also that he is incapable of engaging in work activity.
6. Recommended diagnostic tests were refused by claimant on the grounds that they had caused problems previously; however, the medical evidence does not support this allegation.
7. Claimant does not have an impairment or combination of impairments which would prevent him from engaging in his customary work activity as a manager of a restaurant or small business.

Attached to plaintiff's brief is a copy of a medical report of Robert P. Zoller, M.D., reflecting plaintiff underwent an angiogram on September 18, 1980, subsequent to the decision of the Administrative Law Judge, wherein Dr. Zoller concluded, based on the angiogram that plaintiff "is totally and permanently disabled from his coronary artery disease."

42 U.S.C. §405(g) provides that in order for a remand to be granted, plaintiff must show "good cause." Bradley v. Califano, 573 F.2d 28 (10th Cir. 1978); Bohms v. Gardner, 381 F.2d 283 (8th Cir. 1967), cert. denied, 390 U.S. 964, 88 S.Ct. 1069, 19 L.Ed.2d 1164 (1968); Long v. Richardson, 334 F.Supp. 305 (W.D. Va.1971); Dunn v. Richardson, 325 F.Supp. 337 (W.D.Mo. 1971); see Hope v. Secretary of Health, Education and Welfare, 347 F.Supp. 1048 (E.D.Tex.1972).

In determining whether good cause for remand to the Secretary exists, it must be remembered that the Social Security Act is to be liberally construed as an aid to the achievement of its Congressional purposes and objectives and that narrow technicalities which thwart its purposes are not to be adopted. Schroeder v. Hobby, 222 F.2d 713 (10th Cir. 1955). In these circumstances, courts must not require such a technical showing of good cause as would justify the vacation of a judgment or the granting of a new trial. Wesley v. Secretary of Health, Education and Welfare, 385 F.Supp. 863 (D.C. 1974); Epperly v. Richardson, 349 F.Supp. 56 (W.D.Va. 1972); Martin v. Richardson, 325 F.Supp. 686 (W.D.Va. 1971); Sage v. Celebrezze, 246 F.Supp. 285 (W.D.Va. 1965); Blanscet v. Ribicoff, 201 F.Supp. 257 (W.D.Ark.1962).

Remand should be granted where no party will be prejudiced by the acceptance of additional evidence and the evidence bears on the matter in dispute. Epperly v. Richardson, supra; Martin v. Richardson, supra; Sage v. Celebrezze, supra; Blanscet v. Ribicoff, supra. However, a claimant seeking remand must show the Court any new evidence, or at least the general nature of such evidence, sought to be introduced upon remand. Bradley v. Califano, supra; Long v. Richardson, supra.

In the instant case, it appears that consideration of the additional medical report of Dr. Zoller submitted by plaintiff will not prejudice either party. It further appears this report raises new matter which bears on the matter in dispute.

The Court, therefore, finds and concludes this case should be remanded for acceptance of the additional evidence in this case as submitted by plaintiff.

Accordingly, the Clerk is directed to effect the remand of this case.

IT IS SO ORDERED this ^{7th} 10 day of August, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA APR 10 1981

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

IDA DRAIN BIRCHFIELD,)	
)	
Plaintiff,)	
)	
vs.	)	No. 81-C-143-B
)	
AL POSNER, U.S.CORPS OF)	
ENGINEERS, TULSA,)	
)	
Defendant.)	

O R D E R

Plaintiff, Ida Drain Birchfield, appearing pro se, seeks a review by this Court, pursuant to Title 5 U.S.C. §702 et seq., of a proposed sale of a 5-acre tract of land located in Oklahoma County, Oklahoma from T. Dale Drain to Al Posner.^{1/} She seeks an injunction enjoining "transfer of title" to the property and an order of this Court requiring the production of the contract for inspection and use by her in pending State court actions.^{2/}

^{1/} Mr. Posner is an employee of the United States Corps of Engineers. It is stated in defendant's brief the "purpose of Mr. Posner's negotiations with Mr. T. Dale Drain was to purchase a small tract of land for use in the Arcadia Lake project", which project was authorized by Acts of Congress, to-wit: The Act of Congress approved December 31, 1970 (Public Law 91-611, Section 201), and as amended by the Water Resources Act of 1976, approved October 22, 1976 (Public Law 94-587, Section 192), which Act authorized the construction of the Arcadia Lake, Deep Fork River, Oklahoma, as part of the general comprehensive plan for flood control and other purposes in the Arkansas River Basin; and the Act of Congress approved September 25, 1979 (Public Law 96-69), which Act appropriated funds for such purposes.

^{2/} Plaintiff has attached to her petition copies of two pleadings filed by her in two pending State court matters. It appears on March 3, 1981, in the case of T. Dale Drain v. Ida M. Drain, JFD-77-4839, District Court of Oklahoma County, plaintiff filed a "Motion to Vacate & Petition for Injunction and For Remitter" wherein she seeks to vacate a part of the divorce decree rendered in that case on January 29, 1979. On the same date, plaintiff instituted an action against T. Dale Drain, JFD-81-1541, District Court of Oklahoma County, Oklahoma, entitled "Suit on Contract", wherein she alleges fraud in the property settlement in the divorce case. Both suits deal with the 5-acre tract which is the subject of the instant litigation.

The defendant has moved to dismiss the cause of action for the following reasons:

1. The authority for jurisdiction cited by plaintiff in her Petition for Injunction and Motion for Discovery, to-wit, 5 U.S.C. §702 et seq., is not valid authority for filing and maintaining this lawsuit.

2. The relief sought in this case would affect the property rights of the United States Government and is an unconsented suit against the sovereign, which is prohibited.

The Supreme Court of the United States admonished the Courts in Haines v. Kerner, 404 U.S. 519, 520, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972) that a pro se complaint should be held "to less stringent standards than formal pleadings drafted by lawyers". Mindful of this admonition in reviewing plaintiff's complaint, the Court finds the Motion to Dismiss should be sustained for the following reasons.

There is no showing in plaintiff's complaint she has exhausted administrative remedies as required by Title 5 U.S.C. §702 et seq., or that her complaint encompasses agency action which is reviewable as defined by Title 5 U.S.C. §704. Furthermore, plaintiff does not cite to any specific statute which makes the action complained of reviewable by the Courts.

Plaintiff's complaint is predicated on a conclusory statement concerning the existence of a contract. There is no reason why such contract, if in fact it exists, would not be discoverable in the two pending State Court actions or why plaintiff cannot obtain adequate relief in the pending State Court actions.

In addition, defendant Posner asserts that he was acting as an "arm of the Government" in negotiating the purchase of the land in question and that the requested relief would affect the Government's interest.^{3/} Thus, in effect, this is a suit against the Government and it is a well known doctrine of law that a sovereign cannot be sued in his own courts without his consent. The Siren, 7 Wallace 152 (1868), United States v. Clark, 8 Peters 436, United States v. Sherwood, 312 U.S. 584 (1941).

The courts distinguish between a suit against an officer in his individual capacity as opposed to an officer acting under cover of legal authority for the sovereign. In Larson v. Domestic & Foreign Corp., 337 U.S. 682 (1949), the suit was held to be one against the United States and, in the absence of consent by the United States, the District Court was without jurisdiction. The Court stated that in determining whether a suit nominally against an officer is against the officer individually or against the sovereign, the crucial question is whether the relief sought is relief against the sovereign. In the present case, if the Court granted the relief requested, the Government's interest would be affected because the requested relief would slow down or stop the building of the lake project. Therefore, under the principles expressed in Larson, this suit is barred.

IT IS, THEREFORE, ORDERED the defendant's Motion to Dismiss is granted without prejudice.

ENTERED this 10th day of August, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

^{3/} Title 33 U.S.C. §§591, 596, 597, 701, makes it clear that the Army Corps of Engineers is the agency designated by Congress to act for the Government in the building of projects such as Arcadia Lake. These sections also make it clear that the Secretary of the Army and subordinate officers delegated by him are the individuals authorized to carry out the work necessary to build and maintain such projects.

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

THE WESTERN FIRE INSURANCE COMPANY,)

Plaintiff,)

vs.)

No. 79-C-639-E

JACQUELINE LEAH HUMMEL, a minor,)
by and through her mother and next)
kin, Juanita Hummel; TOMMY SMITH,)
HAROLD DEAN SMITH and NEVA NELL)
SMITH,)

Defendants.)

FILED

Aug 6 1981

JUDGMENT

U. S. DISTRICT COURT

The Court, after thorough consideration of the legal issues briefed by the parties concludes that, as a matter of law, judgment should be entered in favor of the Plaintiff, Western Fire Insurance Company.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment in this case be granted in favor of Plaintiff and against Defendants.

It is so Ordered this 6th day of August, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 6 1981

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 HOWARD L. WEBB,)
)
 Defendant.)
)

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

CIVIL ACTION NO. 81-C-348-E

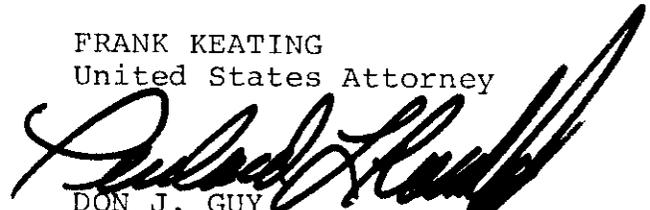
NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney Don J. Guy, Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action, without prejudice.

Dated this 5 day of August, 1981.

UNITED STATES OF AMERICA

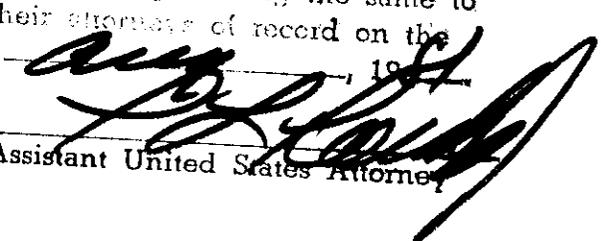
FRANK KEATING
United States Attorney



DON J. GUY
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 5 day of August, 1981.



Assistant United States Attorney

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

FILED

AUG - 6 1981

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

GAYNA B. VELTMAN,
Plaintiff,

v.

DEAN WITTER REYNOLDS, INC.,
and FELIX R. PARK, Jr.
Defendants.

No. 79-C-420-E

ORDER

There comes before the Court Plaintiff's Application to Dismiss Action with Prejudice upon the grounds that all claims and causes of action which said Plaintiff had against the Defendants *and Felix R. Park, Jr.* Dean Witter Reynolds, Inc., have been settled and compromised and that the claims and causes of action asserted by the Plaintiff herein have thereby been rendered moot. The Court finds that said Application should be sustained and that this action should be dismissed with prejudice.

IT IS, THEREFORE, ORDERED by the Court that this action and all aspects thereof be and the same is hereby and by these premises dismissed with prejudice as to all parties, with each party bearing its own costs.

James O. Deacon
UNITED STATES DISTRICT COURT

APPROVED AS TO FORM:

Dow Bonnell
DOW BONNELL, Attorney for the
Plaintiff, Gayna B. Veltman

Dallas E. Ferguson
DALLAS E. FERGUSON, Attorney for the
Dean Witter Reynolds, Inc.

George M. Park
GEORGE PARK, Attorney for the
Defendant Felix R. Park

**NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.**

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

FILED

Aug 6, 1981 dm

U.S. DISTRICT COURT

STACEY P. IRVIN, et al.,)
)
Plaintiffs,)
)
vs.)
)
CLARIDGE PRODUCTS &)
EQUIPMENT, INC., et al.,)
)
Defendants.)

No. 80-C-214-E ✓

ORDER OF DISMISSAL WITH PREJUDICE

There comes on for consideration the Application of the parties hereto for an Order dismissing the above-captioned action and each and every claim for relief therein, with prejudice, and the Court being fully advised and having considered and approved the Settlement and Compromise Agreement filed herein FINDS and IT IS ORDERED that plaintiffs' Complaint and each and every cause of action and claim for relief set forth therein and defendant Adirondack's Cross-Claim and each and every cause of action and claim for relief set forth therein should be and are hereby dismissed with prejudice; and each party hereto shall bear its own costs and attorneys' fees.

DATED this 5 day of August, 1981.

James O. Ellison for
JAMES O. ELLISON, JUDGE
United States District Court
Northern District of Oklahoma

APPROVED:

Sidney G. Dunagan
Sidney G. Dunagan
Attorney for Plaintiffs

John R. Paul
John R. Paul
Attorney for Defendant Claridge
Products & Equipment, Inc.

James E. Poe
James E. Poe
Attorney for Defendant
Adirondack Chair Co., Inc.

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

FILED

Aug 6, 1981

WAYNE L. GARDEN, DALE E. GARDEN,)
WAYNE H. LAMB, WALTER L. PECK,)
DEL P. ROBERTS, DAVID L. BOOHER,)
GARY THOMAS,)
Plaintiffs,)

vs.)

Civil Action No. 80-C-456-E

REGENCY INDUSTRIES, INC., a)
Kansas corporation)
Defendant.)

JUDGMENT

1. NOW on this 3rd day of August, 1981 this action came on for trial before the Court, U.S. Magistrate Robert Rizley presiding, and the Plaintiffs appearing not but represented in Court by their attorney, Tom Tannehill and the Defendant appearing not, but represented in Court by its attorney, Tilman E. Pool, and the parties advising the Court by their respective counsels that the Defendant does confess judgment as to all material allegations set forth in Plaintiffs' Amended Complaint filed in the cause on March 24, 1981 and more particularly that the Defendant Regency Industries, Inc., a Kansas corporation, which did on or about March 1, 1979 execute by and through its President Paul J. Loftin, a promissory note, which required payment to the Plaintiff Wayne L. Garden of the principal sum of \$18,630 with interest thereon at the rate of 10% per annum from March 1, 1980 until paid but that said Defendant has wholly defaulted in making said payment pursuant to the terms of said promissory note and that a judgment may be had against said Defendant as to the Plaintiff Wayne L. Garden in the amount of \$18,630, interest in the amount of \$2,639.25 and attorney's fees and court costs as hereinafter set forth.

2. That the Defendant Regency Industries, Inc., a Kansas corporation, which did on or about March 1, 1979 execute by and through its President Paul J. Loftin, a promissory note, which required payment to the Plaintiff Dale E. Garden of the principal sum of \$18,630 with interest thereon at the rate of 10% per annum from March 1, 1980 until paid but that said Defendant has wholly defaulted in making said payment pursuant to the terms of said promissory note and that a judgment may be had against said Defendant as to the Plaintiff Dale E. Garden in the amount of \$18,630, interest in the amount of \$2,689.25 and attorney's fees and court costs as hereinafter set forth.

3. That the Defendant Regency Industries, Inc., a Kansas corporation, which did on or about March 1, 1979 execute by and through its President Paul J. Loftin, a promissory note, which required payment to the Plaintiff Wayne H. Lamb of the principal sum of \$4,536 with interest thereon at the rate of 10% per annum from March 1, 1980 until paid but that said Defendant has wholly defaulted in making said payment pursuant to the terms of said promissory note and that a judgment may be had against said Defendant as to the Plaintiff Wayne H. Lamb in the amount of \$4,536, interest in the amount of \$642.60 and attorney's fees and court costs as hereinafter set forth.

4. That the Defendant Regency Industries, Inc., a Kansas corporation, which did on or about March 1, 1979 execute by and through its President Paul J. Loftin, a promissory note, which required payment to the Plaintiff Walter L. Peck of the principal sum of \$3,888 with interest thereon at the rate of 10% per annum from March 1, 1980 until paid but that said Defendant has wholly defaulted in making said payment pursuant to the terms of said promissory note and that a judgment may be had against said Defendant as to the Plaintiff Walter L. Peck in the amount of \$3,888, interest in the amount of \$550 and attorney's fees and court costs as hereinafter set forth.

5. That the Defendant Regency Industries, Inc., a Kansas corporation, which did on or about March 1, 1979 execute by and through its President Paul J. Loftin, a promissory note, which required payment to the Plaintiff Del P. Roberts of the principal sum of \$4,914 with interest thereon at the rate of 10% per annum from March 1, 1980 until paid but that said Defendant has wholly defaulted in making said payment pursuant to the terms of said promissory note and that a judgment may be had against said Defendant as to the Plaintiff Del P. Roberts in the amount of \$4,914, interest in the amount of \$696.15 and attorney's fees and court costs as hereinafter set forth.

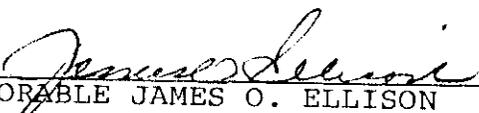
6. That the Defendant Regency Industries, Inc., a Kansas corporation, which did on or about March 1, 1979 execute by and through its President Paul J. Loftin, a promissory note, which required payment to the Plaintiff David L. Booher of the principal sum of \$1,080 with interest thereon at the rate of 10% per annum from March 1, 1980 until paid but that said Defendant has wholly defaulted in making said payment pursuant to the terms of said promissory note and that a judgment may be had against said Defendant as to the Plaintiff David L. Booher in the amount of \$1,080, interest in the amount of \$153 and attorney's fees and court costs as hereinafter set forth.

7. That the Defendant Regency Industries, Inc., a Kansas corporation, which did on or about March 1, 1979 execute by and through its President Paul J. Loftin, a promissory note, which required payment to the Plaintiff Gary Thomas of the principal sum of \$2,322 with interest thereon at the rate of 10% per annum from March 1, 1980 until paid but that said Defendant has wholly defaulted in making said payment pursuant to the terms of said promissory note and that a judgment may be had against said Defendant as to the Plaintiff Gary Thomas in the amount of \$2,322, interest in the amount of \$328.95 and attorney's fees and court costs as hereinafter set forth.

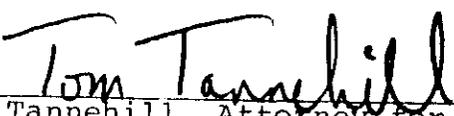
8. That the Defendant is liable for the attorney's fees sustained by Plaintiffs in this cause and is liable therefor in the sum of \$6,250.00 to be payable to the Plaintiff's attorney, Tom Tannehill, deposition costs in the amount of \$180.20 and accrued court costs in the amount of \$101.52.

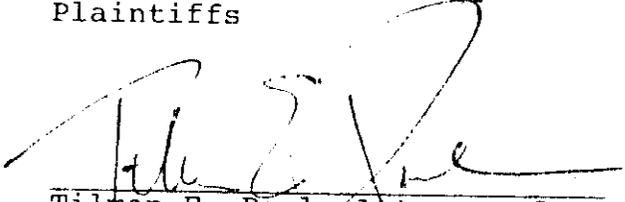
IT IS ORDERED AND ADJUDGED that the Plaintiffs and each of them are entitled to judgment against the Defendant Regency Industries, Inc., a Kansas corporation in the amounts as hereinabove specifically set forth in the above numbered paragraphs, said amounts totalling Fifty-Four Thousand Dollars (\$54,000.00) as principal on the subject notes which Defendant is held in default thereon, accrued interest as of this date in the amount of Seven Thousand Six Hundred and Fifty Dollars (\$7,650.00), deposition costs in the amount of One Hundred Eighty Dollars and Twenty Cents (\$180.20), accrued court costs in the amount of One Hundred and One Dollars and Fifty-Two Cents (\$101.52) and an attorney's fee in the amount of Six Thousand Two Hundred and Fifty Dollars (\$6,250.00) to be payable to Tom Tannehill, attorney for the Plaintiffs, interest on the total amount of this judgment at the rate of Twelve percent (12%) per annum from this date until paid and upon which judgment let execution issue.

DATED this 6th day of August, 1981 at Tulsa, Oklahoma.


HONORABLE JAMES O. ELLISON
JUDGE OF THE U.S. DISTRICT COURT

Approved:


Tom Tannehill, Attorney for
Plaintiffs


Tilman E. Pool, Attorney for
Defendant Regency Industries,
Inc., a Kansas corporation

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

BUELL CABINET COMPANY, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 RICHARD S. SUDDUTH and)
 STEVEN E. JANCO, individually,)
 and d/b/a WORLD PROPERTIES, a)
 joint venture;)
 OLD WORLD PRODUCTS CORPORATION,)
 a corporation; McKEE INCOME)
 REALTY TRUST, a business trust)
 organized under the laws of the)
 Commonwealth of Massachusetts; and)
 SOONER FEDERAL SAVINGS AND LOAN)
 ASSOCIATION OF TULSA,)
)
 Defendants.)

FILED

AUG 6 1981

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

NO 77-C-169-C

J U D G M E N T

On this 17th day of July, 1981, the court proceeded to hear the evidence in connection with the Motion of American Title Insurance Company of Miami Florida for judgment over and against the Defendant, Richard S. Sudduth.

The court finds:

That the parties have, by agreement, submitted the issues to this court.

That American Title Insurance Company of Miami, Florida is entitled to a judgment against Richard S. Sudduth in the amount of \$17,250.00 in connection with judgment rendered in the District Court of Tulsa County, Oklahoma, Case No. C 75-2521, and plus an attorney fee of \$1,725.00 awarded in said court.

That American Title Insurance Company of Miami, Florida is entitled to a further judgment against Richard S. Sudduth in the amount of \$25,711.17 for attorney fees awarded to Buell Cabinet Company, Inc., against McKee Income Realty Trust in the instant case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That American Title Insurance Company of Miami, Florida have a judgment against Richard S. Sudduth in the amount of \$17,250.00, plus total attorney fees in the amount of \$27,436.17.

Entered this 6th day of ^{Aug.} ~~July~~, 1981.

(Signed) H. Dale Cook

H. DALE COOK
Chief Judge
United States District Court

APPROVED AS TO FORM:

Joe Francis
1801 First National Bank Bldg.
Tulsa, Oklahoma 74103

Attorney for American Title
Insurance Company of Miami, Florida

Ronald Main
Sooner Federal Building
Tulsa, Oklahoma 74103

Attorney for Richard S. Sudduth

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

FILED
U. S. DISTRICT COURT

SYLVIA JEAN CROSS,
Plaintiff,
vs.
CITY OF TULSA,
Defendant.

No. 80-C-660-E

JUDGMENT

The Court, after hearing and thorough consideration of the entire file in this matter finds that there are no material issues of fact in existence and that as a matter of law judgment should be entered in favor of Defendant City of Tulsa.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment in this case be granted in favor of Defendant and against Plaintiff.

It is so Ordered this 6TH day of August, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

CASABLANCA FAN COMPANY,)
INC., a corporation,)

Plaintiff,)

vs.)

ROBERT C. FISHER,)
d/b/a FISHER'S,)

Defendant,)

and)

ROYAL LAMP, INC.,)
a corporation,)

Additional)
Defendant.)

AUG - 5 1981

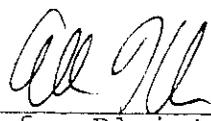
Jack C. Silver, Clerk
U. S. DISTRICT COURT

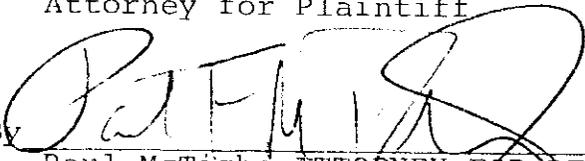
Case No. 79-C-643-BT

STIPULATION OF DISMISSAL

COMES NOW the Plaintiff by its attorney of record, and comes now the Defendant and the additional Defendant by their attorney of record and stipulates that this matter may be dismissed without prejudice.

UNGERMAN, CONNER, LITTLE, UNGERMAN & GOODMAN

By 
Attorney for Plaintiff

By 
Paul McTighe ATTORNEY FOR DEFENDANT &
ADDITIONAL DEFENDANT.

LAW OFFICES

UNGERMAN,
CONNER,
LITTLE,
UNGERMAN &
GOODMAN

MIDWAY BLDG.
2727 EAST 21 ST.
SUITE 400

P. O. BOX 2098
TULSA, OKLAHOMA
74101

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

1981 AUG 5 AM 10:00
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JOSEPH L. MARCILLE,)
)
Defendant.)

CIVIL ACTION NO. 81-C-314-B

NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney, Paula S. Ogg, Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action, without prejudice.

Dated this 5 day of August, 1981.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney



PAULA S. OGG
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 6 day of August, 1981.


Assistant United States Attorney

'HIP:slb
7/27/81

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

CARL B. CAGLE,)
)
 Plaintiff,)
)
 vs.)
)
 JOSEPH CALIFANO, JR.,)
 Secretary of Health,)
 Education, and Welfare,)
)
 Defendant.)

Civil Action No. 78-C-141-D

FILED
AUG 4 1981

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

ORDER

On the 27th day of April, 1981, the Plaintiff filed his Motion to Remand, requesting that this matter be remanded, pursuant to 42 U.S.C. §405(g), so that new and additional medical evidence, made available since the date of the Administrative Law Judge's decision, could be examined by the Secretary. The Plaintiff filed his Motion to Remand, pursuant to an Order of this Court entered on March 11, 1981, and a subsequent Order of this Court entered on March 27, 1981, allowing the Plaintiff additional time within which to file his Motion to Remand. In its Response to the Plaintiff's Motion to Remand, the Secretary, by and through his attorney, Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, stated that he had no objection to the case being remanded to the Secretary for further consideration.

WHEREFORE, since the Defendant has no objection to this case being remanded to the Administrative level, the Plaintiff would request that this case be remanded to the Secretary for further proceedings.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Plaintiff's Motion to Remand be sustained, and that this matter be remanded to the Secretary for further proceedings, pursuant to 42 U.S.C. §405(g).

Shea D. [Signature]
Judge

APPROVED AS TO FORM:

Harris H. Prescott
Harris H. Prescott
Attorney for Plaintiff

Philard L. Rounds, Jr.
Philard L. Rounds, Jr., Asst. U. S. Attorney
Attorney for Defendant

LAW OFFICES

INGERMAN,
CONNER,
LITTLE,
UNCERMAN &
GODMAN

MIDWAY PLDG
2727 EAST 21 ST.
SUITE 400

P. O. BOX 2099
TULSA, OKLAHOMA
74101

FILED

AUG - 3 1981

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

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

POP N'ROLL MUSIC, et al.,)
)
Plaintiffs,)
)
vs.) 81-C-243-BT
)
DAWN BROADCASTING, INC.,)
)
Defendant.)

ORDER

This is a suit for copyright infringement under Title 17 U.S.C. Plaintiffs originally sued Dawn Broadcasting, Inc. and Thomas N. Jackson. Thomas N. Jackson filed a Motion to Quash Issuance and Service of Summons, to Dismiss, or in the Alternative, for Change of Venue. Dawn Broadcasting, Inc. has filed a Motion for Change of Venue.

On July 27, 1981, plaintiffs filed their First Amended Complaint, pursuant to F.R.Civ.P. 15(a), whereby Thomas N. Jackson was deleted as a defendant in this action. The Court, therefore, finds the Motion to Quash Issuance and Service of Summons of Thomas N. Jackson and Motion to Dismiss should be sustained and Thomas N. Jackson is dismissed without prejudice from this action. Such ruling makes the Motion for Change of Venue of Thomas N. Jackson moot.

Dawn Broadcasting, Inc. has moved for a change of venue pursuant to 28 U.S.C. §1404(a), which provides: "For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." Dawn Broadcasting, Inc. is incorporated under the laws of the State of Oklahoma and maintains and operates a commercial radio station in Pawhuska, Oklahoma, known by the call letters KXVQ, under a license granted by the Federal Communications Commission. It has its principal place of business, however, in McMurray, Pennsylvania.

Dawn Broadcasting, Inc., has submitted the affidavit of Thomas N. Jackson, President of Dawn Broadcasting, Inc. in support of its Motion for Change of Venue. Mr. Jackson states substantially all, if not all of the executive functions of the corporation are performed in Pennsylvania; that all the records anticipated to be pertinent to the claims asserted are located in Pennsylvania; all payroll and general business checks have originated from Pennsylvania; that Mr. Jackson is possessed of limited financial means and the requirement he defend this litigation in the Northern District of Oklahoma would impose an extreme financial burden and inconvenience upon him. In its Motion Dawn Broadcasting, Inc. further maintains none of the plaintiffs are "residents" of Oklahoma.

28 U.S.C. §1400(a) provides: "Civil actions, suits, or proceedings arising under any Act of Congress relating to copyrights may be instituted in the district in which the defendant or his agent resides or may be found."

In Houghton Mifflin Co. v. National Computer Systems, Inc., 378 F.Supp. 592, 596 (S.D.N.Y. 1974) [action alleging violation of the federal copyright laws] the Court said "[i]t is a plaintiff's choice of forum, however illogical, that is entitled to great deference."

A transfer under 28 U.S.C. §1404(a) lies within the discretion of the trial court. Wm. A. Smith Contracting Co. v. Travelers Indemnity Co., 467 F.2d 662 (10th Cir. 1972); Metropolitan Paving Co. v. International Union of Operating Engineers, 429 F.2d 300 (10th Cir. 1971), cert. denied, 404 U.S. 892, 92 S.Ct. 68, 30 L.Ed.2d 58 (1971); Texas Gulf Sulphur Co. v. Ritter, 371 F.2d 145 (10th Cir. 1967).

The burden of establishing that this suit should be transferred is on the movant and unless the evidence and circumstances of the case are strongly in favor of the transfer, the plaintiffs' choice of forum should rarely be disturbed. Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 67 S.Ct. 839, 91 L.Ed. 1055 (1947); Wm. A. Smith Contracting Co. v. Travelers Indemnity Co., supra; Texas Gulf Sulphur Co. v. Ritter, supra; Factors, Ec., Inc. v. Pro Arts

Inc., 579 F.2d 215 (10th Cir. 1978), cert. denied, 99 S.Ct. 1215; Houston Fearless Corp. v. Teter, 318 F.2d 822 (10th Cir. 1963); Radiation Researchers, Inc. v. Fischer Industries, Inc., 70 F.R.D. 561 (USDC WD Okl. 1976); Vinita Broadcasting Co. v. Colby, 320 F.Supp. 902 (USDC ND Okl. 1971).

The foremost factor militating against transfer, of course, is plaintiffs' choice of forum. B. J. McAdams, Inc. v. Boggs, 426 F.Supp. 1091, 1104 (USDC ED Pa. 1977). In deference to the paramount consideration of plaintiffs' choice of a proper forum, transfer may only be granted if the defendant establishes that the balance of interests is strongly in its favor. Shutte v. Armco Steel Corp., 431 F.2d 22, 25 (3rd Cir. 1970), cert. denied 401 U.S. 910, 91 S.Ct. 871, 27 L.Ed.2d 808 (1971).

A transfer is not appropriate if it would merely shift inconvenience from one party to another. Hess Oil Virgin Islands Corp. v. UOP, Inc., 447 F.Supp. 381, 383 (USDC ND Okl. 1978).

Plaintiffs aver defendant is a Oklahoma corporation with its registered agent in Oklahoma, conducts business in Oklahoma, has its operational headquarters in the station's studio in Pawhuska, is licensed to broadcast in the assigned area of Pawhuska and conducted the broadcasts which allegedly gave rise to this litigation in Pawhuska to a listening audience in Pawhuska. Plaintiffs state the fact the minutes of stockholders' meetings, etc., might be located in Pennsylvania is of no importance inasmuch as the relevant records (such as the station's daily FCC logs) would be located in Pawhuska and the station's personnel who conducted and oversaw the alleged infringing activities would also be located in Pawhuska.

The Court will not readily disturb plaintiffs' choice of forum and finds the Motion for Change of Venue should be denied.

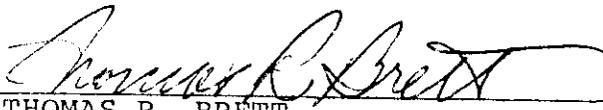
IT IS, THEREFORE, ORDERED as follows:

1. The Motion to Quash Issuance and Service of Summons of Thomas N. Jackson and Motion to Dismiss are sustained and Thomas N. Jackson is dismissed without prejudice from this action. The Motion for Change of Venue of Thomas N. Jackson is moot.

2. The Motion for Change of Venue of the defendant, Dawn Broadcasting, Inc. is overruled.

3. The defendant, Dawn Broadcasting, Inc. is directed to file its answer within 15 days from this date.

ENTERED this 3rd day of August, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

PATTI D. DIETZ, formerly)
PATTI D. GARRETT,)
)
Plaintiff,)
)
-vs-)
)
GERALD DEAN BRYAN and)
THE CITY OF TULSA,)
TULSA, OKLAHOMA,)
)
Defendants.)

AUG-3 1981

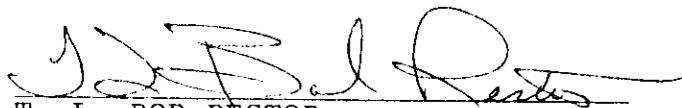
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No. 80-C-645-G Jack C. Silver, Clerk
U. S. DISTRICT COURT

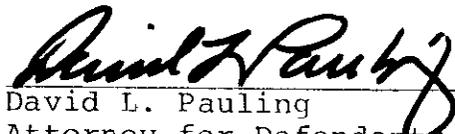
STIPULATION OF DISMISSAL

COME NOW the parties to the captioned action by and through their respective attorneys of record pursuant to Federal Rule Civil Procedure 41[a][1] who herewith stipulate to the dismissal with prejudice of the above captioned action. The parties further stipulate that Plaintiff will bear her costs and attorney fees expended herein and the Defendants will bear the expense of their attorney fees expended herein.

DATED this 30th day of July, 1981.



T. L. BOB RESTOR,
Attorney for Plaintiff
P. O. Box 216
Sand Springs, Oklahoma 74063



David L. Pauling
Attorney for Defendants,
GERALD DEAN BRYAN AND
THE CITY OF TULSA
200 Civic Center, Room 1012
Tulsa, Oklahoma 74103
(918) 581-5201

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA **F I L E D**
TULSA DIVISION

AUG - 3 1981

BUDDAH MUSIC, INC., ET AL,
Plaintiffs,
v.
HABANA INN OF TULSA, INC.,
ET AL,
Defendants.

§
§
§
§
§
§
§
§
§
§

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

CIVIL ACTION NO. 81-C-45-B

ORDER OF DISMISSAL WITH PREJUDICE

ON this 3rd day of August, 1981, came the parties by and through their respective counsel of record and announced to the Court that all matters in controversy have been settled and that the above entitled and numbered cause should be dismissed with prejudice to the refiling thereof at Plaintiffs' costs; it is accordingly

ORDERED that the above entitled and numbered cause be, and same is hereby, dismissed with prejudice to the refiling thereof and costs are taxed to Plaintiffs.

SIGNED AND ENTERED on the date first above written.

S/ THOMAS R. BRETT

United States District Judge

APPROVED:

JACKSON, WALKER, WINSTEAD,
CANTWELL & MILLER

By J. Kyle DuVall
J. Kyle DuVall

4300 First National Bank Bldg.
Dallas, Texas 75202
(214) 655-2911

Attorneys for Plaintiffs

BLACKSTOCK, JOYCE, POLLARD
BLACKSTOCK & MONTGOMERY

By Jerry M. Snider
Jerry M. Snider

515 South Main Mall
Tulsa, Oklahoma 74103

Attorneys for Defendants

FILED

AUG - 3 1981

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

JOHN F. LAWHON FURNITURE
COMPANY, INC.,

Debtor

)
)
)
)
)

81-C-271-BT
(In Bankruptcy
Number 81-00142)

ORDER

The Judge of the Bankruptcy Court, the Honorable William E. Rutledge, having filed a Dismissal of the Louisiana Power and Light Company's appeal to the District Court on July 23, 1981, and a copy of said Order having been filed in this case,

IT IS ORDERED the Appeal of the Louisiana Power & Light Company to this Court is hereby dismissed.

ENTERED this 3rd day of August, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT COURT

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

GENE SALTSMAN,

Plaintiff,

vs.

FIBREBOARD CORPORATION, et al.,

Defendants.

No. CIV-79-C-616-BT

RECEIVED
AUG 1 1981
U.S. DISTRICT COURT

DISMISSAL WITH PREJUDICE

Comes now the Plaintiff, Gene Saltsman, and his attorney of record, Silas Wolf, Jr., and state that they have received full satisfaction of all their claims in the above styled and numbered cause from Defendant, Owens-Corning Fiberglas Corporation, and dismiss the same with prejudice towards the filing of any future action.

Gene Saltsman

GENE SALTSMAN
Plaintiff

Silas Wolf, Jr.

SILAS WOLF, JR.
Attorney for Plaintiff
111 North Peters Suite 550
Norman, Oklahoma 73069

FILED

AUG - 3 1981

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

ORDER

On this 3rd day of August, 1981, upon the Application of the Plaintiff to dismiss the above cause of action with prejudice, the Court finds and therefore orders that the above captioned case be dismissed with prejudice as to the Defendant, Owens-Corning Fiberglas Corporation.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

**NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.**