

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

FILED  
JUL 29 1983

FORD MOTOR CREDIT COMPANY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
COOPER MANUFACTURING CORPO- )  
RATION, )  
 )  
Defendant. )

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

No. 83-C-285-E

STIPULATION OF DISMISSAL

Comes now the plaintiff and the defendant herein, and pursuant to Rule 41 of the Federal Rules of Civil Procedure, stipulate that the above styled and numbered cause may be dismissed by the Court without prejudice at the cost of the plaintiff.

---

Thomas G. Marsh  
DYER, POWERS, MARSH & ARMSTRONG  
525 South Main, Suite 210  
Tulsa, Oklahoma 74103  
918/587-0141  
Attorney for Plaintiff

---

Barbara L. Banker  
CONNER, WINTERS, BALLAINE,  
BARRY & MCGOWEN  
2400 First National Tower  
Tulsa, Oklahoma 74103  
918/586-5711  
Attorney for Defendant



IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Biff K. Rowley, in the amount of \$407.75, plus costs and interest at the legal rate from the date of this Judgment until paid.

121 H. Dale Cook  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

Nancy A. Nesbitt  
NANCY A. NESBITT  
Assistant U.S. Attorney

Biff K. Rowley  
BIFF K. ROWLEY



Entered

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

81-48-1983  
DISTRICT COURT

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
RICHARD L. ELLIOT,	)	
	)	
Defendant.	)	CIVIL ACTION NO. 81-C-764-B

NOTICE OF DISMISSAL

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

Dated this 28th day of July, 1983.

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

*Nancy A. Nesbitt*  
NANCY A. NESBITT  
Assistant United States 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 28th day of July, 1983.

*Nancy A. Nesbitt*  
\_\_\_\_\_  
Assistant United States Attorney



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUL 28 1983A

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

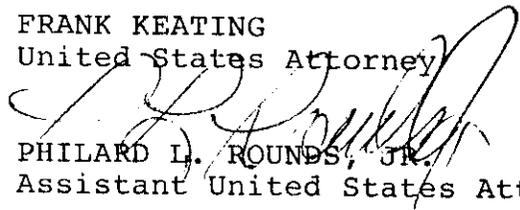
UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 DENNIS E. BOS, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-398-C ✓

NOTICE OF DISMISSAL

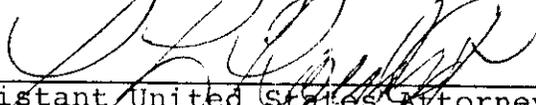
COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Philard L. Rounds, Jr., Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action with prejudice.

Dated this 28 day of July, 1983.

UNITED STATES OF AMERICA  
FRANK KEATING  
United States Attorney  
  
PHILARD L. ROUNDS, JR.  
Assistant United States 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 28th day of July, 1983.

  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 JASPER L. PREWETT; )  
 MELBA L. PREWETT; )  
 KINGSTON H. MILLER; )  
 JEANNIE GOLDEN; )  
 OKLAHOMA OSTEOPATHIC FOUNDERS )  
 ASSOCIATION, INC., d/b/a )  
 OKLAHOMA OSTEOPATHIC HOSPITAL; )  
 HILLCREST MEDICAL CENTER; )  
 WORKS, LENTZ AND POTTORF, INC.; )  
 CARL A. BARNES; )  
 BOARD OF COUNTY COMMISSIONERS, )  
 Tulsa County, Oklahoma; )  
 COUNTY TREASURER, Tulsa County, )  
 Oklahoma, )  
 )  
 Defendants. ) CIVIL ACTION NO. 83-C-171-E

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 28 day  
of July, 1983. The Plaintiff appearing by Frank  
Keating, United States Attorney for the Northern District of  
Oklahoma, through Nancy A. Nesbitt, Assistant United States  
Attorney; the Defendants County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appearing by their attorney, David A. Carpenter,  
Assistant District Attorney; the Defendant Oklahoma Osteopathic  
Founders Association, Inc., d/b/a Oklahoma Osteopathic Hospital  
appearing by its attorney, Richard C. Honn; the Defendants  
Hillcrest Medical Center, and Works, Lentz and Pottorf, Inc.  
appearing by their attorney Fred A. Pottorf; the Defendant Carl  
A. Barnes appearing on his own behalf; and the Defendants Jasper

L. Prewett, Melba L. Prewett, Kingston H. Miller, and Jeannie Golden appearing not.

The Court being fully advised and having examined the file herein finds that the Defendant Jasper L. Prewett was served with Summons and Complaint on March 9, 1983; that the Defendant Melba L. Prewett was served with Summons and Complaint on February 28, 1983; that the Defendants Kingston H. Miller, and Jeannie Golden were served with Summons and Complaint on February 24, 1983; and that the Defendants Oklahoma Osteopathic Founders Association, Inc., d/b/a Oklahoma Osteopathic Hospital, Hillcrest Medical Center, Works, Lentz, and Pottorf, Inc., Carl A. Barnes, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma were served with Summons and Complaint on February 23, 1983.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on March 14, 1983; that the Defendant Oklahoma Osteopathic Founders Association, Inc., d/b/a Oklahoma Osteopathic Hospital filed its Answer herein on March 15, 1983, and its Amended Answer herein on March 21, 1983; that the Defendant Hillcrest Medical Center filed its Answer herein on March 7, 1983; that the Defendant Works, Lentz and Pottorf, Inc., filed its Answer herein on March 7, 1983; that the Defendant Carl A. Barnes filed his Answer herein on March 15, 1983; and that the Defendants Jasper L. Prewett, Melba L. Prewett, Kingston H. Miller, and Jeannie Golden have failed to answer the Complaint or otherwise plead and that

their default has therefore been entered by the Clerk of this Court.

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

Lot Sixteen (16), Block Four (4), Lake-View Heights Amended Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants Jasper L. Prewett and Melba L. Prewett, did on the 18th day of February , 1971, execute and deliver to the United States of America acting through the Administrator of Veterans Affairs, their mortgage and promissory note in the sum of \$9,250.00, payable in monthly installments, with interest thereon at the rate of eight and one-half (8½) percent per annum.

The Court further finds that the Defendants Jasper L. Prewett and Melba L. Prewett, made default under the terms of the aforesaid promissory note by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the above-named Defendants are indebted to the Plaintiff in the sum of \$8,390.95 as of January 1, 1982, plus interest thereafter at the rate of eight and one-half (8½) percent per annum until paid, plus the costs of this action accrued and accruing.

The Defendant Oklahoma Osteopathic Founders Association, Inc., d/b/a Oklahoma Osteopathic Hospital has

disclaimed all right, title, or interest in the above-described real property.

The Defendant Hillcrest Medical Center has an interest in the above-described real property by virtue of a Judgment entered December 17, 1980, in the amount of \$2,462.40, plus 12% interest per annum. Said judgment lien is junior and inferior to the mortgage lien of the Plaintiff.

The Defendant Works, Lentz, and Pottorf, Inc., has an interest in the above-described real property by virtue of a Judgment for attorney's fees entered December 17, 1980, in the amount of \$838.72. Said judgment lien is junior and inferior to the mortgage lien of the Plaintiff.

The Defendant Carl A. Barnes has an interest in the above-described real property by virtue of a Judgment entered November 17, 1982, in the amount of \$750.00, plus \$325.00 for attorney's fees, plus interest at the legal rate. Said judgment lien is junior and inferior to the mortgage lien of the Plaintiff.

The Defendant Kingston H. Miller has an interest in the above-described real property by virtue of a General Warranty Deed dated February 4, 1982. Said interest is junior and inferior to the mortgage lien of the Plaintiff.

The Defendant Jeannie Golden has an interest in the above-described real property as the lessee of said real property. Said interest is junior and inferior to the mortgage lien of the Plaintiff.

The Defendant, County Treasurer, Tulsa County, Oklahoma, has an interest in the above-described real property by

virtue of real estate taxes for the years \_\_\_\_\_ in the amount of \_\_\_\_\_ now due and owing and unpaid, which are a lien against said real property. Said lien is prior and superior to the mortgage lien of the Plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants Jasper L. Prewett and Melba L. Prewett, in the sum of \$8,390.95, as of January 1, 1982, plus interest accruing at the rate of eight and one-half (8½) percent per annum, plus the costs of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of the previously named Defendants to satisfy the money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisalment the real property herein, and apply the proceeds thereof as follows:

First:

In payment of the costs of this action, accrued and accruing, including the costs of sale;

Second:

In payment of the real estate taxes assessed against the subject real property in the amount of — 0 — <sup>DAC</sup>;

Third:

In payment of the judgment rendered herein in favor of Plaintiff;

Fourth:

In payment of the judgment lien of the Defendant  
Oklahoma Osteopathic Founders Association, Inc.,  
d/b/a Oklahoma Osteopathic Hospital;

Fifth:

In payment of the judgment liens of the Defendants  
Hillcrest Medical Center, and Works, Lentz, and  
Pottorf, Inc.;

Sixth:

In payment of the judgment lien of the Defendant  
Carl A. Barnes.

The surplus from said sale, if any, shall be deposited with the  
Clerk of the Court to await further order of the Court.

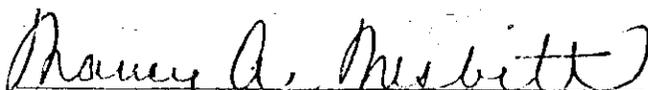
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from  
and after the sale of the above-described real property, under  
and by virtue of this judgment and decree, the Defendants and all  
persons claiming under them since the filing of the Complaint  
herein, be and they are forever barred and foreclosed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

**S/ JAMES O. ELLISON**

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

FRANK KEATING  
United States Attorney

  
NANCY A. NESBITT  
Assistant United States Attorney

*David A. Carpenter*

DAVID A. CARPENTER  
Assistant District Attorney

*Richard C. Honn*

RICHARD C. HONN

*Fred A. Pottorf*

FRED A. POTTORF

*Carl A. Barnes*

CARL A. BARNES

F I L E  
JUL 18 1983  
JAMES G. SILVER, CLERK  
U. S. DISTRICT COURT

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

MARCUS RUSSELL MILLER, )  
 )  
 Petitioner, )  
 )  
 v. ) No. 82-C-505-E  
 )  
 L. T. BROWN, Warden, et al., )  
 )  
 Respondents. )

O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed on July 14, 1983 in which the Magistrate recommends that the Petition for Writ of Habeas Corpus be denied. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues presented by the Petition for Writ of Habeas Corpus, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed and adopted as the Findings and Conclusions of this Court.

Therefore, the Petition for Writ of Habeas Corpus is denied.

It is so Ordered this 28<sup>th</sup> day of July, 1983.

  
\_\_\_\_\_  
JAMES G. ELLISON  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 15 1983

UNITED STATES OF AMERICA, )  
 )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JAMES L. JONES, )  
 )  
 )  
 Defendant. )

U. S. DISTRICT COURT

CIVIL ACTION NO. 83-C-552-E

DEFAULT JUDGMENT

This matter comes on for consideration this 28 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds, Jr., Assistant United States Attorney, and the Defendant, James L. Jones, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, James L. Jones, was served with Summons and Complaint on July 7, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, James L. Jones, for the principal sum of \$1,265.90, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

**S/ JAMES O. ELLISON**

UNITED STATES DISTRICT JUDGE



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

FILED

JUL 28 1983

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

WILLIAM R. MURRAY,  
Plaintiff,

vs.

ORAL ROBERTS UNIVERSITY,  
DR. CARL H. HAMILTON and  
DR CHARLES A KOTHE,

Defendants.

No. 82-C-49-E

O R D E R

NOW on this 28<sup>th</sup> day of July, 1983, comes on for hearing Plaintiff's motion to dismiss with prejudice and the Court finds the same should be granted based upon opposing counsel's oral waiver of objection to the same.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff's motion to dismiss with prejudice be and is hereby granted.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

Entered

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

FILED

JUL 27 1983

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

UNION INVESTMENTS, INC.,	)
a Utah corporation,	)
	)
Plaintiff,	)
	)
v.	)
	)
C.J. SHARP, GEORGE SHARP,	)
and SHARP FINANCE CORPORATION,	)
an Oklahoma corporation,	)
	)
Defendants.	)

No. 82-C-845-BT

O R D E R

Before the Court for consideration are the motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(6) and the motion for summary judgment pursuant to Fed.R.Civ.P. 56 of defendant, Sharp Finance Corporation. Plaintiff has filed its response and supplements thereto. Under Fed.R.Civ.P. 12(b), if the Court is presented with and does not exclude matters outside the pleadings, the motion shall be treated as one for summary judgment. Because the Court has considered the affidavits of C.J. Sharp, George Sharp and Brenda Sue Smith, defendant's 12(b)(6) motion to dismiss is hereby converted to a motion for summary judgment. For the reasons set forth below, the Court finds the motion for summary judgment should be sustained.

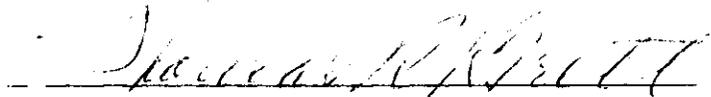
The basis of the motion is that Sharp Finance Corporation was not a party to the alleged contract for sale of certain oil and gas leases and that Sharp Finance Corporation was not the owner of any interest in the oil and gas leases in question. The plaintiff initially resisted the motions, however, the plaintiff has now conceded that "Sharp Finance Corporation should be dismissed as a party defendant." The plaintiff further states, "The evidence developed in C.J. Sharp's deposition did indicate that Sharp Finance Corporation was

not involved in the transactions which give rise to this litigation."<sup>1/</sup>

Because the plaintiff concedes Sharp Finance Corporation should be dismissed herein, the Court concludes the motion for summary judgment of Sharp Finance Corporation should be sustained. A separate judgment in accordance with this Order will be entered herein.

IT IS THEREFORE ORDERED the motion to dismiss deemed a motion for summary judgment pursuant to Fed.R.Civ.P. 12(b) is sustained.

ENTERED this 27 day of July, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

1. Plaintiff's Second Supplemental Brief in Opposition to Defendants' Motion for Summary Judgment filed June 7, 1983, at page 2.

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

*Entered*

**FILED**

JUL 27 1983 *1cg*

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

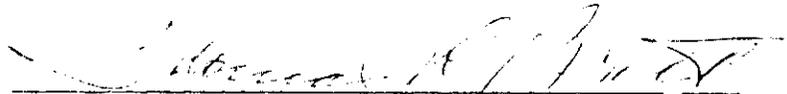
UNION INVESTMENTS, INC., )  
a Utah corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
C.J. SHARP, GEORGE SHARP, )  
and SHARP FINANCE CORPORATION, )  
an Oklahoma corporation, )  
 )  
Defendants. )

No. 82-C-845-BT ✓

JUDGMENT

In accordance with the Court's order entered July 27, 1983, summary judgment is hereby granted in favor of defendant, Sharp Finance Corporation, and against plaintiff, Union Investments, Inc.

ENTERED this 27<sup>th</sup> day of July, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

**FILED**

JUL 27 1983

KRAFTOURS CORPORATION, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
GREER TOURS, INC., A )  
corporation, and ROBERT )  
GREER, individually and )  
doing business as Greer )  
Tours, Inc., )  
 )  
Defendants. )

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

No. 83-C-554-E

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This cause came on for trial on July 21, 1983 on Plaintiff's Motion for Preliminary Injunction and Complaint for Permanent Injunction, the two having been consolidated for purposes of trial by consent of the parties and order of this Court. A temporary restraining order initially was entered by the Court on June 30, 1983 and, thereafter, continued in effect until the date of trial. The Court has considered the Motion for Preliminary Injunction, its supporting affidavits, the authorities submitted by the parties, Defendants' Answer and the evidence presented by Plaintiff and Defendants.

All aspects of this cause having been consolidated, by consent of the parties, for hearing and final determination, the Court now enters its findings of fact and conclusions of law which are dispositive of the issues here presented:

**FINDINGS OF FACT**

1. This action is brought by Plaintiff to enjoin Defendants from conducting operations as common carriers of passengers, by motor vehicle, in interstate and foreign commerce, for which Defendants do not hold an appropriate Certificate of Public Convenience and Necessity duly granted by the Interstate Commerce Commission. The Court has jurisdiction of the parties and the subject matter of these proceedings pursuant to Section 11708(a), (b) & (c) of the Intersate Commerce Act, 49 USCA Section 11708(a), (b) & (c).

2. The Court finds that Plaintiff is a corporate citizen of the State of Oklahoma with principal offices in the City of Tulsa and is in the business of providing passenger transportation for hire subject to the provisions of the Interstate Commerce Act and has received from the Interstate Commerce Commission appropriate certificates under Docket No. MC-120781.

3. Part of Plaintiff's operations consists of providing week-end trips from Tulsa to Louisiana Downs Racetrack in the State of Louisiana.

4. The Defendant Greer Tours is a corporation organized under the laws of the State of Texas and domiciled in the State of Oklahoma. It presently does not have a Certificate of Public Convenience and Necessity which would entitle it to conduct interstate bus operations between Tulsa and Louisiana Downs in the State of Louisiana.

5. This Court entered a temporary restraining order dated June 30, 1983 at 4:15 p.m. That temporary restraining

order was extended by Chief Judge Cook on July 11, 1983 at 4:00 p.m., and it was extended until the date of trial. The temporary restraining order provides in substantive part as follows:

Ordered and decreed that Defendants individually and jointly, their agents, employees, representatives and all others acting for or in concert with them be and hereby are restrained and enjoined temporarily from providing motor bus transportation in interstate commerce for which they do not hold a certificate of public convenience and necessity duly granted by the Interstate Commerce Commission and for which such a certificate is required and for which Plaintiff holds such a certificate.

6. The Defendant Greer Tours, Inc. entered into a "Contract Operating Agreement" with Kremlin Bus Service which appears in this record as Plaintiff's Exhibit 1. That contract places control and responsibility for almost all functions, other than receipt of 10 percent of the revenue, in the Defendant. Defendant Greer Tours has the responsibility for hiring the employees, for maintaining the vehicle, for selecting the routes to be traveled, paying all costs, cost of fuel, tires, accessories, taxes, and the Defendant is solely responsible under that contract for loading and unloading the passengers. The Defendant provides all insurance, and the carrier Kremlin Bus Service never has possession of the vehicle.

7. Kremlin has a Certificate of Public Convenience and Necessity appropriate to carry passengers from Tulsa to Louisiana Downs.

Based upon the facts as here found and upon the law applicable to those facts and to the issues of this cause, the Court enters the following conclusions of law:

## CONCLUSIONS OF LAW

1, The contract, Plaintiff's Exhibit 1, the Contract Operating Agreement between Defendant Greer Tours and Kremlin, was, in practice, and under its terms an unlawful contract. See Southern Mass Bus Lines, Inc., Extension - Special Operations, 100 MCC 686, 691 in which the Commission stated:

"Applicant appears to understand that the common control existing between it and Almeida Bus Lines, Inc., though approved by the Commission must not be exercised in such a way as to blur in the public mind the seat of responsibility for the direction, conduct, condition and operation of leased equipment while in its possession."

The Court cites as further authority Brush Hill Transportation Company Common Carrier Application, 111 MCC 107, 115, which held:

Applicants have de facto participated in an unlawful lease by P&B of its operating authority to Brush Hill to the extent Brush Hill has supplied vehicle and driver, and billing and collection services, and has dealt exclusively with the public, while P&B has paid nothing therefore, but has instead received a percentage of the revenue collected by Brush Hill, see Tischler Extension - Canned Goods, 82 MCC 179, 182.

2. The TRO previously entered is silent as to any lease arrangement. At the time of the hearing on the TRO the Court was not advised as to the mode of operation of the Defendant. Thus, the Court concludes as a matter of law that the Defendants are not in contempt of the orders of this Court, other than a possible technical violation. The Court does not find a willful, contemptuous violation of the Court's order.

3. Based upon the facts as found by this Court and the

applicable law set forth in these conclusions of law, the Defendants are permanently enjoined and restrained from conducting an interstate carrier service other than under the current certificate of public convenience and necessity held by Defendant Greer Tours, Inc. The Defendants specifically are enjoined and restrained from operating unlawfully under the terms, conditions and in the manner currently practiced in conjunction with Kremlin Bus Service and in the absence of an appropriate certificate of public convenience and necessity.

The injunctive provisions of this Order took effect at the time of pronouncement in open court, 4:45 p.m., July 21, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 27 1983

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

Kraftours Corporation

Plaintiff

v.

Greer Tours, Inc., a corporation,  
and Robert Greer, individually  
and doing business as Greer  
Tours, Inc.

Defendants

Civil Action No. 83-C-554-E

PERMANENT INJUNCTION

This cause having come on for trial before the Court,  
and the Court having entered its findings of fact and con-  
clusions of law, it is now

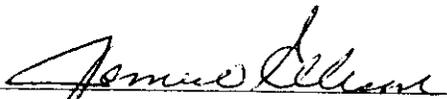
ORDERED AND DECREED that defendants, individually and  
jointly, their agents, employees, representatives, attorneys,  
successors and assigns, and all others acting for or in  
concert with them, be, and they hereby permanently are,  
restrained and enjoined from providing motor bus transportation,  
in interstate or foreign commerce, for which defendants do not  
hold a Certificate of Public Convenience and Necessity duly

granted by the Interstate Commerce Commission and for which such a certificate is required, including, but not limited to, the transportation of passengers between Tulsa, Oklahoma and Louisiana Downs racetrack at or near Shreveport, Louisiana, and it is

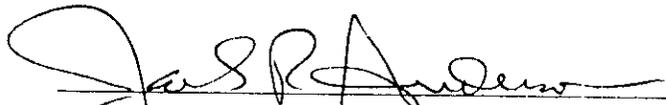
FURTHER ORDERED AND DECREED, that defendants, individually or jointly, their agents, employees, representatives, attorneys, successors and assigns, and all others acting for or in concert with them, be, and they hereby permanently are, restrained and enjoined from unlawfully conducting such operations under any contract, agreement, or otherwise of the nature or terms, conditions and manner as practiced in conjunction with Kremlin Bus Service or in like manner with any other bus operator.

Effective date, July 21, 1983.

Dated: July 26, 1983.

  
\_\_\_\_\_  
James B. Ellison  
United States District Judge

Approved as to form:

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

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

*Entered*

**FILED**

JUL 27 1983

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA  
JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

No. 83-C-135-B

DEBORAH LYNN TATE, Plaintiff,

vs.

RONALD DEAN TATE, Defendant,

and

UNITED STATES DEPARTMENT OF ENERGY,  
Garnishee.

JOURNAL ENTRY AND ORDER

Now on this 27 day of July, 1983, come the parties, DEBORAH LYNN TATE by and through her attorney, RICK ESSER, RONALD DEAN TATE by and through his attorney, JAMES CONATSER, and the UNITED STATES DEPARTMENT OF ENERGY by and through the Assistant United States Attorney, PHILARD L. ROUNDS, JR., and agree and stipulate that the Consent Journal Entry and Order attached hereto and made a part hereof as Exhibit "A" being filed with the Court Clerk of Washington County, Oklahoma, the Petition for Removal filed February 9, 1983, be determined to be moot.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Petition for Removal presently under advisement by the Court be declared moot and the funds previously garnished be distributed in a manner not inconsistent with the Consent Journal Entry and Order filed in Washington County, Oklahoma District Court, Case No. JFD-82-81.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED the matter before the Court is dismissed in keeping with the stipulation.

  
Thomas R. Brett  
United States District Judge

Re: No. 83-C-135-B

APPROVED AS TO FORM:

Attorneys for Plaintiff  
HESKETT, HESKETT, DANIEL,  
ESSER & WOODYARD

BY: *Rick Esser*  
Rick Esser

Attorneys for Defendant  
CONATSER & CONATSER

BY: *James Conatser*  
James Conatser

United States Attorney for  
Department of Energy

BY: *Philard L. Rounds, Jr.*  
Philard L. Rounds, Jr.  
Assistant

IN THE DISTRICT COURT IN AND FOR WASHINGTON COUNTY, STATE OF OKLAHOMA

No. JFD-82-81

DEBORAH LYNN TATE, Plaintiff,  
vs.  
RONALD DEAN TATE, Defendant,  
and  
UNITED STATES DEPARTMENT OF ENERGY,  
Garnishee.

WASH  
COUNTY  
FILED  
JUL 11 2 57 PM '83  
DORIS CURRITT  
Clerk  
by Caroline Offutt  
Clerk

CONSENT JOURNAL ENTRY AND ORDER

Comes now the Plaintiff by and through her attorneys, HESKETT, HESKETT, DANIEL, ESSER & WOODYARD and the Defendant through his attorneys, CONATSER & CONATSER, and consent, agree and stipulate as follows and

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED

COPY

1. That those amounts currently held by the United States Department of Energy from garnishments issued December 10, 1982 and December 22, 1982, in the total sum of \$324.76 and the amount of \$148.20 currently held by the United States Department of Energy from a garnishment issued February 3, 1983, may be paid directly to the attorneys for the Plaintiff to be credited on the attorney fee judgment awarded by the District Court of Washington County, Oklahoma in the decree of divorce filed herein.
2. That those amounts currently held by the office of the Court clerk of Washington County, Oklahoma from garnishments issued on October 1, 1982 and November 14, 1982, in the total sum of \$317.05, less poundage, may be paid directly to the attorneys for the Plaintiff to be credited on the attorney fee judgment hereinabove described.
3. That in all other respects the Motion to Dismiss, Motion of Objection, Amended Motion of Objection, the Order of this Court dated December 20, 1982 and the Order of this Court dated December 30, 1982 are now moot.
4. That the balance of the \$2,000.00 plus costs accrued and accruing and interest, less the sums set out hereinabove will be paid at the rate of \$200.00 per month with the first payment beginning on the 10th day of June, 1983 and with like payments on the 10th day of each month thereafter until paid in full.

John G. Lanning

JUDGE

APPROVED:

Attorneys for Plaintiff  
HESKETT, HESKETT, DANIEL,  
ESSER & WOODYARD

BY: Rick Esser  
Rick Esser

I, Doris Curritt, Court Clerk for Washington County, Okla., hereby certify that the foregoing is a true correct and complete copy of the instrument filed herein. It appears of record in the Clerk's Office of Washington County, Oklahoma.  
11th day of July, 1983  
by Caroline Offutt  
Clerk

Attorneys for Defendant  
CONATSER & CONATSER

BY: Jim Conatser  
Jim Conatser

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

FILED

LORETA I. DAVIS, Surviving )  
Widow and Executrix of the )  
Estate of Brainard C. Davis, )  
Deceased, and Curlo Corporation )  
an Oklahoma corporation, )  
 )  
Plaintiff, )

JUL 27 1983

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

vs )  
 )  
UNITED STATES OF AMERICA, )  
CESSNA AIRCRAFT COMPANY, INC., )  
a corporation, and JEPPESEN )  
AND CO., a corporation, )  
 )  
Defendants. )

No. 81-C-672-E

ORDER

This matter comes on for hearing this 27th day of July, 1983; the Court, having reviewed the Stipulation of the Plaintiffs and the Defendant Cessna Aircraft Company, Inc. for a dismissal without prejudice of the above styled and numbered causes, does hereby dismiss said action as to Cessna Aircraft Company, Inc. without prejudice, and, IT IS SO ORDERED.

S/ JAMES O. ELLISON

\_\_\_\_\_  
JUDGE

Entered

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

JUL 26 1983

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

DIVERSICO PETROLEUM, INC. )  
a New York corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
JOE SAM VASSAR, W.D. )  
MATHEWS, and TULSA )  
PETROLEUM RESOURCES, INC., )  
 )  
Defendants. )

NO. 82-C-1080-B

J U D G M E N T

This case was tried to a jury on July 21, 22 and 25, 1983. At the conclusion of all of the evidence the Court sustained the plaintiff's motion for directed verdict against the defendant, Tulsa Petroleum Resources, Inc. on plaintiff's claim and sustained the motion for directed verdict of the plaintiff on defendant Tulsa Petroleum Resources, Inc.'s counterclaim. The issue of plaintiff's claim against the defendants, Joe Sam Vassar and W.D. Mathews, in the amount of \$25,447.95 was submitted to the jury and the jury returned a verdict in favor of said defendants against the plaintiff on both the issue of actual and punitive damages. Defendants Vassar and Mathews as escrow agents have paid the balance of \$24,552.05 of the escrow fund in dispute into the Court Clerk; the plaintiff is granted judgment in the amount of \$24,552.05 and the Clerk of the Court is directed to pay said sum to the plaintiff.

IT IS THEREFORE ORDERED AND ADJUDGED the plaintiff, Diversico Petroleum, Inc., is to have judgment against the defendant, Tulsa Petroleum Resources, Inc., in the amount of \$25,447.95, with pre-judgment interest from November 12, 1982 at the rate of 6% and post-judgment interest from the date hereon at the rate of 10.25%;\*the plaintiff is granted judgment against the defendant, Tulsa Petroleum Resources, Inc., on said defendants' counterclaim; pursuant to the verdict of the jury the defendants, Joe Sam Vassar and W.D. Mathews, are granted judgment against the plaintiff on plaintiff's claim of actual and punitive damages and the plaintiff, Diversico Petroleum, Inc., is granted judgment in the amount of \$24,552.05 against the fund in said amount held by the Clerk of the Court who is directed to pay said sum to the plaintiff, Diversico Petroleum, Inc.

ENTERED this 26<sup>th</sup> day of July, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

---

\*28 U.S.C.A. §1961.

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

**JUL 26 1983**

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

UNITED STATES OF AMERICA )  
and Jennifer Moore, )  
Revenue Officer, Internal )  
Revenue Service, )

Petitioners, )

vs. )

FURL L. ASCUE and )  
NETTIE J. ASCUE, )

Respondents. )

CIVIL ACTION NO. 83-C-275-E

ORDER DISCHARGING RESPONDENTS AND DISMISSAL

ON THIS 26 day of July, 1983, Petitioners' Motion to Discharge Respondents and for Dismissal came for hearing. The Court finds that Respondents have now complied with the Internal Revenue Service Summons served upon them December 14, 1982, that further proceedings herein are unnecessary and that the Respondents, Furl L. Ascue and Nettie J. Ascue, should be discharged and this action dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondents, Furl L. Ascue and Nettie J. Ascue, be and they are hereby discharged from any further proceedings herein and this cause of action and Complaint are hereby dismissed.

**S/ JAMES O. ELLISON**

UNITED STATES DISTRICT JUDGE

- entered

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUL 26 1983

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 1.35 Acres of Land, More or )  
 Less, Situate in Pawnee )  
 County, State of Oklahoma, )  
 and Edison T. Tingley, et al., )  
 and Unknown Owners, )  
 )  
 Defendants. )

CIVIL ACTION NO. 77-C-377-B  
 Master File #268-1408  
 Tract No. G-741E-2

J U D G M E N T

1.

NOW, on this 26th day of July, 1983, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on a stipulation of the parties agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds:

2.

This judgment applies to the entire estate condemned in Tract No. G-741E-2, as such estate and tract are described in the Complaint filed in this action.

3.

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

4.

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

5.

The Acts of Congress set out in paragraph 2 of the Complaint herein give the United States of America the right, power and authority to condemn for public use the property described in such Complaint. Pursuant thereto, on September 1, 1977, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

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

7.

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

8.

The owners of the subject property and the United States of America have executed and filed herein a Stipulation as to Just Compensation wherein they have agreed that just

compensation for the estate condemned in subject tract is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

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

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 tract listed in paragraph 2 herein, as such tract is particularly described in the Complaint filed herein; and such tract, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of September 1, 1977, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

11.

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

12.

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

Tract No. G-741E-2

Owners:

- Edison T. Tingley
- Thelma L. Tingley
- Ronney D. Bradley and
- Patricia Jo Bradley

Award of just compensation

pursuant to stipulation . . . . .	\$ 625.00	\$ 625.00
-----------------------------------	-----------	-----------

Deposited as estimated

compensation. . . . .	425.00	
-----------------------	--------	--

<u>Disbursed</u> to owners . . . . .		<u>None</u>
--------------------------------------	--	-------------

<u>Balance</u> due to owners . . . . .	_____	\$ 625.00
--	-------	-----------

<u>Deposit deficiency.</u> . . . . .	\$ 200.00	
--------------------------------------	-----------	--

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court in this civil action, to the credit of subject tract, the deposit deficiency, in the sum of \$200.00, and the Clerk of this Court then shall disburse the deposit for such tract as follows:

To:

Edison T. Tingley, Thelma L. Tingley,  
Ronney D. Bradley, and Patricia Jo Bradley,  
jointly . . . . . \$625.00

S/ THOMAS R. BRETT

---

UNITED STATES DISTRICT JUDGE

APPROVED:

---

HUBERT A. MARLOW  
Assistant United States Attorney

**FILED**

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

JUN 26 1983

John Silver  
S... ..

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CLIFFORD LEROY WIGGINS, )  
 )  
 Defendant. )

No. 81-CR-72-E  
83-C-174-E

O R D E R

The Court has before it Petitioner's motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody. Said Petition was filed on February 24, 1983, and the government was ordered to show cause why said motion should not be granted by Order dated March 29, 1983 and subsequently amended by Order of April 4, 1983. Reporter's transcripts of proceedings had on February 12, 1982 and August 17, 1981 were filed of record on April 12, 1983 and the government responded to Petitioner's motion on April 18, 1983. An additional reporter's transcript of proceedings held on August 5, 1981 was filed on April 22, 1983 and Petitioner responded to the response of the government on June 17, 1983.

Petitioner claims that on August 17, 1981, he appeared in the United States District Court, Northern District before Judge James O. Ellison ready for jury trial. Petitioner claims that at the time his attorney, Mr. John Harris, was approached by Mr. Jim Schwartz, Assistant U.S. Attorney, with a plea bargain agreement wherein the government offered to dismiss Count 1 of a two-count

indictment for a plea of guilty to Count 2. Petitioner claims that he was to receive a sentence not to exceed 18 months for this agreement.

Petitioner claims the government breached its plea bargain agreement in that he was sentenced to 48 months in the custody of the Attorney General in case number 81-CR-72.

Initially, the Court notes that the issue raised in this motion is identical to the issue raised without success in a Rule 35 motion filed June 2, 1982. This Court entered an Order on that motion on July 30, 1982. The Court finds nothing filed after that Order which indicates any error in this Court's denying the Rule 35. Nor does the Court find any evidence at all that a different conclusion should be reached in deciding this motion. The Order of the Court of July 30, 1982 is therefore incorporated by reference into this Order.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Petitioner's motion pursuant to 28 U.S.C. § 2255 to vacate, set aside or correct sentence be and is hereby overruled.

DONE this 25<sup>th</sup> day of July, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

*entered*

**FILED**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

JUL 25 1983 *kg*

CARL FISCHBEIN, NORMAN  
DUNITZ, LYNN WILLIAMS  
AND GERALD WELLS,  
  
Plaintiffs,  
  
v.  
  
JOE McDERMOTT d/b/a McDERMOTT  
RANCH,  
  
Defendant.

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

NO. 83-C-98-B ✓

STIPULATION FOR DISMISSAL

The plaintiffs, Carl Fischbein, Norman Dunitz, Lynn Williams and Gerald Wells, and the defendant, Joe McDermott d/b/a McDermott Ranch, by and through their attorneys, show the Court that the plaintiffs and defendant have agreed to and reached a settlement herein in the amount of \$5,000.00 and move the Court to dismiss this action with prejudice as to the defendant.

*David H. Sanders, jr.*

David H. Sanders, jr.  
205 Denver Building  
Tulsa, Oklahoma 74119  
(918) 582-5181  
Attorney for Plaintiffs

*A. Scott Johnson*

A. Scott Johnson  
1100 Continental Savings Building  
101 Park Avenue  
Oklahoma City, Oklahoma 73102  
(405) 235-8593  
Attorney for Defendant

*Hacker*

ORDER

FILED

JUL 26 1983

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

Now on this 26 day of July, 1983, the Court, being fully advised in the joint Stipulation for Dismissal of the plaintiffs and defendant orders that the action of Carl Fischbein, Norman Dunitz, Lynn Williams and Gerald Wells, 83-C-98, be dismissed with prejudice, and at the respective costs of the parties.

  
United States Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL A. WALLACE, )  
 )  
 Defendant. )

JUL 25 1983

Frank C. Silver  
STENOGRAPHER

CIVIL ACTION NO. 83-C-423-E

DEFAULT JUDGMENT

This matter comes on for consideration this 25 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Michael A. Wallace, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Michael A. Wallace, was served with Summons and Complaint on June 28, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Michael A. Wallace, for the principal sum of \$1,160.00, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 25 1983

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ORVEL J. GILL, )  
 )  
 Defendant. )

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

CIVIL ACTION NO. 83-C-429-C

DEFAULT JUDGMENT

This matter comes on for consideration this 25<sup>th</sup> day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds, Jr., Assistant United States Attorney, and the Defendant, Orvel J. Gill, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Orvel J. Gill, was served with Summons and Complaint on June 20, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Orvel J. Gill, for the principal sum of \$445.77, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

s/H. DALE COOK  
UNITED STATES DISTRICT JUDGE

FILED

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

JUL 25 1983

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

ROBERT HENRY PATTERSON, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MIKE BIRD, )  
 )  
Defendant. )

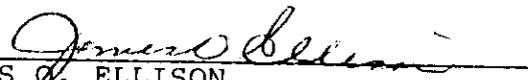
No. 82-C-720-E

ORDER

NOW on this 25<sup>th</sup> day of July, 1983, comes on for hearing Defendant's motion to dismiss and the Court being fully advised in the premises finds as follows:

Defendant's motion to dismiss was filed on May 24, 1983. On June 17, 1983, Plaintiff by minute order was ordered to respond to the motion to dismiss on or before July 1, 1983. On July 7, 1983, a letter was received from Robert Henry Patterson by Arturo Jimenez Montoya, Law Library Clerk, Ouachita Correctional Center stating "There is no intention of any further proceedings" and further stating the motion will not be responded to as it is Mr. Patterson's understanding that the lawsuit was dismissed. The Court treats said letter as a response and confession.

Defendant's motion to dismiss is therefore granted.

  
JAMES G. ELLISON  
UNITED STATES DISTRICT JUDGE

**FILED**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 25 1983

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JERRY L. GOSWICK, )  
 )  
 Defendant. )

John A. Silver  
111 - STREET

CIVIL ACTION NO. 82-C-1204-E

ORDER

Now on this 25 day of July, 1983, it appears that the Defendant in the above-captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve him have been unsuccessful.

IT IS THEREFORE ORDERED, that the Complaint against Defendant, Jerry L. Goswick, be and is dismissed without prejudice.

**S/ JAMES O. ELLISON**

UNITED STATES DISTRICT JUDGE

**FILED**

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

JUL 25 1983

GEORGE W. MILLER and )  
KAREN L. MILLER, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
THE AETNA CASUALTY AND )  
SURETY COMPANY, A corporation, )  
 )  
Defendant. )

No. 82-C-743-E

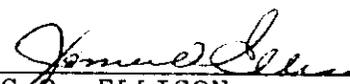
JUDGMENT DISMISSING ACTION  
BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown within twenty (20) days that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this judgment by United States mail upon the attorneys for the parties appearing in this action.

DATED this 25<sup>th</sup> day of July, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUL 25 1983

United States of America,	)	
	)	
Plaintiff,	)	JACK C. SILVER, CLERK
	)	U.S. DISTRICT COURT
vs.	)	CIVIL ACTION NO. 75-C-38C
	)	
49.01 Acres of Land, More or	)	Frates Unit Only
Less, Situate in Osage County,	)	
State of Oklahoma, and the	)	
Estate of John B. Anderson,	)	
deceased, et al., and	)	
Unknown Owners,	)	
	)	(Included in D.T. Filed in
Defendants.	)	Master File #268-1407)

J U D G M E N T

NOW on this 25 day of July, 1983, this matter comes on for disposition of all issues involved, and the Court, after having examined the files in this action and being fully advised in the premises, finds that:

Findings of Fact

1.

This judgment applies to the entire estate condemned (i.e. flowage easements) in Tracts Nos: 2601E-27 and 2601-E28 ("the Subject Property"), as such tracts and estate are described in the Complaint filed herein. It does not apply to any estates taken in any other tracts included in this same civil action.

(The above listed tracts are part of the Frates Unit of ownership which was segregated, for subsequent proceedings, from other units of ownership involved in this case, by the Order of Severance, entered herein on September 2, 1975.)

2.

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

3.

At a conference held on May 26, 1982, the Defendant landowners requested that they be relieved from their admission that "The date of taking of the Subject Property is January 28, 1975."

In a stipulation of the parties, described more fully in Finding No. 6 below, the Defendant landowners urged that the date of taking in this case was November 7, 1974, which is the date they claim the Subject Property was flooded for the first time.

Since the Defendants have not offered any valid reasons for changing that which heretofore has been agreed by the parties, their request should be denied.

4.

Simultaneously with filing of the Declaration of Taking, the Plaintiff deposited \$75.00 in the Registry of this Court as estimated compensation for the estate taken in the Subject Property. None of this deposit has been disbursed.

5.

At the Conference held on May 26, 1982, the Defendants urged that the decision by the United States Court of Appeals, Tenth Circuit (an appeal from this Court's Judgment in the Anderson Unit Case), in United States v. 49.01 Acres of Land, etc., 669 F.2d 1364, was not applicable to the Subject Property in this case, because inter alia the facts here show that:

(a) the government failed to provide the public with adequate notice of the project's scope; and, (b) the Defendant land-owners reasonably believed that subsequent government action removed the Subject Property from the project's scope. The Defendants therefore urged that the enhanced value of their land should be considered in arriving at just compensation for the taking of their property. The Plaintiff took the opposite position.

Both parties urged that they should not be forced to try the issue of just compensation until the project enhancement issue was decided by the Court. It was therefore agreed by the Court and the parties that the parties would prepare and file a written stipulation of facts applicable to the project enhancement issue, together with their respective offers of proof as to facts on which the parties could not agree. It was further agreed that the stipulation would include an agreement as to the amount of just compensation for the taking of the Subject Property in the event that the Court should decide that project enhancement should not be allowed in determining just compensation for the Subject Property. And it was further agreed that, in lieu of a trial and the oral testimony of witnesses, the Court would render its decision based upon the aforesaid stipulations.

6.

The parties hereto did prepare and file herein on August 31, 1982, their written Stipulation ("the 8-31-82 Stipulation"), consisting of 33 separate and numbered statements of facts or factual conclusions, together with 29 numbered exhibits and one exhibit identified as Exhibit A, and Defendants Offer of Proof, and Plaintiff's objections.

As to Defendant's offer of proof contained in the 8-31-82 Stipulation, the Court finds that the Plaintiff's objections to such evidence insofar as it applies to project enhancement are sustained.

On October 29, 1982, the parties filed a Supplemental Stipulation ("the 10-29-82 Stipulation"), consisting of testimony of witnesses as set forth in three numbered paragraphs, together with five attached exhibits identified by letters A through E, and together with Plaintiff's objections to consideration of such evidence.

As to Plaintiff's objections to the Defendant's evidence contained in the 10-29-82 Stipulation, insofar as they apply to project enhancement, the objections are sustained.

7.

Having carefully examined and considered the evidence as contained in the stipulations, described in Finding No. 6 above, the Court is of the opinion that the decision in the Anderson Unit case, reported in 669 F.2d 1364 (10th Cir. 1982), is controlling as to the project enhancement issue involved in this case. Therefore, enhanced value of the Subject Property because of the Keystone Lake Project should not be considered in arriving at the just compensation for the taking.

8.

In view of the stipulation made in paragraph number 31 of the 8-31-82 Stipulation, no trial of the issue of just compensation is required. Just compensation for the estates taken in the Subject Property should be awarded in the amount of \$150.00.

Such a judgment will create a deficiency between the amount previously deposited as estimated just compensation

and the amount stipulated to by the parties and so determined by the Court as just compensation. An additional \$75.00 should be deposited by the Plaintiff.

9.

The Defendants named below in paragraph 6 of the Order portion hereof, as owners or lien holders of the estate taken in the Subject Property are the only Defendants asserting any interest in such property. All other Defendants have 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.

Based upon the Findings made above, it is, therefore, ORDERED, ADJUDGED AND DECREED that:

1.

The United States of America has the right, power and authority to condemn for public use the Subject Property as such tracts are described in the Complaint filed herein, and such tracts, to the extent of the estate described in such complaint, are condemned and title thereto is vested in the United States of America as of January 28, 1975, and all Defendants herein, and all other persons, are forever barred from asserting any claim to such estate.

2.

The Defendant's request to withdraw its prior admission, as to the date of taking as described in Finding No. 3, is denied.

3.

Project enhancement resulting from the Keystone Lake Project shall not be considered in this case in arriving at the just compensation to which the Defendants are entitled, for the taking of the Subject Property.

4.

The stipulations of the parties, described in Finding No. 6 above, are approved and therefore just compensation (disregarding enhancement in value by the Keystone Lake project) for the estate taken in this case in the Subject Property as described in the Declaration of Taking is fixed in the amount of \$150.00.

5.

On the date of the filing of the Declaration of Taking in this case, the owners and lien holders of the estate taken herein in the Subject Property were the Defendants whose names appear below in the paragraph numbered 6, and the right to receive the just compensation for such estate is vested in the parties so named.

6.

The ownership of the Subject Property, and the accounting between the award of just compensation and the deposit of estimated compensation is shown as follows:

Tracts Nos. 2601E-27 and 2601E-28

Owners:

1. Alexander-Frates Company, an Oklahoma corporation,
2. Diamond Head Property Owners' Association, Inc., an Oklahoma non-profit corporation, and
3. Diamond Head Development Section 2, Osage County, Oklahoma.
4. I.D.S. Mortgage Corporation holds a mortgage on Subject Property.

<u>Award</u> of just compensation		
pursuant to stipulation-----	\$150.00	\$150.00
<u>Deposited</u> as estimated compensation-----	<u>75.00</u>	
<u>Disbursed</u> to owners-----		<u>None</u>
<u>Balance</u> due to owners-----		\$150.00
<u>Deposit deficiency</u>	\$ 75.00	

7.

The United States of America shall pay an additional \$75.00 into the Registry of this Court for the benefit of the owners and lien holder for the estate taken in the Subject Property.

After such deficiency deposit has been made, the Clerk of this Court shall disburse the entire sum then on deposit for the Subject Property, as follows:

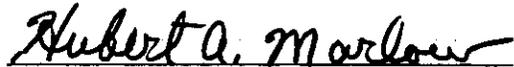
Alexander-Frates Company, an Oklahoma corporation,  
Diamond Head Property Owners' Association, Inc.,  
an Oklahoma non-profit corporation,  
Diamond Head Development Section 2, Osage County,  
Oklahoma,  
I.D.S. Mortgage Corporation,

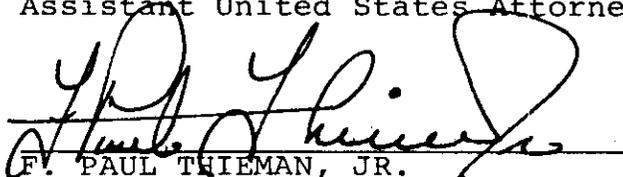
jointly, the sum of \$150.00.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM ONLY:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
F. PAUL TRIEMAN, JR.  
Attorney for Defendant owners

  
RICHARD W. GABLE  
Attorney for Mortgagee

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

**FILED**

JUL 25 1983

U.S. District Court  
Northern District of Oklahoma  
Tulsa, Oklahoma

HERSCHEL DEAN ASHLOCK, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
A.I. MURPHY, et al., )  
 )  
Respondents. )

No. 82-C-530-E

O R D E R

The Court has for consideration the Respondents' Motion to Dismiss for failure to exhaust state remedies and Petitioner's Application for court-appointed attorney.

The Magistrate has filed Findings and Recommendations in which it is recommended that Respondents' Motion to Dismiss be sustained. Petitioner has requested that the petition be dismissed without prejudice so that he can exhaust his state remedies.

It is therefore ordered that Respondents' Motion to Dismiss be sustained and the Petition for Writ of Habeas Corpus is hereby dismissed without prejudice to Petitioner as to all claims raised by his Petition for Writ of Habeas Corpus. It is further ordered that Petitioner's application for court-appointed attorney be denied as moot.

Dated this 25<sup>th</sup> day of July, 1983.

  
\_\_\_\_\_  
JAMES B. ELLISON  
UNITED STATES DISTRICT JUDGE

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

F. WARREN BLACK,  
Plaintiff,

vs.

LEE R. ELLER; HELEN M. ELLER;  
LEECO OIL COMPANY, An Okla-  
homa corporation; WESLEY R.  
THOMPSON; WESLEY THOMPSON,  
INC., An Oklahoma pro-  
fessional corporation; and  
DEBRA RHATIGAN,

Defendants.

No. 82-C-685-E

JUL 22 1983  
U. S. DISTRICT COURT

JUDGMENT DISMISSING ACTION  
BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown within fifteen (15) days that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this judgment by United States mail upon the attorneys for the parties appearing in this action.

DATED this 22<sup>d</sup> day of July, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

- Entered

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 RHONDA D. JONES, )  
 )  
 Defendant. )

JUL 22 1983

Jack A. Silver  
Clerk of Court

CIVIL ACTION NO. 83-C-418-B

ORDER

Now on this 22 day of July, 1983, it appears that the Defendant in the above-captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve her have been unsuccessful.

IT IS THEREFORE ORDERED, that the Complaint against Defendant, Rhonda D. Jones, be and is dismissed without prejudice.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

IVAN R. SAULMON, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CAPT. JAMES WEST, CAPT. FRANKE )  
 MOTES, and BARNEY LONG,, )  
 )  
 Defendants. )

JUL 22, 1983

No. 83-C-486-E

U.S. DISTRICT COURT

ORDER

The Court has before it the motion of the Plaintiff to dismiss pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. The Court, upon consideration of the Plaintiff's request and the relevant law finds that Plaintiff's motion should be granted.

IT IS THEREFORE ORDERED AND ADJUDGED that the Motion of the Plaintiff to Dismiss be, and hereby is, granted. This action is hereby dismissed without prejudice.

ORDERED this 22<sup>d</sup> day of July, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

JUL. 22, 1983

WILLIAM J. LYONS, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 82-C-380-E  
 )  
RICHARD CRISP, et al., )  
 )  
Defendants, )

O R D E R

The Court has before it the motion of Defendant Richard Crisp and the motion of Defendants Oklahoma Alcoholic Beverage Control Board, Oklahoma State Personnel Board, the State of Oklahoma, Lester, Blankenship, Morain, Spears, Boydston, Finch, Moore, Mitchell, Calhoun, Carothers, Bond, and Thomas to dismiss the Complaint filed against them by Plaintiff. The motion is made pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. Defendants contend that this Court does not have personal jurisdiction over Defendant Crisp; that proper venue of this action does not lie in the Northern District of Oklahoma; that Plaintiff has failed to state a cause of action against these Defendants; and that the Eleventh Amendment to the United States Constitution bars suit against the State of Oklahoma, the State Personnel Board, the Oklahoma Alcoholic Beverage Control Board and their officers and employees.

The Plaintiff asserts that this Court has personal jurisdiction over the Defendants pursuant to Rule 4(e) of the Federal Rules of Civil Procedure and the Oklahoma "long-arm"

statutes, Okla.Stat.tit. 12 §§ 187 and 1701.03.

For purposes of a Federal Rule 12(b)(2) motion, the burden of proof rests on the party asserting the existence of personal jurisdiction. Wilshir Oil Company of Texas v. Riffe, 409 F.2d 1277 (10th Cir. 1969); Standard Life and Accident Insurance Co. v. Western Finance, Inc., 436 F.Supp. 843 (W.D. Okla. 1977). The long-arm statutes in Oklahoma grant Oklahoma courts in personam jurisdiction over non-residents who transact business in the state, limited only by minimum requirements of due process. See Jem Engineering and Manufacturing Inc. v. Toomer Electric Co., 413 F.Supp. 481 (N.D. Okla. 1976); CMI Corp. v. Costello Const. Corp., 454 F.Supp. 497 (D.C. Okla. 1977).

Due process requires that in order to subject a non-resident defendant to in personam jurisdiction of a forum state, said defendant must have certain minimum contacts with the forum such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice. World- Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980); International Shoe Co. v. Washington, 326 U.S. 310 (1945). It is essential that there be some act by which the Defendant purposefully avails himself of the privilege of conducting activities within the forum state. Hanson v. Denckla, 357 U.S. 235 (1958). In order for a non-resident defendant to be amenable to suit in Oklahoma under the Oklahoma long-arm statutes, the cause of action must arise out of the same acts which provide the basis for the Oklahoma court's exercise of in personam jurisdiction. George v. Strick Corporation, 496 F.2d 10 (10th Cir. 1974); Roberts v. Jack

Richards Aircraft Company, 536 P.2d 353 (Okla. 1975).

In determining the sufficiency of contacts between non-resident defendants and the State of Oklahoma so as to exercise in personam jurisdiction under the long-arm statutes, the Court is to consider the totality of contacts between the non-resident defendant and the state. World-Wide Volkswagen Corp., 444 U.S. at 297. In this case, Defendant Crisp had been employed as Director of the Oklahoma ABC Board by the State of Oklahoma. Defendant's alleged actions leading to this cause of action occurred in the State of Oklahoma while Defendant Crisp was employed by the State of Oklahoma.

Considering the totality of the contacts Defendant has with Oklahoma and the fact that the Defendant voluntarily accepted employment in an administrative capacity with the State of Oklahoma, the Court concludes that there are sufficient contacts as to constitute a basis for this Court's exercise of in personam jurisdiction over Defendant Crisp consistent with the due process requirements of the United States Constitution.

Plaintiff also asserts that venue is proper in the Northern District of Oklahoma pursuant to 28 U.S.C. § 1392(a).

Both the Defendant Personnel Board and Defendant Alcoholic Beverage Control Board have their principal offices in the Western District of Oklahoma. The majority of the other named Defendants reside in the Western District of Oklahoma. However, two of the Defendants reside in Tulsa, the Northern District of Oklahoma. According to 28 U.S.C. § 1392(a), "[a]ny civil action, not of a local nature, against defendants residing in different

districts in the same State, may be brought in any of such districts." The applicability of 28 U.S.C. § 1392(a) allows Plaintiff to properly bring this action in the Northern District of Oklahoma. Mothers & Childrens Rights Organization, Inc. v. Stanton, 371 F.Supp. 298 (D.C. Ind. 1973); Smith v. Merrill, 81 F.2d 609 (Tex. 1936); Northern Indiana Public Service Co. v. Public Service Comm., 1 F.Supp. 296 (D.C. Ind. 1932).

The Plaintiff further asserts that relief was sought in a specific manner in order to come within the provisions of the Eleventh Amendment to the United States Constitution.

The Eleventh Amendment provides: "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State or by Citizens or Subjects of any Foreign State." The Eleventh Amendment bars actions against a state, its officers, agents and institutions, which are in fact, part of the state function. Quern v. Jordan, 440 U.S. 332 (1979); Korgich v. Regents of New Mexico School of Mines, 582 F.2d 549 (10th Cir. 1978); Brennan v. University of Kansas, 451 F.2d 1287 (10th Cir. 1971); Atchison v. Nelson, 460 F.Supp. 1102 (D. Wyo. 1978). The United States Supreme Court has construed the Eleventh Amendment as barring suits under § 1983 against entities and officials so closely affiliated with the state as to make the state the real party in interest. Quern v. Jordan, 440 U.S. 332 (1979); Alabama v. Pugh, 438 U.S. 781, 782 (1978); Edelman v. Jordan, 415 U.S. 651, 663-64 (1974). In order to ascertain whether the state is the real party in interest, a

court must review applicable state law. Zentgraf v. Texas A & M University, 492 F.Supp. 265, 271 (S.D. Tex. 1980); Harris v. Tooele County School District, 471 F.2d 218, 220 (10th Cir. 1973). The State Personnel Board and the Oklahoma Alcoholic Beverage Control Board are extensions of the state and any award against them would be satisfied out of the state treasury. See Atchison v. Nelson, 460 F.Supp. 1102, 1105 (D. Wyo. 1978).

Although a state may consent to suit or waive immunity, neither the State of Oklahoma nor the two agencies have waived their Eleventh Amendment Immunities or consented to this suit. The United States Supreme Court has stated that waiver of a states' constitutional protection under the Eleventh Amendment must be stated in express language or by such overwhelming implications as to leave no room for other construction. Edelman v. Jordan, 415 U.S. at 673. It does not matter that the case would satisfy the requirements for diversity of citizenship or federal question jurisdiction; the Eleventh Amendment defense is in the nature of a jurisdictional bar. 13 C. Wright, A. Miller and E. Cooper, Federal Practice and Procedure § 3524 (1975).

The Plaintiff's Complaint also names Crisp, Lester, Thomas and all members of both state boards as Defendants individually and in their official capacities. The misconduct of individual officials can lead to personal liability for damages under § 1983. Zentgraf v. Texas A & M Univ., 492 F.Supp. at 272 (citing Wood v. Strickland, 420 U.S. 308, 323 (1975); Sapp v. Renfro, 511 F.2d 172, 176 (5th Cir. 1975)). Whether an official has immunity, such as quasi-judicial or "good faith" immunity,

depends on facts peculiarly within the knowledge and control of the Defendant official. Gomez v. Toledo, 446 U.S. 635 (1980). The United States Supreme Court has stressed that such qualified immunity is a defense, not relevant to the existence of Plaintiff's cause of action. Id. at 640.

By the plain terms of § 1983, two - and only two - allegations are required in order to state a cause of action under that statute. First, the plaintiff must allege that some person has deprived him of a federal right. Second, he must allege that the person who has deprived him of that right acted under color of state or territorial law.

Id.

Plaintiff's allegations in this case meet the requirements above for stating a cause of action under § 1983 against the individual defendants. "Under the Federal Rules of Civil Procedure, a complaint need only give the defendant fair notice of the claim and the grounds upon which it rests." Huey v. Barloga, 277 F.Supp. 864, 872 (N.D. Ill. 1967); Conley v. Gibson, 355 U.S. 41, 48 (1957). The Plaintiff is not required to allege bad faith in order to state a claim for relief; the burden is on the Defendant to plead good faith as an affirmative defense. Gomez v. Toledo, 446 U.S. at 640.

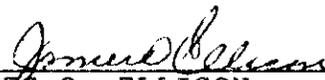
IT IS THEREFORE ORDERED AND ADJUDGED that the motion by Defendants to dismiss the Complaint be and hereby is granted in part, and denied in part, as set forth below:

1. Motion to dismiss as to jurisdiction over Defendant Crisp is denied;
2. Motion to dismiss as to venue is denied;

3. Motion to dismiss as to Eleventh Amendment bar against suit is granted as to the State of Oklahoma, the Oklahoma Alcoholic Beverage Control Board and the State Personnel Board;
4. Motion to dismiss as to Eleventh Amendment bar against suit is denied as to Lester, Blankenship, Morain, Spears, Boydston, Finch, Moore, Mitchell, Calhoon, Carothers, Bond, and Thomas;
5. Motion to dismiss for failure to state a cause of action against Defendants is denied.

Defendant will have twenty (20) days from the date of this Order in which to answer the Complaint of the Plaintiff.

DATED this 22<sup>d</sup> day of July, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

LEAR PETROLEUM EXPLORATION, INC., )  
 )  
 Plaintiff, )

vs. )

NORTHWEST EXPLORATION COMPANY, an )  
Oklahoma corporation; COQUINA OIL )  
CORPORATION, a Nevada corporation; )  
SANTA FE ENERGY COMPANY, a Texas )  
corporation; and UNION BANK AND TRUST )  
COMPANY, an Oklahoma banking )  
corporation, )

Defendants. )

83-C-484-E

Case No. ~~82-01524~~

**FILED**

JUL 22 1983

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

NOTICE OF DISMISSAL

TO: SANTA FE ENERGY COMPANY, Defendant, and  
Richard A. Paschal, of the Law Firm of  
Hall, Estill, Hardwick, Gable, Collinsworth & Nelson,  
attorney for defendant.

NOTICE is hereby given that as the above-entitled action was  
commenced on June 7, 1983, and defendant has filed neither an answer  
nor a motion for summary judgment herein, plaintiff dismisses the  
above-entitled action without prejudice.

The clerk of the above-entitled court is requested to enter this  
dismissal in the records of the court.

DATED: July 22, 1983.

WARREN F. YOUNG & ASSOCIATES

By: Deborah Cain  
Deborah Cain

415 S. Boston, Suite 600  
Tulsa, Oklahoma 74103  
(918) 585-8158

Attorneys for Plaintiff

*Mauling*

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the above and foregoing Notice of Dismissal was personally delivered this 22nd day of July, 1983, to Richard A. Paschal, of the law firm of Hall, Estill, Hardwick, Gable, Collinsworth & Nelson, 41st Floor, Bank of Oklahoma Tower, Tulsa, Oklahoma, attorney for Santa Fe Energy Company.

*Deborah Cain*  
Deborah Cain

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

FILED

REGINA HOWARD, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PRIME, INC., )  
 )  
 Defendant. )

JUL 22 1983

NO. 82 C 582 Clerk Silve  
SIN 51 51 11

ORDER OF DISMISSAL

ON this 22 day of July, 1983, 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, preserving any subrogation rights of Oklahoma Farm Bureau under its uninsured coverage for the sum of TEN THOUSAND AND NO/100 DOLLARS, (\$10,000.00).

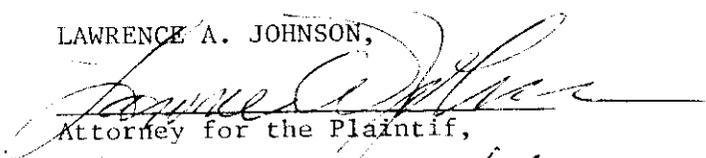
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff filed herein against the Defendant be and the same hereby are dismissed with prejudice to any future action, subject to preservation of subrogation rights of Oklahoma Farm Bureau.

s/H. DALE COOK

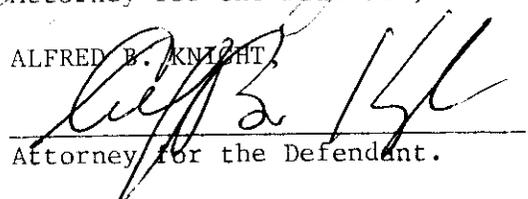
JUDGE, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

APPROVALS:

LAWRENCE A. JOHNSON,

  
Attorney for the Plaintiff,

ALFRED B. KNIGHT,

  
Attorney for the Defendant.



*entered*

**FILED**

UNITED STATES DISTRICT COURT FOR THE **JUL 21 1983**  
NORTHERN DISTRICT OF OKLAHOMA

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
GAYLORD G. GASAL,	)	
	)	
Defendant.	)	CIVIL ACTION NO. 83-C-549-B

NOTICE OF DISMISSAL

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

Dated this 21st day of July, 1983.

UNITED STATES OF AMERICA  
FRANK KEATING  
United States Attorney

*Mary A. Nesbitt*  
for PETER BERNHARDT  
Assistant United States 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 21st day of July, 1983.

*Mary A. Nesbitt*  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUL 21 1983

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ELLIS ANN HILLAND; )  
 BOARD OF COUNTY COMMISSIONERS, )  
 Creek County, Oklahoma; )  
 COUNTY TREASURER, Creek )  
 County, Oklahoma, )  
 )  
 Defendant. )

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

CIVIL ACTION NO. 83-C-336-B

ORDER

For good cause having been shown, it is hereby ordered, adjudged, and decreed that the above-referenced action is hereby dismissed without prejudice.

Dated this 21 day of July, 1983

S/ THOMAS R. BRETT  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

*Entered*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUL 21 1983

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 HAROLD W. SUITER, )  
 GARY G. BROWNING, )  
 CARMEN A. KINTNER, )  
 JAMES R. GILLHAM, )  
 )  
 Defendants. )

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

CIVIL ACTION NOS. 82-C-1035-B  
82-C-1158-B  
83-C-206-B  
83-C-77-B

ORDER

Now on this 21 day of July, 1983, it appears that the Defendants in the captioned cases have not been located within the Northern District of Oklahoma, and therefore attempts to serve them have been unsuccessful.

IT IS THEREFORE ORDERED, that the Complaints against Defendants, Harold W. Suiter; Gary G. Browning; Carmen A. Kintner; and James R. Gillham, be and are dismissed without prejudice.

*Howard R. Arnett*  
UNITED STATES DISTRICT JUDGE

Entered

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 21 1983

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 HAROLD W. SUITER, )  
 GARY G. BROWNING, )  
 CARMEN A. KINTNER, )  
 JAMES R. GILLHAM, )  
 )  
 Defendants. )

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

CIVIL ACTION NOS. 82-C-1035-B  
82-C-1158-B  
83-C-206-B  
83-C-77-B ✓

ORDER

Now on this 21 day of July, 1983, it appears that the Defendants in the captioned cases have not been located within the Northern District of Oklahoma, and therefore attempts to serve them have been unsuccessful.

IT IS THEREFORE ORDERED, that the Complaints against Defendants, Harold W. Suiter; Gary G. Browning; Carmen A. Kintner; and James R. Gillham, be and are dismissed without prejudice.

*Howard R. Arett*  
UNITED STATES DISTRICT JUDGE

*entered*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUL 21 1983

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 HAROLD W. SUITER, )  
 GARY G. BROWNING, )  
 CARMEN A. KINTNER, )  
 JAMES R. GILLHAM, )  
 )  
 Defendants. )

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

CIVIL ACTION NOS. 82-C-1035-B  
82-C-1158-B  
83-C-206-B  
83-C-77-B

ORDER

Now on this 21 day of July, 1983, it appears that the Defendants in the captioned cases have not been located within the Northern District of Oklahoma, and therefore attempts to serve them have been unsuccessful.

IT IS THEREFORE ORDERED, that the Complaints against Defendants, Harold W. Suiter; Gary G. Browning; Carmen A. Kintner; and James R. Gillham, be and are dismissed without prejudice.

*Thomas R. Arnett*  
UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 21 1983

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 HAROLD W. SUITER, )  
 GARY G. BROWNING, )  
 CARMEN A. KINTNER, )  
 JAMES R. GILLHAM, )  
 )  
 Defendants. )

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

CIVIL ACTION NOS. 82-C-1035-B  
82-C-1158-B  
83-C-206-B  
83-C-77-B

ORDER

Now on this 21 day of July, 1983, it appears that the Defendants in the captioned cases have not been located within the Northern District of Oklahoma, and therefore attempts to serve them have been unsuccessful.

IT IS THEREFORE ORDERED, that the Complaints against Defendants, Harold W. Suiter; Gary G. Browning; Carmen A. Kintner; and James R. Gillham, be and are dismissed without prejudice.

*Howard R. Arrett*  
UNITED STATES DISTRICT JUDGE

**FILED**

IN THE UNITED STATES DISTRICT COURT **JUL 21 1983**  
NORTHERN DISTRICT OF OKLAHOMA

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

FRANK J. AKAM and MARTHA AKAM,  
Plaintiffs,

VS.

McKESSON CHEMICAL CO., and  
FOREMOST McKESSON, INC.,

Defendants.

NO. 82-C-993 B

ORDER OF DISMISSAL WITH PREJUDICE

FOR GOOD CAUSE shown and pursuant to joint motion of the parties, it is hereby ordered that plaintiffs actions against the defendants should be and are hereby dismissed with prejudice to the filing of any future actions with the parties to bear their own respective costs.

DATED THIS 21 day of July, 1983.

S/ THOMAS R. BRETT  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DAVID W. ORCUTT, ROZELLA M. )  
 ORCUTT, PEARLEE DAVIS, if living, )  
 or if not, her unknown heirs, )  
 assigns, executors, and administra- )  
 tors, ROY ORCUTT, JUNE ORCUTT, COUNTY )  
 TREASURER, Tulsa County, Oklahoma, )  
 and BOARD OF COUNTY COMMISSIONERS, )  
 Tulsa County, Oklahoma, )  
 )  
 Defendants. )

**FILED**

JUL 20 1983

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

CIVIL NO. 82-C-701-E

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 20 day  
of July, 1983. The Plaintiff appearing by Frank Keating,  
United States Attorney for the Northern District of Oklahoma,  
through Nancy A. Nesbitt, Assistant United States Attorney; the  
Defendants, County Treasurer, Tulsa County, Oklahoma, and Board  
of County Commissioners, Tulsa County, Oklahoma, appearing by  
their attorney, David A. Carpenter, Assistant District Attorney;  
the Defendants, David W. Orcutt and Rozella M. Orcutt, appearing  
by their attorney, D. W. Jacobus, Jr.; the Defendants, Roy Orcutt  
and June Orcutt, appearing by their attorney, James G. Davidson;  
and the Defendants, Pearlee Davis, if living, or if not, her  
unknown heirs, assigns, executors, and administrators, appearing  
not.

The Court being fully advised and having examined the  
file herein finds that Defendants, David W. Orcutt and Rozella M.  
Orcutt, were served with Summons and Complaint on July 19, 1982,  
and with Summons and Amendment to Complaint on October 14, 1982;

that the Defendants, Roy Orcutt and June Orcutt, were served with Summons and Complaint on July 21, 1982, and July 28, 1982, respectively, and with Summons and Amendment to Complaint on October 12, 1982; that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, were served with Summons and Complaint on July 14, 1982, and with Summons and Amendment to Complaint on October 12, 1982; that the Defendants, Pearlee Davis, if living, or if not, her unknown heirs, assigns, executors, and administrators, were served with Complaint and Amendment to Complaint by publishing the same in a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six consecutive weeks beginning March 14, 1983, and continuing to April 18, 1983; and that this action is one in which service by publication is authorized by Title 12 O.S. §170.6(B)(1) as counsel for the Plaintiff does not know and with due diligence cannot ascertain whether Pearlee Davis is living or dead and, if dead, the names or whereabouts of her heirs, executors, administrators, or assigns, if any.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, have duly filed their Answers herein on July 30, 1982; that Defendants, Roy Orcutt and June Orcutt, have duly filed their Answer and Cross-Complaint herein on August 20, 1982; that the Defendants, David W. Orcutt and Rozella M. Orcutt, have duly filed their Entry of Appearance with regard to the Cross-Complaint of the Defendants, Roy Orcutt and June Orcutt, on November 17, 1982; and that Defendants, Pearlee Davis, if living,

or if not, her unknown heirs, assigns, executors, and administrators, have failed to answer the Complaint and that their default has therefore been entered by the Clerk of this Court.

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

The Southwest Quarter of the Southeast Quarter of the Northwest Quarter (SW/4 SE/4 NW/4) and the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE/4 SW/4 NW/4) of Section 1, Township 21 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, containing 20 acres more or less; LESS the South 50 feet of the SE/4 SW/4 NW/4 of Section 1, Township 21 North, Range 12 East, Tulsa County, Oklahoma, according to the U.S. Survey thereof, previously dedicated for highway purposes to the County of Tulsa; LESS AND EXCEPT all of the oil, gas and other minerals in and under said land; and subject to easements and rights-of-way of record.

THAT the Defendants, David W. Orcutt and Rozella Orcutt, did, on the 6th day of September, 1968, execute and deliver to the United States of America acting through the Farmers Home Administration, their mortgage and promissory note in the sum of \$13,950.00, payable in annual installments, with interest thereon at the rate of five (5) percent per annum.

The Court further finds that Defendants, David W. Orcutt and Rozella Orcutt, made default under the terms of the aforesaid promissory note by reason of their failure to make annual installments due thereon, which default has continued, and

that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$4,423.87 as unpaid principal, plus accrued interest of \$266.64 as of April 22, 1982, plus interest accruing thereafter at the rate of \$.6060 per day, until paid, plus the costs of this action accrued and accruing.

The Defendants, Roy Orcutt and June Orcutt, have an interest in the above-described real property by virtue of a mortgage dated July 24, 1971. This mortgage was given by the Defendants, David W. Orcutt and Rozella M. Orcutt, to secure payment of their promissory note in the principal amount of \$3,500.00, upon which the sum of \$6,599.18 was due and owing as of the 18th day of August, 1982, with interest thereafter accruing at the rate of \$.7671 per day. Said mortgage lien is junior and inferior to the mortgage lien of the Plaintiff.

The Defendant, County Treasurer, Tulsa County, Oklahoma, has an interest in the above-described real property by virtue of real estate taxes for the year 1982 in the amount of \$217.24 now due, owing, and unpaid, which are a lien against said real property. Said lien is prior and superior to the mortgage lien of the Plaintiff.

The Defendant, Board of County Commissioners, Tulsa County, Oklahoma, has an interest in the above-described real property by virtue of a Deed of Dedication dated December 6, 1973. This interest is junior and inferior to the mortgage lien of the Plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against the Defendants, David W. Orcutt and Rozella M. Orcutt, in the principal sum of

\$4,423.87, plus accrued interest in the amount of \$266.64 through April 22, 1982, plus interest thereafter at the rate of \$.6060 per day, plus the costs of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendants, Roy Orcutt and June Orcutt, have and recover judgment against the Defendants, David W. Orcutt and Rozella M. Orcutt in sum of \$6,599.18, with interest thereon from August 18, 1982, at the rate of \$.7671 per day, and an attorney's fee in the sum of \$989.88.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of the previously named Defendants to satisfy the money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell without appraisal the real property herein, and apply the proceeds thereof as follows,

First:

In payment of the costs of this action, accrued and accruing, including the costs of sale;

Second:

In payment of the real estate taxes assessed against the subject real property in the amount of \$217.24;

Third:

In payment of the judgment rendered herein in favor of Plaintiff;

Fourth:

In payment of the judgment rendered herein in favor of the Defendants, Roy Orcutt and June Orcutt.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further order of the court.

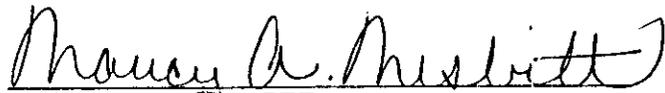
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, the Defendants and all persons claiming under them since the filing of the Complaint herein, be and they are forever barred and foreclosed of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

S/ JAMES O. ELLISON

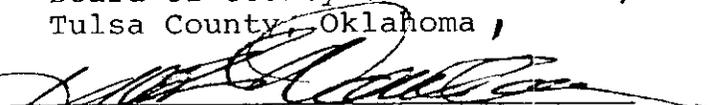
UNITED STATES DISTRICT JUDGE

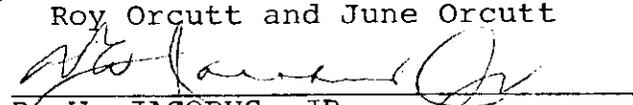
APPROVED AS TO FORM:

FRANK KEATING  
United States Attorney

  
NANCY A. NESBITT  
Assistant United States Attorney

  
DAVID A. CARPENTER  
Assistant District Attorney  
Attorney for Defendants  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma,

  
JAMES G. DAVIDSON  
Attorney for Defendants  
Roy Orcutt and June Orcutt

  
D. W. JACOBUS, JR.  
Attorney for Defendants  
David W. Orcutt and  
Rozella M. Orcutt

*entered*

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

CARLONNA SUE BURLEIGH, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIMOTHY W. DRISKILL, an )  
 individual; HILLCREST MEDICAL )  
 CENTER FOUNDATION, INC., an )  
 Oklahoma corporation; KENYON )  
 K. KUGLER, an individual; and, )  
 IMLER, TENNEY & KUGLER, M.D.'s )  
 INC., an Oklahoma professional )  
 corporation, )  
 )  
 Defendant. )

NO. 83-C-161-B

**FILED**  
JUL 20 1983 *ref*  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

The Court has for consideration the Joint Motion for Order of Dismissal with Prejudice filed by the Plaintiff and the Defendants, Timothy W. Driskill and Hillcrest Medical Center Foundation, Inc. and, being fully advised in the premises, FINDS that the joint motion should be sustained.

IT IS THEREFORE ORDERED that the Joint Motion for Order of Dismissal with Prejudice be, and the same is, hereby sustained and that the Complaint and the cause of action of the Plaintiff is hereby dismissed with prejudice.

λ

IT IS FURTHER ORDERED that each party shall bear his own costs.

DATED this 20<sup>th</sup> day of July, 1983.

  
UNITED STATES DISTRICT JUDGE

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

CARLONNA SUE BURLEIGH, )  
)  
Plaintiff, )  
)  
v. )  
)  
TIMOTHY W. DRISKILL, an individual; )  
HILLCREST MEDICAL CENTER )  
FOUNDATION, INC., an Oklahoma )  
corporation; KENYON K. KUGLER, )  
an individual; and, IMLER, )  
TENNEY & KUGLER, M.D.'s, INC., )  
an Oklahoma professional )  
corporation, )  
)  
Defendants. )

No. 83-C-161-B2

FILED

JUL 20 1983

J. R. Brett, Jr. *eg*  
U. S. DISTRICT COURT

ORDER

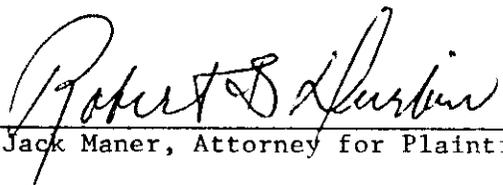
ON July 20, 1983, a Motion for Summary Judgment of the defendants Kenyon K. Kugler, an individual, and Imler, Tenney & Kugler, M.D.'s, Inc., an Oklahoma Professional Corporation, came on for hearing. After reviewing the briefs of all parties and after due consideration, the Court finds that the defendants Motion for Summary Judgment should be sustained.

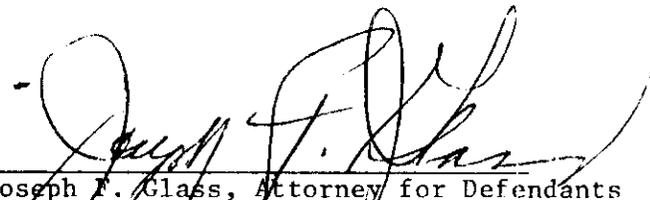
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendants Kenyon K. Kugler, an individual, and Imler, Tenney & Kugler, M.D.'s, Inc., an Oklahoma Professional Corporation, would have judgment in their favor and against plaintiff on plaintiff's Petition.



The Honorable Thomas R. Brett  
Judge of the United States District Court

APPROVED AS TO FORM:

*for*   
Jack Maner, Attorney for Plaintiff



Joseph F. Glass, Attorney for Defendants  
Kenyon K. Kugler, M.D., and Imler, Tenney  
& Kugler, M.D.'s, Inc.

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

FILED

JUL 20 1983

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

ARGIL C. MARTIN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 83-C-366-C
	)	
JOHN Q. ADAMS,	)	
CHEROKEE COUNTY,	)	
	)	
Defendants.	)	

O R D E R

Now before the Court for its consideration are the motions to dismiss of defendants John Q. Adams and Cherokee County and the amended motion to dismiss of defendant Cherokee County. The plaintiff has not responded to these motions and the Court deems them ready for this Court's determination.

Plaintiff is an inmate at the Oklahoma State Penitentiary in McAlester , Oklahoma. He instituted this action pursuant to 42 U.S.C. §1983 seeking monetary damages for alleged violations of his civil rights. In his complaint, plaintiff alleges that defendant Adams, an assistant district attorney for Cherokee County, State of Oklahoma and the Honorable William H. Bliss, a district judge for the State of Oklahoma serving in Cherokee County, entered into some type of conspiracy to violate his rights to a fair trial. Specifically, the plaintiff apparently alleges that in 1966 he entered a guilty plea to a murder charge.

Thereafter, the plaintiff was afforded a post-conviction hearing on June 18, 1981 before Judge Bliss, who is not named as a defendant in this action. Plaintiff contends that his application for post-conviction relief was not ruled upon until March 21, 1983 and that said application was denied on the basis of res judicata. Evidently, the plaintiff raised the issue in the post-conviction proceeding that his guilty plea was not voluntarily entered. Though the complaint only mentions a plea of guilty to a murder charge, the plaintiff contends he is somehow being denied a fair trial in state case Nos. CRF-2628 and CRF-2652.

In the first instance, the present action has been instituted in the wrong judicial district. Defendant Adams is a resident of Tahlequah, Oklahoma which is situated in the territorial boundaries of the United States District Court for the Eastern District of Oklahoma. Defendant Cherokee County, of course, is a county of the State of Oklahoma and the boundaries of said county are within the Eastern District of Oklahoma. The plaintiff, who is incarcerated at McAlester, Oklahoma also resides in the territorial boundaries of the Eastern District.

Both defendants have raised improper venue as one ground for dismissing the instant action. Under Fed.R.Civ.P. 12(b)(3) improper venue is a ground for dismissing an action. If the Court were convinced that the present action had any substantive merit and was, thus, viable under 42 U.S.C. §1983 it would be inclined to transfer this action pursuant to 28 U.S.C. §1404(a) to the Eastern District of Oklahoma. However, as will become

apparent, plaintiff has no cognizable claim under §1983 and a transfer would not be in the interest of justice.

In his complaint, plaintiff states that he has not named Judge Bliss in this action because he realizes that Judge Bliss would have absolute immunity for any actions undertaken with regard to plaintiff's post-conviction proceedings. The plaintiff is correct in his assessment of the present situation as it pertains to Judge Bliss.

The United States Supreme Court has held that a judge has absolute immunity from liability for all judicial acts performed by him over which the judge has jurisdiction. Stump v. Sparkman, 435 U.S. 349, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978), reh. denied, 436 U.S. 951, 98 S.Ct. 2862, 56 L.Ed.2d 795 (1978); Pierson v. Ray, 386 U.S. 547, 87 S.Ct. 1213, 18 L.Ed.2d 288 (1967); Wiggins v. New Mexico State Supreme Court Clerk, 664 F.2d 812 (10th Cir. 1981). Clearly, Judge Bliss has jurisdiction to conduct proceedings on applications for post-conviction relief filed by Oklahoma prison inmates that are brought before him. Only in the clear absence of all jurisdiction could he be deprived of such immunity. Such is not the case here.

In regard to defendant Adams, the United States Supreme Court has held that a prosecutor is absolutely immune for any acts or omissions which were undertaken in the scope of his or her duties in initiating and pursuing a criminal prosecution and in presenting the State's case. Imbler v. Pachtman, 424 U.S. 409, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976). The grant of absolute immunity does not turn on the identity or title of the officer

sued under §1983, but upon the nature of the official behavior. Lee v. Willins, 617 F.2d 320 (2nd Cir. 1980), cert. denied 449 U.S. 861 (1980). In the present case it is clear that defendant Adams was acting within the scope of his prosecutorial duties in pursuing the state's case in a judicial proceeding. The plaintiff's conclusory allegations that defendant Adams entered into some type of conspiracy with Judge Bliss and other unnamed individuals, outside the courtroom, and that defendant Adams was not within the scope of his duties, does not remove the cloak of absolute immunity. Such conclusory allegations serve only to ignore the real and practical situation. Defendant Adams was representing the State of Oklahoma, in one or more criminal cases involving plaintiff, and such representation was intimately associated with the judicial phase of the criminal process, a post-conviction relief proceeding. In this situation, the United States Supreme Court has held that such a defendant is absolutely immune from criminal liability under §1983.

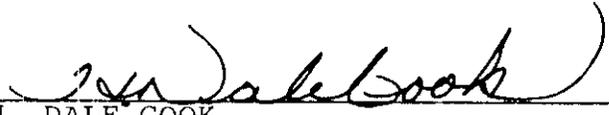
The Court would also note that the plaintiff's complaint is vague and conclusory. It contains no factual information concerning an agreement between defendant Adams and any other individual and it does not sufficiently detail the alleged constitutional deprivation. In such a situation, conclusory allegations have been held insufficient to state a claim under the civil rights laws. See Wise v. Bravo, 666 F.2d 1328 (10th Cir. 1981) and Smith v. Sinclair, 424 F.Supp. 1108 (W.D.Okla. 1976).

In regard to defendant Cherokee County, the Court concludes

that, both defendant Adams and Judge Bliss are not county employees, though their titles would suggest such. OKLA.STAT.ANN. tit.19, §215-30(B) and OKLA.STAT.ANN. tit.19 §§91.1 et seq. They are employees of the State of Oklahoma. Furthermore, the plaintiff has failed to comply with OKLA.STAT.ANN. tit.19, §4 which requires that a county be sued through its Board of County Commissioners. Of course, were plaintiff to have a viable claim against the county this last defect would be curable by a proper amendment to the complaint. However, the county and its employees do not control, in any manner, the rulings and proceedings of a district judge. In other words, the county is not responsible for the actions of defendant Adams or Judge Bliss. In such a situation the plaintiff has no cognizable claim against defendant Cherokee County under §1983 under the present allegations of the complaint. The county did not deny plaintiff's application for post-conviction relief on the grounds of res judicata. Judge Bliss did.

Accordingly, it is the Order of this Court that the instant action is dismissed, in all respects, for the reasons set forth in this Order.

It is so Ordered this 20<sup>th</sup> day of July, 1983.

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

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

AMERICAN STATES INSURANCE CO., )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 83-C-254-E  
 )  
 LANG CONSTRUCTION COMPANY, )  
 BRUCE E. KAHLER and )  
 JUDITH ANN KAHLER, )  
 )  
 Defendants. )

ORDER OF DISMISSAL OF PLAINTIFF'S COMPLAINT

On this 20 day of July, 1983, upon the written stipulation of the plaintiff for a dismissal with prejudice of the plaintiff's Complaint, the Court having examined said stipulation, finds that the parties have entered into a compromise settlement of all of the claims involved herein, and the Court being fully advised in the premises finds that the plaintiff's Complaint against the defendants should be dismissed with prejudice.

IT IS THEREFORE ORDERED by the Court that the Complaint of the plaintiff against the defendants be and the same is hereby dismissed with prejudice to any future action.

(Signed) H. Dale Cook

\_\_\_\_\_  
JUDGE

*J. C. Gibson*  
JAMES C. GIBSON

FILED

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

JUL 20 1983

HERBERT A. ZIEMANN, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DERBY REFINING COMPANY, )  
 )  
 Defendant. )

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

No. 82-C-751-E

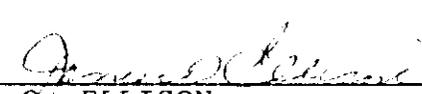
JUDGMENT DISMISSING ACTION  
BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown within twenty (20) days that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this judgment by United States mail upon the attorneys for the parties appearing in this action.

DATED this 20<sup>th</sup> day of July, 1983.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

FILED

JUL 20, 1983

BARBARA A. EVERETT, Adminis- )  
tratrix of the Estate of )  
JAMES PATRICK EVERETT, )  
Deceased, )

Plaintiff, )

vs. )

No. 81-C-590-E

BENSEN AIRCRAFT CORPORATION, )  
a corporation and McCULLOCH )  
CORPORATION, a corporation, )

Defendants. )

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that the Plaintiff take nothing, that the action be dismissed on the merits, and that the Defendant, Bensen Aircraft Corporation recover of the Plaintiff, Barbara A. Everett, its costs of action.

DATED at Tulsa, Oklahoma this 20 day of July, 1983.

*for*   
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

L. M. BERRY AND COMPANY, an )  
Ohio corporation and L. M. )  
BERRY AND COMPANY - NYPS, )  
an Ohio corporation, )  
Plaintiffs, )  
vs. )  
MILLER ASSOCIATES, INC. )  
and MISSOURI, KANSAS AND )  
OKLAHOMA COACH LINES, INC., )  
Defendants. )

No. 82-C-262-C

**F I L E D**  
JUL 20 1983  
JUL 20 1983  
U. S. DISTRICT COURT

STIPULATED ORDER OF DISMISSAL

IT IS HEREBY STIPULATED, by and between counsel for the plaintiffs and counsel for the defendant Missouri, Kansas and Oklahoma Coach Lines, Inc., subject to the approval of the Court, as follows:

That the above entitled cause of action be and the same hereby dismissed with prejudice as to the defendant Missouri, Kansas and Oklahoma Coach Lines, Inc. and that the cross-claim of said defendant Missouri, Kansas and Oklahoma Coach Lines, Inc., against the defendant Miller Associates, Inc., be and the same hereby dismissed with prejudice.

DATED this 19<sup>th</sup> day of July, 1983.

HOLLIMAN, LANGHOLZ, RUNNELS & DORWART

BY Laurie N. Lyons

Laurie N. Lyons  
Suite 700, Holarud Building  
10 East Third Street  
Tulsa, Oklahoma 74103  
(918) 584-1471

Attorneys for Plaintiffs L. M.  
Berry and Company and L. M.  
Berry and Company - NYPS

HUFFMAN, ARRINGTON, KIHLE,  
GABERINO & DUNN

BY John M. Sharp

John M. Sharp  
Fifth Floor,  
Oklahoma Natural Bldg.  
Tulsa, Oklahoma 74119

Attorneys for Defendant  
Missouri, Kansas and Oklahoma  
Coach Lines, Inc.

IT IS SO ORDERED:

s/H. DALE COOK  
United States District Judge

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

**FILED**

JUL 19 1983

DONALD R. MAGHE, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIM WEST (Warden), )  
 )  
 Defendant. )

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

No. 83-C-601-C

O R D E R

On June 14, 1983 Donald Richard Maghe filed the petition herein for a Writ of Habeas Corpus pursuant to 28 U.S.C. §2254 by a person in state custody. Petitioner states as his ground for relief that he entered a plea of guilty on November 28, 1958 to a charge of robbery with a dangerous weapon and to a charge of larceny of an auto. The two concurrent prison sentences have been served by petitioner. Petitioner now alleges that he was, at the time of plea, mentally ill, indigent, without counsel and unaware of his constitutional rights. He argues that the "in-custody" requirement for habeas corpus petitions is inapplicable because the 1958 conviction was improperly used in a subsequent conviction for which he is presently incarcerated.

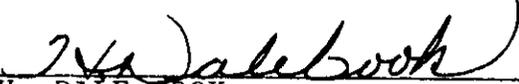
The use of the 1958 uncounseled, unconstitutional prior conviction has already been litigated in Case No. 82-470-C in the Eastern District of Oklahoma and upheld in a Memorandum Opinion issued on March 31, 1983, which is presently on appeal before the United States Court of Appeals for the Tenth Circuit. To the

extent that petitioner wishes to relitigate that question herein, such must be denied. Edwards v. State of Oklahoma, 436 F.Supp. 480 (D.C.Okla. 1977).

Furthermore, as noted above, the petitioner is not presently serving the sentences here under attack. The sentences under attack have been fully served. The Court in Case No. 82-470-C has already ruled in essence that any connection between those sentences and petitioner's present sentence is unsubstantial. Absent a "positive, demonstrable relationship between the prior conviction and the petitioner's present incarceration ....", Sinclair v. Blackburn, 599 F.2d 673, 676 (5th Cir. 1979), the Court must conclude that it lacks jurisdiction over the present petition because the "in custody" requirement of Section 2254 has not been satisfied. Id. See Harrison v. State, 597 F.2d 115 (7th Cir. 1979); Craig v. Beto, 458 F.2d 1131 (5th Cir. 1972); Diehl v. Wainright, 423 F.2d 1108 (5th Cir. 1970); Cappetta v. Wainright, 406 F.2d 1238 (5th Cir. 1969); Mason v. Anderson, 357 F.Supp. 672 (W.D.Okla. 1973). See also Carafas v. LaVallee, 391 U.S. 234, 88 S.Ct. 1556, 20 L.Ed.2d 554 (1968).

For the foregoing reasons, it is therefore ordered that the petition for writ of habeas corpus pursuant to 28 U.S.C. §2254 of Donald R. Maghe should be and it is hereby dismissed.

It is so Ordered this 18<sup>th</sup> day of July, 1983.

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

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

FILED

1983

U. S. DISTRICT COURT

DYCO PETROLEUM CORPORATION,  
a Minnesota corporation,

Plaintiff,

vs.

No. 83-C-288-E

ROBERT G. ANDERSON,  
an individual,

Defendant.

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, Dyco Petroleum Corporation, and pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure hereby dismisses the above referenced action as against the Defendant, Robert G. Anderson, without prejudice as to the filing of a future action based upon the identical matters.

Dated this 19th day of July, 1983

Respectfully submitted,

*Charles A. Grissom, Jr.*

Charles A. Grissom, Jr.  
Of BOESCHE, McDERMOTT & ESKRIDGE  
320 South Boston, Suite 1300  
Tulsa, Oklahoma 74103  
(918) 583-1777

ATTORNEYS FOR PLAINTIFF,  
DYCO PETROLEUM CORPORATION

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Notice of Dismissal was placed in the U.S. Mail on this 19<sup>th</sup> day of July, 1983 addressed to Robert G. Anderson, 1618 First National Building, Tulsa, Oklahoma 74103, with sufficient postage attached thereto.

Charles A. Grison, Jr.

**FILED**

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

**JUL 18 1983**

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

JERRY ENNIS, JAMES ORWIG and )  
 PAUL MOORE, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 EDWARD TURLINGTON, DON )  
 THORPE and THE FARMERS STATE )  
 BANK OF AFTON, )  
 )  
 Defendants. )

No. 83-C-356-C

O R D E R

Now before the Court for its consideration is the motion of defendants Don Thorpe and Farmers State Bank of Afton to dismiss Count I of the plaintiffs' complaint as to those defendants for failure to state a claim upon which relief can be granted, filed on June 21, 1983. The Court has no record of a response to this motion from plaintiffs. Rule 14(a) of the Local Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) Briefs. Each motion, application and objection filed shall set out the specific point or points upon which the motion is brought and shall be accompanied by a concise brief. Memoranda in opposition to such motion and objection shall be filed within ten (10) days after the filing of the motion or objection, and any reply memoranda shall be filed within ten (10) days thereafter. Failure to comply with this paragraph will constitute waiver of objection by the party not complying, and such failure

to comply will constitute a confession of the matters raised by such pleadings.

Therefore, since no response has been received within 27 days after filing of the Motion to Dismiss Count I herein, in accordance with Rule 14(a) the failure to comply constitutes a confession of the Motion to Dismiss.

It is the Order of the Court that the defendants' Motion to Dismiss Count I for failure to state a claim upon which relief can be granted should be and hereby is sustained and Count I of the complaint is dismissed as it pertains to defendants Thorpe and Farmers State Bank of Afton.

It is so Ordered this 18<sup>th</sup> day of July, 1983.

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

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE <sup>JUL 18 1983</sup>

NORTHERN DISTRICT OF OKLAHOMA

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

MELVIN KENT BRETZ, )  
)  
Petitioner )  
)  
v. )  
)  
UNITED STATES OF AMERICA, )  
)  
Respondent )

CIVIL NO. 83-C-464-~~EC~~  
and  
83-C-215-C ✓

AGREED ORDER OF DISMISSAL

Plaintiff and defendant, having jointly requested the dismissal of the above-styled action, it is hereby

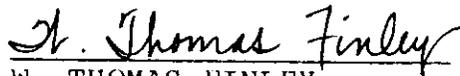
ORDERED that this action be dismissed with prejudice.

Each party is to bear its own costs.

Signed this 18<sup>th</sup> day of July 1983.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
W. THOMAS FINLEY  
Nichols & Wolfe, Inc.  
Suite 400, Old City Hall Building  
124 East Fourth Street  
Tulsa, Oklahoma 74103

ATTORNEY FOR PETITIONER

  
RICK K. DISNEY  
Attorney, Tax Division  
Department of Justice  
Room 5B31, 1100 Commerce Street  
Dallas, Texas 75242

ATTORNEY FOR RESPONDENT

FILED

MAY 1983

U. S. DISTRICT COURT

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

JOHN D. VETTER, an )  
individual, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
SOUTHWEST SPORTING GOODS, )  
COMPANY, INC., an Oklahoma )  
corporation; NATIONAL SPORTS, )  
INC., a Colorado corporation; )  
and JAMES COBERN, JAMES )  
CORBIN, and DONALD TALTON, )  
individuals, )  
 )  
Defendants, )  
 )  
MONTGOMERY WARD & CO., INC., )  
 )  
Intervenor. )

Case No. 83-C-17C

DISMISSAL WITHOUT PREJUDICE

The Intervenor, Montgomery Ward & Co., Inc., by and through its attorneys, Kevin T. Gassaway and Theodore P. Gibson of Houston & Klein, Inc., hereby dismisses its Complaint against each of the Defendants, without prejudice to the filing of another action.

Respectfully submitted,  
HOUSTON & KLEIN, INC.

By: Kevin T. Gassaway  
KEVIN T. GASSAWAY  
THEODORE P. GIBSON  
3200 University Tower  
1722 South Carson  
Tulsa, Oklahoma 74101  
(918) 583-2131

ATTORNEYS FOR INTERVENOR

CERTIFICATE OF MAILING

I hereby certify that on this 18 day of July, 1983, I mailed a true and correct copy of the above and foregoing DISMISSAL WITHOUT PREJUDICE, postage prepaid, to Mr. Ollie Gresham, Attorney at Law, 2727 East 21st Street, Tulsa, Oklahoma 74114; Mr. Royce H. Savage, 900 World Building, Tulsa, Oklahoma 74103; Larry B. Lipe, Tyrus V. Dahl, Jr., 4100 Bank of Oklahoma Tower, One Williams Center, Tulsa, Oklahoma 74172.

  
\_\_\_\_\_  
KEVIN T. GASSAWAY

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

**FILED**

JUL 18 1983

FRITZ DAMBERVILLE, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TOTAL PETROLEUM COMPANY, )  
 THE VICKERS OIL COMPANY, )  
 and MR. BILL NELSON, )  
 )  
 Defendants. )

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

No. 82-C-981-C

O R D E R

Now before the Court for its consideration are the motions of all defendants to compel plaintiff's response to defendants' first set of interrogatories and first request for production of documents and to dismiss, pursuant to Fed.R.Civ.P. 12(b)(6) and 12(b)(1) or, in the alternative, for summary judgment, pursuant to Fed.R.Civ.P. 56. The Court has no record of a response to these motions from plaintiff. Rule 14(a) of the Local Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) Briefs. Each motion, application and objection filed shall set out the specific point or points upon which the motion is brought and shall be accompanied by a concise brief. Memoranda in opposition to such motion and objection shall be filed within ten (10) days after the filing of the motion or objection, and any reply memoranda shall be filed within ten (10) days thereafter. Failure to comply with this paragraph will constitute waiver of objection by the party not complying, and such failure to comply will constitute a confession of the matters raised by such pleadings.

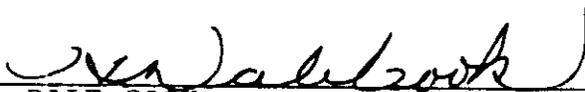
In that the defendants' brief in support of their motion to dismiss, or alternatively for summary judgment, does not directly discuss the merits of any claim the plaintiff may have pursuant to 42 U.S.C. §1981 for racial discrimination in employment, the Court declines to dismiss plaintiff's complaint insofar as it is brought pursuant to that statute.

However, in that no response has been received within 40 days after filing of defendants' motion to compel and within 20 days after filing of the motions to dismiss or for summary judgment, in accordance with Rule 14(a) the failure to comply constitutes a confession of those motions.

Accordingly, it is the Order of this Court that defendants' motion to compel filed on June 8, 1983 should be and hereby is sustained. The plaintiff is further Ordered to serve upon defendants within ten (10) days from the date hereof answers to defendants' first set of interrogatories and to produce the requested documents within the same time limitation.

It is the further Order of this Court that the portions of plaintiff's complaint brought pursuant to 42 U.S.C. §2000e et seq., 42 U.S.C. §1983, and the Fifth and Fourteenth Amendments to the United States Constitution, are dismissed.

It is so Ordered this 18<sup>th</sup> day of July, 1983.

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

*entered*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL G. CHANDLER, )  
 )  
 Defendant. )

JUL 18 1983  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 83-C-380-B

DEFAULT JUDGMENT

This matter comes on for consideration this 18 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds, Jr., Assistant United States Attorney, and the Defendant, Michael G. Chandler, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Michael G. Chandler, was served with Summons and Complaint on May 28, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Michael G. Chandler, for the principal sum of \$352.46, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

S/ THOMAS R. DRETT  
UNITED STATES DISTRICT JUDGE

entered

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
GARY K. DUGAN,	)	
	)	
Defendant.	)	CIVIL ACTION NO. 83-C-407-B

AGREED JUDGMENT

This matter comes on for consideration this 18 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Gary K. Dugan, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Gary K. Dugan, was served with Summons and Complaint on May 18, 1983. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of \$1,002.33 (less the amount of \$10.00 which has been paid), plus interest at the legal rate from the date of this Judgment until paid, provided, however, that Plaintiff waives collection of any interest if, and only if, all of the installment payments are made by Defendant at the times and in the manner agreed to by the parties.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant,

Gary K. Dugan, in the amount of \$1,002.33 (less the sum of \$10.00 which has been paid), plus costs and interest at the legal rate from the date of this Judgment until paid.

S/ THOMAS R. BRETT

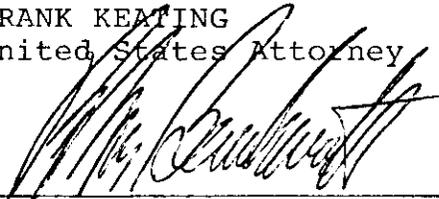
---

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney



---

PETER BERNHARDT  
Assistant U.S. Attorney



---

GARY K. DUGAN

*entered*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

*FILED*  
*J. [unclear]*

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
RAYMOND L. HEDRICK,	)	
	)	
Defendant.	)	CIVIL ACTION NO. 83-C-430-B

DEFAULT JUDGMENT

This matter comes on for consideration this 18 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds, Jr., Assistant United States Attorney, and the Defendant, Raymond L. Hedrick, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Raymond L. Hedrick, was served with Summons and Complaint on June 15, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Raymond L. Hedrick, for the principal sum of \$1,379.66, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

*S/ THOMAS R. BRETT*  
UNITED STATES DISTRICT JUDGE

*entered*  
**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA, **JUL 15 1983**

QUADREX CORPORATION, a  
California corporation,

Plaintiff,

vs.

ENERCON SERVICES, INC., an  
Oklahoma corporation; M. I.  
ANESHANSLEY; R. W. EVANS  
and J. K. MARTIN,

Defendants.

No. 83-C-502-B

*John C. Silver*  
*State Court*

NOTICE OF DISMISSAL

TO: Enercon Services, Inc.  
M. I. Aneshansley  
R. W. Evans  
J. K. Martin

R. Scott Savage, Esq.  
James H. Ferris, Esq.  
James R. Miller, Esq.  
MOYERS, MARTIN, CONWAY, SANTEE  
& IMEL  
Suite 920, 320 South Boston  
Tulsa, Oklahoma 74103

Please take notice that the above-entitled action is here-  
by dismissed with prejudice, pursuant to Rule 41(a)(1)(i) of  
the Federal Rules of Civil Procedure.

DATED this 15<sup>th</sup> day of July, 1983.

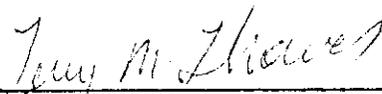
*Terry M. Thomas*  
\_\_\_\_\_  
Joel L. Wohlgemuth  
Terry M. Thomas  
PRICHARD, NORMAN & WOHLGEMUTH  
909 Kennedy Building  
Tulsa, Oklahoma 74103  
(918) 583-7571

Attorneys for Plaintiff,  
Quadrex Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 15<sup>th</sup> day of July, 1983, I had hand delivered a true and correct copy of the above and foregoing instrument to:

R. Scott Savage, Esq.  
James H. Ferris, Esq.  
James R. Miller, Esq.  
MOYER, MARTIN, CONWAY & IMEL  
320 South Boston, Suite 920  
Tulsa, Oklahoma 74103

  
\_\_\_\_\_  
Terry M. Thomas

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**  
JUL 15 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 82-C-1196-E  
 )  
 JEFFREY D. HOLDER, )  
 )  
 Defendant. )

AGREED JUDGMENT

This matter comes on for consideration this 14 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Jeffrey D. Holder, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Jeffrey D. Holder, was served with a Summons and Complaint. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of \$599.33, plus interest at the legal rate from the date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Jeffrey D. Holder, in the amount of \$599.33, plus costs and

interest at the legal rate from the date of this Judgment until paid.

s/H. DALE COOK

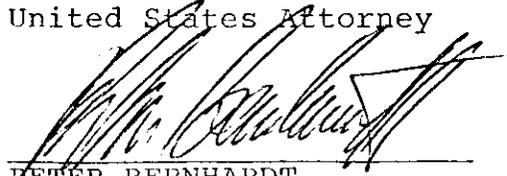
UNITED STATES DISTRICT JUDGE

*for* ELLISON

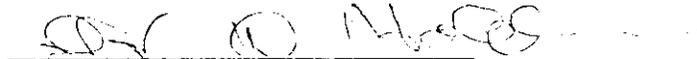
APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney



PETER BERNHARDT  
Assistant U.S. Attorney

  
JEFFREY D. HOLDER

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 82-C-865-C  
 )  
 PENMARC LTD., a defunct )  
 corporation, D&L ENTERPRISES, )  
 a partnership, JOHN B. DERKACH )  
 and DONALD R. LEHMAN )  
 individually and as partners; )  
 RICHARD C. HUNTER; BERNARD )  
 PETER OEHLER; COUNTY TREASURER )  
 AND BOARD OF COUNTY )  
 COMMISSIONERS OF TULSA COUNTY, )  
 OKLAHOMA, )  
 )  
 Defendants. )

**FILED**  
**JUL 15 1983**  
John G. Silver, Cl.  
**U. S. DISTRICT COURT**

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 15<sup>th</sup> day of March, 1983. The Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds, Jr., Assistant United States Attorney, and the Defendants, Donald R. Lehman, John B. Derkach and D & L Enterprises, a partnership, represented by Steven M. Harris, the Board of County Commissioners, Tulsa County, Oklahoma and County Treasurer of Tulsa County, Oklahoma, by David Carpenter, Assistant District Attorney, Tulsa County, Penmarc Ltd., a defunct corporation, Richard Hunter, and Bernard Peter Oehler, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, Penmarc Ltd., a defunct corporation, Richard Hunter and Bernard Peter Oehler were served with Summons and Complaint on the 20th day of September, 1982.

Further Penmarc Ltd., a defunct corporation, was served pursuant to Title 18, O.S. 1.198(b) by service upon the Secretary of State, January 11, 1983. It appears that the Defendants, Richard Hunter, Bernard Peter Oehler, and Penmarc Ltd., a defunct corporation, have failed to answer and that default has been entered by the Clerk of this Court. Said Clerk's default being entered against Richard Hunter and Bernard Peter Oehler on January 7, 1983, and against Penmarc Ltd., a defunct corporation, on March 1, 1983.

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

Lot Twelve (12), and the North One Hundred (100) feet of Lot Thirteen (13), Block Two (2), VERN SUBDIVISION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Amended Plat thereof.

That the Defendants John B. Derkach and Donald R. Lehman, as D & L Enterprises, a partnership and individually, did, on the 4th day of March, 1980, execute and deliver to Sand Springs State Bank, Sand Springs, Oklahoma, their promissory note for the principal sum of \$134,000.00 plus interest, which note was later transferred and assigned for good and valuable consideration, to the Small Business Administration on August 17, 1981, by endorsement thereon.

The Court further finds that on or about the 27th day of February, 1981, an agreement for assumption of indebtedness was

executed for good and valuable consideration by the Defendants John B. Derkach and Donald R. Lehman as transferors, and Penmarc Ltd., a corporation, as transferee, and Sand Springs State Bank, wherein transferee Penmarc Ltd. assumed the balance due on said note and the indebtedness represented thereby held by Sand Springs State Bank. Said agreement for assumption of indebtedness was transferred and assigned to the Small Business Administration on June 21, 1982.

The Court further finds that at the same time and part and parcel of the aforementioned transaction the Defendants, Richard C. Hunter and Bernard Peter Oehler, made, executed and delivered to Sand Springs State Bank their certain written guarantee. Said guarantee was transferred and assigned to the Small Business Administration on June 21, 1982, by assignment thereon.

The Court further finds that the Defendants, John B. Derkach, Donald R. Lehman, Penmarc Ltd., made default under the terms of the aforesaid mortgage note by reason of their failure to make installment payments due thereon, which default has continued and that reason thereof the above named Defendants are now indebted to the Plaintiff in the sum of \$125,349.47 plus interest accrued to August 23, 1982, in the sum of \$32,410.69, and interest accruing thereafter at the rate of \$79.21 per day, until paid, plus the cost of this action accrued and accruing.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from the Defendants, Donald R. Lehman, John B. Derkach, D & L Enterprises, a

partnership, Richard Hunter, Bernard Peter Oehler, and Penmarc Ltd., a defunct corporation, the sum of \$1,662.00 plus interest according to law for the 1980 and 1981 real estate and drainage tax on the property, the subject of this foreclosure, and that Tulsa Conty should have judgment for said amount, but that such judgment is prior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED, that the Plaintiff have and recover judgment in rem and in personam against the Defendants, Donald R. Lehman, individually, John B. Derkach, individually, Donald R. Lehman and John B. Derkach, as partners in D & L Enterprises, Penmarc Ltd., a defunct corporation, Richard Hunter and Bernard Peter Oehler, on their guarantee for the principal sum of \$125,349.47, plus interest accrued to August 23, 1982, in the sum of \$32, 410.69, and interest accruing thereafter at the rate of \$79.21 per day, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that the County of Tulsa have and recover a judgment against the Defendant, D & L Enterprises, a partnership, Penmarc Ltd., a defunct corporation, Richard Hunter and Bernard Peter Oehler, on their guarantee, for the sum of \$1,662.00 as of the date of this judgment, plus interest thereafter according to law for real estate taxes, that the said judgment is

prior to the first mortgage lien of the Plaintiff herein.

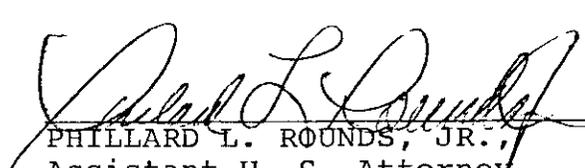
IT IS FURTHER ORDERED ADJUDGED AND DECREED that an order of sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisalment the real property and apply the proceeds in satisfaction of the Plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further Order of the Court. Plaintiff's in personam judgment shall be held in abeyance pending sale and subsequent proceedings.

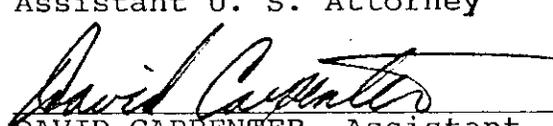
IT IS FURTHER ORDERED ADJUDGED AND DECREED that from and after the sale of said property under and by virtue of this judgment and decree all of the Defendants and any persons claiming under them since the filing of the Complaint herein are forever barred and foreclosed of any right, title, interest or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

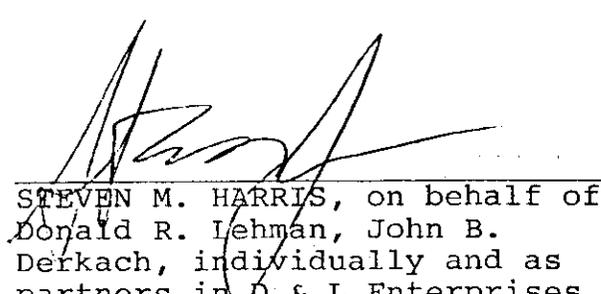
  
UNITED STATES DISTRICT JUDGE

APPROVED:

FRANK KEATING  
United States Attorney

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

  
DAVID CARPENTER, Assistant  
District Attorney, Tulsa County,  
Oklahoma, Attorney for Defendants  
County Treasurer and Board of  
County Commissioners, Tulsa County

  
STEVEN M. HARRIS, on behalf of  
Donald R. Lehman, John B.  
Derkach, individually and as  
partners in D & L Enterprises

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FRANKIE L. SWAIM, )  
 )  
 Defendant. )

JUL 14 1983  
JACK G. COOK, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 83-C-320-C

DEFAULT JUDGMENT

This matter comes on for consideration this 14<sup>th</sup> day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Frankie L. Swaim, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Frankie L. Swaim, was served with Summons and Complaint on May 1, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Frankie L. Swaim, for the principal sum of \$597.74, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

s/H. DALE COOK  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE



*with*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**  
**JUL 13 1983**  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
ROBERT L. TUCKER, )  
 )  
Defendant. )

CIVIL ACTION NO. 83-C-382-C

DEFAULT JUDGMENT

This matter comes on for consideration this 12 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Robert L. Tucker, appearing not.

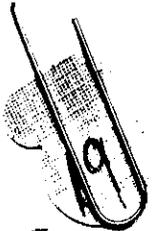
The Court being fully advised and having examined the file herein finds that Defendant, Robert L. Tucker, was served with Summons and Complaint on June 8, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Robert L. Tucker, for the principal sum of \$660.00, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

PAUL DAUF COOK

UNITED STATES DISTRICT JUDGE

28



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 13 1983

John G. Sizer, Clerk

U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JAMES E. ESLICK a/k/a )  
JAMES E. ELSICK, JR., et al., )  
 )  
Defendants. )

CIVIL ACTION NO. 81-C-753-C ✓

DISMISSAL WITHOUT PREJUDICE

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Peter Bernhardt, Assistant United States Attorney, and hereby dismisses this action without prejudice pursuant to Rule 41, Federal Rules of Civil Procedure, as to Defendant, Rural Water District No. 3 of Washington County, Oklahoma, only.

Dated this 13th day of July, 1983.

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

13th day of July, 1983.

Assistant United States Attorney

UNITED STATES OF AMERICA

FRANK KEATING,  
United States Attorney

PETER BERNHARDT  
Assistant United States Attorney  
460 United States Courthouse  
Tulsa, OK 74103  
(918) 581-7463

**FILED**

**JUL 12 1983**

**U.S. DISTRICT COURT**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TOMMY J. GLENN, CONNIE M. GLENN, )  
 JOHN PETTY, PLAZA NATIONAL BANK, )  
 BOARD OF COUNTY COMMISSIONERS, )  
 NOWATA COUNTY, OKLAHOMA, and )  
 COUNTY TREASURER, NOWATA COUNTY, )  
 OKLAHOMA, )  
 )  
 Defendants. )

CIVIL ACTION NO. 83-C-6-E

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 12 day  
of July, 1983. The Plaintiff appearing by Frank Keating,  
United States Attorney for the Northern District of Oklahoma,  
through Nancy A. Nesbitt, Assistant United States Attorney; the  
Defendants Board of County Commissioners, Nowata County,  
Oklahoma, and County Treasurer, Nowata County, Oklahoma,  
appearing by Darrell R. Dowty, Assistant District Attorney,  
Nowata County, Oklahoma; and the Defendants Tommy J. Glenn,  
Connie M. Glenn, John Petty, and Plaza National Bank appearing  
not.

The Court being fully advised and having examined the  
file herein finds that the Defendant John Petty was served with  
Summons and Complaint on January 11, 1983; that the Defendants  
Plaza National Bank, Board of County Commissioners, Nowata  
County, Oklahoma, and County Treasurer, Nowata County, Oklahoma,  
were served with Summons and Complaint on January 6, 1983; that

the Defendants Tommy J. Glenn and Connie M. Glenn were served with the Complaint by publishing notice of same in a newspaper of general circulation in Nowata County, Oklahoma, once a week for six (6) consecutive weeks beginning April 15, 1983, and continuing to May 20, 1983; and that this action is one in which service by publication is authorized by Title 12 O.S. Section 170.6(A) as counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of Defendants Tommy J. Glenn and Connie M. Glenn, and service of Summons cannot be made upon Tommy J. Glenn and Connie M. Glenn within the state by any other method, or upon said Defendants without the state by any other method.

The Defendants Board of County Commissioners, Nowata County, Oklahoma, and County Treasurer, Nowata County, Oklahoma, filed their Answer and Cross-Claim herein on January 26, 1983; the Defendants Tommy J. Glenn, Connie M. Glenn, John Petty, and Plaza National Bank have failed to answer the Complaint or otherwise plead and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a promissory note and for foreclosure of a real estate mortgage upon the following-described real property located in Nowata County, Oklahoma, within the Northern Judicial District of Oklahoma:

The West 40 feet of Lot Five (5), and all of Lot Six (6), in Block One (1), in the Town of Wann, Oklahoma.

THAT the Defendants Tommy J. Glenn and Connie M. Glenn, did, on the 13th day of March, 1980, execute and deliver to the United States of America, acting through the Farmers Home Administration, their real estate mortgage and promissory note in the sum of \$20,000.00, payable in monthly installments, with interest thereon at the rate of ten percent (10%) per annum. The promissory note referred to above is subject to an Interest Credit Agreement executed by the Defendants Tommy J. Glenn and Connie M. Glenn to the United States of American on the 13th day of March, 1980.

The Court further finds that the Defendants Tommy J. Glenn and Connie M. Glenn made default under the terms of the aforesaid promissory note, real estate mortgage, and Interest Credit Agreement by reason of their failure to make the monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are indebted to the Plaintiff in the sum of \$20,150.14, plus accrued interest of \$4,233.72 as of April 21, 1983, plus interest thereafter accruing at the rate of \$5.5206 per day, and on the Interest Credit Agreement the sum of \$966.00, plus the costs of this action accrued and accruing.

The Defendants Board of County Commissioners, Nowata County, Oklahoma, and County Treasurer, Nowata County, Oklahoma, have an interest in the above-described real property because of ad valorem taxes assessed against the Defendants Tommy J. Glenn and Connie M. Glenn for the year 1982, in the amount of \$110.71 with interest thereon at one percent (1%) per month from January

1, 1983. Said interest is superior to the first mortgage lien of Plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants Tommy J. Glenn and Connie M. Glenn in the sum of \$20,150.14, plus accrued interest of \$4,233.72 as of April 21, 1983, plus interest thereafter accruing at the rate of \$5.5206 per day, plus \$966.00 due and owing on the Interest Credit Agreement, plus the costs of this action accrued and accruing.

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

First:

In payment of the costs of this action, accrued and accruing, including the costs of sale;

Second:

In payment of the ad valorem taxes assessed against the Defendants Tommy J. Glenn and Connie M. Glenn;

Third:

In payment of the judgment rendered herein in favor of Plaintiff.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

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

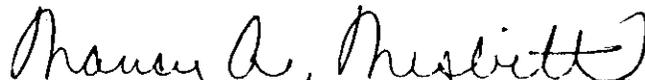
s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

~~S/~~ JAMES O. ELLISON

APPROVED AS TO FORM:

FRANK KEATING  
United States Attorney

  
NANCY A. NESBITT  
Assistant United States Attorney

  
DARRELL R. DOWTY  
Assistant District Attorney  
Nowata County, Oklahoma

*entered*

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

**FILED**

**JUL 12 1983**

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

FLORAFAX INTERNATIONAL, INC., )  
an Oklahoma corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WALTER R. CAMPBELL and )  
BEATTIERAE VANEK, Individuals, )  
d/b/a LAZY DAISY, )  
 )  
Defendants. )

No. 83-C-309 B

JOURNAL ENTRY OF JUDGMENT

NOW ON THIS 11<sup>th</sup> day of July, 1983, the above-entitled cause comes on before me, the undersigned Judge of the above-entitled Court by reason of Plaintiff's Motion for Judgment by Default under Rule 55 F.R.C.P. Plaintiff appears by and through its attorney, James R. Elder, and the Defendants appear not, although having been served with process and notice of suit and a copy of the Complaint, all as provided by Rule 4 (c) (2) (C) (ii) F.R.C.P.

The Court having examined the file and pleadings therein and being fully advised in the premises and having considered all of the evidence finds as follows:

THE COURT FINDS, that all allegations contained in Plaintiff's Complaint are confessed.

THE COURT FINDS, that there is complete diversity of citizenship between the Plaintiff and the Defendants and the amount in controversy exceeds \$10,000.00 exclusive of interest and costs and that this Court has jurisdiction and venue over the parties and subject matter of this action and all issues to be adjudicated herein.

THE COURT FINDS, that all exhibits attached to Plaintiff's Complaint are true and correct and valid in all particulars.

THE COURT FINDS, that the Defendants, and each of them, are indebted to the Plaintiff in the sum of ELEVEN THOUSAND THREE HUNDRED TWENTY-FIVE AND .21/100 (\$11,325.21) DOLLARS, according to the verified account appended to Plaintiff's Complaint.

THE COURT FINDS, that the Plaintiff is entitled to a reasonable attorney's fee to be assessed against the Defendants for the use and benefit of plaintiff's attorney in the prosecution of this cause which the Court finds should be in the reasonable sum of \$ 2830<sup>00</sup>, together with interest at the rate of 1 1/2 percent per month (18% percent per annum from the 5th day of April, 1983 until fully paid), together with costs of the action

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court, that the findings hereinbefore set forth be made the Order of this Court. IT IS SO ORDERED. For all of the above and foregoing let execution issue.

*St. Thomas K. Brett*  
JUDGE

CERTIFICATE OF MAILING

I, JAMES R. ELDER, hereby certify that on the date of filing the above and foregoing JOURNAL ENTRY OF JUDGMENT, I deposited a true and correct copy of same into the United States Mail with proper postage thereon fully prepaid to: WALTER R. CAMPBELL AND BEATTIERAE VANEK, d/b/a LAZY DAISY, 10910 West 74th Terrace, Shawnee, Kansas 66203.

*J. R. Elder*  
JAMES R. ELDER

FILED

JUL 12 1983

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

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

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

CIVIL ACTION NO. 83-C-339-C

RONALD D. MORROW, ERMA A. )  
MORROW, CITY FINANCE COMPANY )  
OF OKLAHOMA, INC., )

Defendants. )

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 12<sup>th</sup> day of July, 1983. The Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney; the Defendant City Finance Company of Oklahoma, Inc. appearing by its attorney R. James Unruh; and the Defendants Ronald D. Morrow and Erma A. Morrow appearing not.

The Court being fully advised and having examined the file herein finds that the Defendant Ronald D. Morrow acknowledged receipt of Summons and Complaint on April 25, 1983; that the Defendant Erma A. Morrow acknowledged receipt of Summons and Complaint on April 25, 1983; and that the Defendant City Finance Company of Oklahoma, Inc. acknowledged receipt of Summons and Complaint on April 21, 1983.

The Defendant City Finance Company of Oklahoma, Inc. filed its Answer and Cross-Complaint herein on May 25, 1983, with

leave of Court granted to file same out of time; the Defendants Ronald D. Morrow and Erma A. Morrow have failed to answer the Complaint or otherwise plead and their default has therefore been entered by the Clerk of this Court.

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

Lot Twenty-Six (26), in Block Five (5) MEADOW LAKE ACRES, an Addition in Creek County, Oklahoma, according to the Amended Plat thereof.

THAT the Defendants Ronald D. Morrow and Erma A. Morrow, did on the 23rd day of October, 1973, execute and deliver to the United States of America, acting through the Farmers Home Administration, their real estate mortgage and promissory note in the sum of \$19,050.00, payable in monthly installments, with interest thereon at the rate of seven and three-quarters percent (7 3/4%) per annum.

The Court further finds that the Defendants Ronald D. Morrow and Erma A. Morrow made default under the terms of the aforesaid promissory note by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the above-named Defendants are indebted to the Plaintiff in the principal sum of \$17,560.99, plus accrued interest of \$1,256.69 as of May 31, 1983, plus

interest thereafter accruing at the rate of \$3.7287 per day, plus the costs of this action accrued and accruing.

The Court further finds that the Defendant City Finance Company of Oklahoma, Inc. has an interest in the above-described real property by virtue of a real estate mortgage dated December 12, 1979. Said real estate mortgage was given to secure payment of a promissory note given by the Defendants Ronald D. Morrow and Erma A. Morrow to the Defendant City Finance Company of Oklahoma, Inc., in the sum of \$21,600.00, payable in monthly installments, with interest thereon at the rate of eighteen percent (18%) per annum. This interest in the above-described real property is subject to and inferior to the first mortgage lien of the Plaintiff.

As further security for this promissory note, the Defendants Ronald D. Morrow and Erma A. Morrow executed and delivered to the Defendant City Finance Company of Oklahoma, Inc. their security agreement, granting the Defendant City Finance Company of Oklahoma, Inc. a security interest in certain personal property located on the above-described real property, as is set forth in its Cross-Complaint herein.

The Court further finds that the Defendants Ronald D. Morrow and Erma A. Morrow made default under the terms of the promissory note given to the Defendant City Finance Company of Oklahoma, Inc. by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the above-named Defendants are indebted to the

Defendant City Finance Company of Oklahoma, Inc. in the principal sum of \$10,070.08 as of June 1, 1983, plus interest thereafter accruing at the rate of eighteen percent (18%) per annum until paid plus a reasonable attorney's fee in the sum of \$1,516.03, plus its costs accrued and accruing in this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendants Ronald D. Morrow and Erma A. Morrow in the sum of \$17,560.99 plus accrued interest of \$1,256.69 as of May 31, 1983, plus interest thereafter accruing at the rate of \$3.7287 per day, plus the costs of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant City Finance Company of Oklahoma, Inc. have and recover judgment against the Defendants Ronald D. Morrow and Erma A. Morrow in the principal sum of \$10,070.08 as of June 1, 1983, plus interest thereafter accruing at the rate of eighteen percent (18%) per annum, plus a reasonable attorney's fee in the amount of \$1,516.03, plus its costs accrued and accruing in this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said previously named Defendants to satisfy the money judgment of the Plaintiff or the money judgment of the Defendant City Finance Company of Oklahoma, Inc. herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisal the real property herein, and apply the proceeds thereof as follows:

First:

In payment of the costs of this action, accrued and accruing, including the costs of sale of the real property herein;

Second:

In payment of the judgment rendered herein in favor of Plaintiff;

Third:

In payment of the judgment rendered herein in favor of the Defendant City Finance Company of Oklahoma, Inc.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant City Finance Company of Oklahoma, Inc. shall have a judgment for replevin, and pursuant thereto is hereby authorized to take immediate possession of the above-described personal property for the purpose of sale, the proceeds of which shall be applied in payment of the judgment rendered herein in favor of the Defendant City Finance Company of Oklahoma, Inc.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real and personal property, under and by virtue of this judgment and decree, the Defendants and all persons claiming under them since the filing of the Complaint and Cross-Complaint herein be and they are forever barred and foreclosed of any right, title, interest or

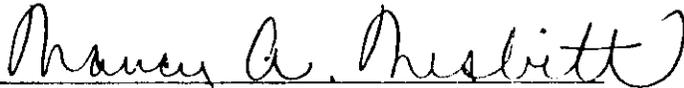
claim in or to the subject real and personal property or any part thereof.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

FRANK KEATING  
United States Attorney



NANCY A. NESBITT  
Assistant United States Attorney



R. JAMES UNRUH  
Attorney for City Finance Company  
of Oklahoma, Inc.

*Entered*

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

**FILED**  
JUL 12 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JOSEPH P. DAVIS, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MARGARET M. HECKLER, )  
Secretary of Health and )  
Human Services, )  
 )  
Defendant. )

No. 82-C-726-B

J U D G M E N T

This cause having been considered by the Court on the pleadings, the entire record certified to this Court by the defendant, Secretary of Health and Human Services ("Secretary"), and the briefs submitted by the parties, the Court is of the opinion as reflected by its Memorandum Opinion filed herewith that the final decision of the Secretary is supported by substantial evidence as required by the Social Security Act, and should be affirmed.

IT IS THEREFORE ORDERED that the final decision of the Secretary should be and hereby is affirmed.

ENTERED this 11<sup>th</sup> day of July, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



Donald R. Williams, in the amount of \$631.87, plus costs and interest at the legal rate from the date of this Judgment until paid.

s/H. DALE COOK *jad*  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

*Richard L. Powell*  
Assistant U.S. Attorney

---

*Donald R. Williams*



U.S. Department of Justice

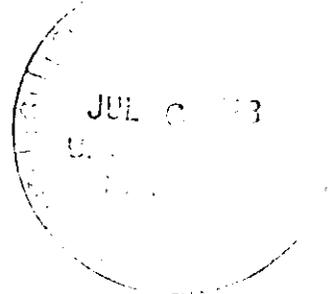
United States Attorney  
Northern District of Oklahoma

460 United States Courthouse  
333 West 4th Street  
Tulsa, Oklahoma 74103

918/581-7463

June 16, 1983

Mr. Donald P. Williams  
4047 East 25th St.  
Tulsa, Oklahoma 74114



Re: USA vs. DONALD R. WILLIAMS  
Case No. 83-C-419-E  
U. S. District Court  
Northern District of Oklahoma

Dear Mr. Williams:

Please find enclosed an agreed judgment pertaining to the above referenced case. If you find it in order, please sign and return it within the next ten (10) days together with payment, if possible, in the enclosed envelope provided for your convenience. If the agreed judgment is not received in our office within the next ten (10) days from the date of this letter, we will request that the Court enter a default judgment against you.

Also enclosed is a financial statement for you to complete and return to us along with the agreed judgment. Please note that this document is submitted by you subject to the penalty of perjury if your answers are not truthful.

If you have any questions regarding this matter, please do not hesitate to contact the undersigned.

Sincerely yours,

FRANK KEATING  
UNITED STATES ATTORNEY

  
PHILARD L. ROUNDS, JR.  
Assistant United States Attorney

Enclosures

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
JUL 11 1983  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) CIVIL ACTION NO. 83-C-373-C  
 )  
JOHN S. MOORE, )  
 )  
Defendant. )

AGREED JUDGMENT

This matter comes on for consideration this 11<sup>th</sup> day  
of July, 1983, the Plaintiff appearing by Frank Keating,  
United States Attorney for the Northern District of Oklahoma,  
through Philard L. Rounds, Jr., Assistant United States Attorney,  
and the Defendant, John S. Moore, appearing pro se.

The Court, being fully advised and having examined the  
file herein, finds that the Defendant, John S. Moore, was  
personally served with Summons and Complaint on May 13, 1983.  
The Defendant has not filed his Answer but in lieu thereof has  
agreed that he is indebted to the Plaintiff in the amount alleged  
in the Complaint and that Judgment may accordingly be entered  
against him in the amount of \$596.06 (less the amount of \$145.00  
which has been paid), plus interest at the legal rate from the  
date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that  
the Plaintiff have and recover Judgment against the Defendant,

John S. Moore, in the amount of \$596.06 (less the amount of \$145.00 which has been paid), plus costs and interest at the legal rate from the date of this Judgment until paid.

s/H. DALE COOK

---

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney



---

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



---

JOHN S. MOORE, Defendant

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**  
**JUL 11 1983**  
**U. S. DISTRICT COURT**

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CRAIG W. STOREY, )  
 )  
Defendant. )

CIVIL ACTION NO. 83-C-372-C

DEFAULT JUDGMENT

This matter comes on for consideration this 11 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds, Jr., Assistant United States Attorney, and the Defendant, Craig W. Storey, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Craig W. Storey, was served with Summons and Complaint on June 7, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Craig W. Storey, for the principal sum of \$265.57, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

s/H. DALE COOK  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

**JUL 11 1983**

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JOHNNY R. MAYBERRY, )  
 )  
Defendant. )

CIVIL ACTION NO. 83-C-371-C

DEFAULT JUDGMENT

This matter comes on for consideration this 11 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Johnny R. Mayberry, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Johnny R. Mayberry, was served with Summons and Complaint on May 4, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Johnny R. Mayberry, for the principal sum of \$417.60, plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**  
**JUL 11 1983**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIMOTHY W. CARTER, )  
 )  
 Defendant. )

**U. S. DISTRICT COURT**

CIVIL ACTION NO. 83-C-319-C

DEFAULT JUDGMENT

This matter comes on for consideration this 11 day of July, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Timothy W. Carter, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Timothy W. Carter, was served with Summons and Complaint on April 30, 1983. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Timothy W. Carter, for the principal sum of \$866.70 (less the sum of \$200.00 which has been paid), plus interest at the legal rate from the date of this Judgment until paid, and costs of this action.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

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

CHARLES EDWARD HAMPTON,  
Plaintiff,

vs.

NORMAN CARLSON, et al.,  
Defendants.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

No. 83-C-225-C

**FILED**

**JUL 11 1983**

**JACK C. SILVER, Clerk  
U. S. DISTRICT COURT**

ORDER

Now before the Court is the motion of petitioner Charles Edward Hampton for a writ of habeas corpus purportedly filed pursuant to 28 U.S.C. §2241. The action was originally filed in the United States District Court for the District of Columbia and it was transferred to this Court by Order of February 4, 1983. In a response to an Order to Show Cause, entered by the District of Columbia district court on January 6, 1983, petitioner indicated that his action was really brought pursuant to 28 U.S.C. §§2201 et seq. and 28 U.S.C. §1361. This Court has carefully reviewed the record in this action and has determined that it should be transferred to the United States District Court for the Western District of Oklahoma because the proper respondent, T. C. Martin (Warden of the Federal Correctional Institution at El Reno, Oklahoma), the plaintiff and all records pertaining to this action are located in that judicial district.

In the first instance, the Court would note that petitioner

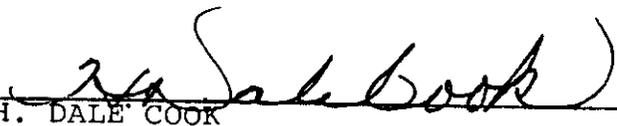
is currently incarcerated at the Federal Correctional Institution in El Reno, Oklahoma which lies in the territorial boundaries of the Western District of Oklahoma. Further, the Court has learned via communication with an official of the United States Probation Office in Tulsa, Oklahoma that the federal sentence leading to petitioner's present federal incarceration was imposed by the United States District Court for the Western District of Tennessee located in Memphis, Tennessee. As is apparent, the Northern District of Oklahoma has absolutely no information or records concerning petitioner's allegations, save for the present record in this case.

Additionally, petitioner apparently seeks to invalidate a detainer lodged against him by authorities in the Circuit Court of St. Louis County, State of Missouri. This detainer was lodged against petitioner in the fall of 1981 after petitioner had been transferred from the FCI in El Reno to St. Louis and there convicted of a felony for which he received a sentence of five (5) years. The five (5) year sentence is evidently to run consecutively to his present federal sentence. Here, the petitioner is challenging the initial transfer proceedings from El Reno to St. Louis on the basis of his assertion that he was not afforded a pre-transfer hearing and because of faulty documentation associated with the transfer. The petitioner contends that such a pre-transfer hearing is required by Article IV of the Interstate Agreement on Detainers Act, 18 U.S.C. Appendix and the Due Process Clause of the Fifth Amendment to the United States Constitution. Petitioner finally contends that the

Missouri detainer is inhibiting his access to FCI programs and his chances for early parole.

In light of the above discussion it is the Order of this Court that the present action is transferred to the United States District Court for the Western District of Oklahoma. The Clerk of this Court is directed to transfer the above entitled cause to said district forthwith.

It is so Ordered this 11<sup>th</sup> day of July, 1983.

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

WRC/pt  
6-30-83

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

**FILED**  
**JUL 11 1983**  
**U. S. DISTRICT COURT**

METAL PROCESSING COMPANY, INC. )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 THE HANOVER INSURANCE COMPANY )  
 )  
 Defendant. )

NO. 82-C-1189C

---

ORDER OF DISMISSAL WITH PREJUDICE

---

IT IS ORDERED that the above-entitled cause is hereby  
dismissed with prejudice to the refiling of same this 11 day of  
July, 1983.

s/H. DALE COOK  
U. S. DISTRICT JUDGE

APPROVED AS TO FORM:

Truman B. Rucker  
TRUMAN RUCKER  
Attorney for Plaintiff

W. R. Cathcart  
W. R. CATHCART  
Attorney for Defendant

**FILED**  
**JUL 21 1983**  
U.S. DISTRICT COURT

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

MANUEL DIAZ MUNOZ,  
Plaintiff,  
vs.  
FRED E. COOPER, INC., a  
corporation, and COOPER  
MANUFACTURING CORPORATION,  
a corporation,  
Defendants.

Case No. 81-C-478-E

ORDER

The Defendant, Cooper Manufacturing Corporation, having been dismissed by this Court pursuant to an Order entered on the 3rd day of June, 1983, and this Court finding that, based upon the allegations contained in the Complaint filed by the Plaintiff, that the Defendant, Cooper Manufacturing Corporation, was the real party in interest, concludes that this action should be dismissed as to all Defendants.

IT IS SO ORDERED, ADJUDGED AND DECREED.

*for*   
James O. Ellison  
United States District Judge

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

**FILED**

JUL 11 1983

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

RAYMOND HOYT GRACE  
and BARBARA GRACE,

Plaintiffs

Versus

NO. 82-C-672-E

OWENS-CORNING FIBERGLAS  
CORPORATION, ET AL

Defendants

AGREED ORDER OF DISMISSAL WITH PREJUDICE

On the date this Order was signed came on to be heard the above-styled and numbered cause, and came the Plaintiffs and Defendant RAYMARK INDUSTRIES, INC. (formerly RAYBESTOS-MANHATTAN, INC.) by their attorneys of record and announced to the court that all claims by or in behalf of the Plaintiffs against Defendant RAYMARK INDUSTRIES, INC. (formerly RAYBESTOS-MANHATTAN, INC.) have been fully compromised and settled, such that the case against RAYMARK INDUSTRIES, INC., (formerly RAYBESTOS-MANHATTAN, INC.) should be dismissed with prejudice to refiling. The Court being of the opinion that an Order should be entered dismissing the claim now settled;

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs, RAYMOND HOYT GRACE and wife BARBARA GRACE, having recovered nothing from

Defendant RAYMARK INDUSTRIES, INC. (formerly RAYBESTOS-MANHATTAN, INC.) by reason of this suit, the same is hereby dismissed with prejudice to refiling in any form.

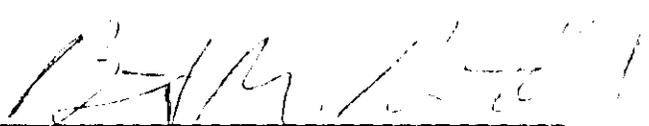
IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that each party be taxed its own costs of Court as agreed to by the parties.

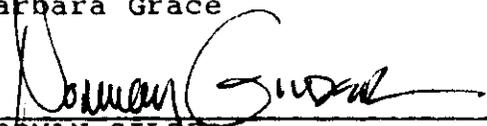
SIGNED this 11<sup>th</sup> day of July, 1983

107 DAY 036  
UNITED STATES DISTRICT JUDGE

*JSA* JAMES O. ELLISON

APPROVED FOR ENTRY:

  
BRENT M. ROSENTHAL  
Attorney for Plaintiffs,  
Raymond Hoyt Grace and  
Barbara Grace

  
NORMAN GILDER  
Attorney for Plaintiffs,  
Raymond Hoyt Grace and  
Barbara Grace

  
ROBERT BARON  
Attorney for Defendant,  
Raymark Industries, Inc.

*entered*

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

McFADDIN AFFILIATES, INC.,	)
a foreign corporation,	)
	)
Plaintiff,	)
	)
-vs-	)
	)
CONFETTI'S OF OKLAHOMA, INC.,	)
an Oklahoma corporation, d/b/a	)
CONFETTI'S, RESTAURANT & PARTY,	)
	)
Defendant.	)

**FILED**  
**JUL 11 1983**  
**Jack C. Silver, Clerk**  
**U. S. DISTRICT COURT**

No. 83-C-490-B

CONSENT DECREE

NOW on this 17th day of June, 1983, the above styled and numbered cause comes on before the Court for hearing upon the application for preliminary injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, as filed herein by the plaintiff. The plaintiff appears through its attorneys, Jones, Givens, Gotcher, Doyle & Bogan, Inc., by Rodney A. Edwards, and the defendant appears through its attorney, Robert S. Durbin. The Court, having reviewed the pleadings filed herein and having heard the statements and stipulations of counsel, finds that the parties have stipulated and agreed to the entry of a Consent Order and Decree, thereby compromising and terminating all litigation pending before this Court. Based upon the stipulations and statements of the parties hereto, the Court finds as follows:

1. That the plaintiff, McFaddin Affiliates, Inc., is a Texas corporation, duly organized and existing under the laws of the

State of Texas, having its principal place of business in Houston, Harris County, State of Texas. The defendant, Confetti's of Oklahoma, Inc., is an Oklahoma corporation, duly organized and existing under the laws of the State of Oklahoma, and having its principal place of business in Tulsa, Tulsa County, State of Oklahoma. The controversy before the Court exceeds \$10,000.00, exclusive of interest and costs, and this Court has jurisdiction pursuant to Title 28 U.S.C. §1332.

2. That this action has been brought to enjoin violations of the plaintiff's trade name and trade dress and for relief pursuant to the Lanham Act, 15 U.S.C. §1125(a) and that a genuine Federal question exists. The Court further finds that this Court has jurisdiction over the pending state claims pursuant to the doctrine of pendent jurisdiction.

3. That this Court has jurisdiction based upon complete diversity of citizenship and under the Lanham Act as codified in 15 U.S.C. §1125(a), over the subject matter pending herein and the parties hereto.

4. That the plaintiff, McFaddin Affiliates, Inc., is a corporation organized for the purpose of operating restaurants and clubs and offering to the general public food and drink under the name of "Confetti, A Fundrinkery" in Atlanta, Dallas, Denver, Houston, and Memphis. The plaintiff has adopted the trade name "Confetti" as a predesigned logo and has registered the trade name "Confetti" with the State authorities of Texas, Georgia, Colorado and Tennessee, as well as having filed for federal protection with the United States

Patent and Trade Mark Office.

5. That the defendant, Confetti's of Oklahoma, Inc., was organized on May 13, 1983, for the purpose of operating a restaurant and private club at 3415 South Peoria, serving food and drink to the general public under the trade name "Confetti's, Restaurant & Party".

6. That this action is brought by the plaintiff to enjoin the defendant from use of the trade name "Confetti" and from committing any acts or conduct which tend to create confusion as to the source, origin, sponsorship and approval of the defendant's establishment in Tulsa, Oklahoma, by the plaintiff, McFaddin Affiliates, Inc.

7. That the defendant, Confetti's of Oklahoma, Inc., denies that the plaintiff is entitled to injunctive relief or that its use of the name "Confetti" has derived a secondary meaning or is entitled to protection and that the defendant has not, and is not, committing acts or conduct which tend to create confusion or deception or confuse or deceive the public into believing that the defendant is in any manner affiliated, licensed, franchised or sponsored by the plaintiff.

8. That for the purpose of terminating all litigation between the parties and avoiding the cost and expense of said litigation, but without admitting any of the allegations contained within the plaintiff's Complaint, the parties have agreed to and stipulate to the entry of this Consent Decree and by the execution hereof agree to comply with and to conduct themselves as required herein and further agree that in the event of any breach hereof, to any and all remedies as set forth herein or as otherwise allowed by law.

9. The Court specifically finds that the parties hereto have agreed to the following conditions and covenants:

(a) The defendant, Confetti's of Oklahoma, Inc., will cease using the name "Confetti's" in any form, by midnight June 26, 1983.

(b) The defendant, Confetti's of Oklahoma, Inc., shall be allowed to use the name "Confetti" until midnight June 24, 1983, for the purpose of advertising the transition from the name Confetti's, Restaurant & Party, to any other name not similarly deceptive. All such advertising will be in good taste and shall not refer to the plaintiff, McFaddin Affiliates, Inc., this pending action or the United States District Court for the Northern District of Oklahoma.

(c) That after June 24, 1983, the defendant shall remove all signs, logos, advertisements or other materials which refer to "Confetti" and shall verify with counsel for the plaintiff that all such signs, logos or advertisements have been removed or terminated.

(d) Within ten (10) days of the date of this order the defendant shall begin the process of rescinding and revoking any and all trade name filings and shall execute and deliver to the Secretary of State Amended Articles of Incorporation, thereby changing the name of the corporation to any name not similarly deceptive and shall complete said process within thirty (30) days with the Secretary of State and the Oklahoma Tax Commission.

(e) That within ten (10) days from the date hereof, the defendant will initiate the process of changing any and all private club applications, licensing with the City of Tulsa, any and all beverage licenses filed with Tulsa County, changing the name of the licensee from "Confetti's of Oklahoma, Inc." to any other name not similarly deceptive.

(f) That concurrent with the execution of this order, the defendant will agree to execute a Consent to Use of Similar Name by Confetti's of Oklahoma, Inc., to McFaddin Affiliates, Inc., or McFaddin Kendrick, Inc., or to any other entity requested by the plaintiff.

(g) The defendant does further stipulate and agree that McFaddin Affiliates, Inc., had a prior use of the name "Confetti" and will not oppose any trade mark registration either in the State of Oklahoma or with the United States Patent and Trade Mark Offices and will not voluntarily cooperate with any other entity or person seeking to oppose such trade mark.

(h) The Court further finds that the parties stipulate and agree that each shall bear their own costs, including attorney's fees, expended during the course of this litigation.

(i) The parties further agree that the defendant, Confetti's of Oklahoma, Inc., shall not perform any actions have the effect of, directly or indirectly, representing that the defendant, Confetti's of Oklahoma, Inc., is owned by or affiliated with McFaddin Affiliates, Inc., or sponsored, approved or

licensed by McFaddin Affiliates, Inc.

(j) The Court further finds that in the event either party shall breach any covenant or condition contained herein, that the other has no adequate remedy at law and shall be entitled to injunctive relief in any United States District Court having jurisdiction over the parties hereto or in any state court having jurisdiction over the parties hereto and that should injunctive relief be granted, that the party so seeking and obtaining such relief shall be entitled to all costs and expenses of obtaining injunctive relief including reasonable attorney's fees to be assessed by the Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff, McFaddin Affiliates, Inc., and the defendant, Confetti's of Oklahoma, Inc., shall be ordered to perform each and every stipulation and agreement and covenant contained hereinabove and that each of said stipulations, agreements and covenants shall become the order of this Court and shall be enforced appropriately, including injunctive relief as stipulated by the parties hereto, and that each of the parties, including their attorneys of record, shall properly execute this order thereby signifying their knowledge and approval of the terms and conditions contained herein, and that upon execution, a fully executed copy shall be filed with the Clerk of the United States District Court for the Northern District of Oklahoma and the above styled and numbered cause of action

shall thereafter be dismissed with prejudice.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

McFADDIN AFFILIATES, INC.,  
a Texas corporation

By: Judith S. Meyer  
Its Vice President

JONES, GIVENS, GOTCHER,  
DOYLE & BOGAN, INC.

By: Rodney A. Edwards  
Rodney A. Edwards,  
Attorneys for Plaintiffs,  
McFaddin Affiliates, Inc.

ATTEST:

Tom Stewart  
Secretary

CONFETTI'S OF OKLAHOMA, INC.,  
an Oklahoma corporation,

By: W.D. [Signature]  
Its President

By: Robert S. Durbin  
Robert S. Durbin,  
Attorney for Defendant,  
Confetti's of Oklahoma, Inc.

ATTEST:

Robert S. Durbin  
Secretary

*entered*

**FILED**

JUL 11 1983

Jack C. [signature]

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JOHN R. SUNAGOOWIE, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-406-B ✓

AGREED JUDGMENT

This matter comes on for consideration this 27 day of June, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, John R. Sunagoowie, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, John R. Sunagoowie, was served with Summons and Complaint on May 27, 1983. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of \$1,097.20, plus interest at the legal rate from the date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant,

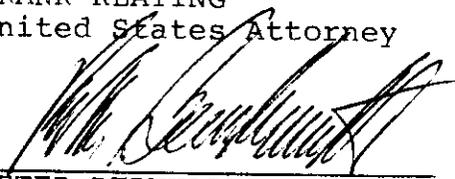
John R. Sunagoowie, in the amount of \$1,097.20, plus costs and interest at the legal rate from the date of this Judgment until paid.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

  
PETER BERNHARDT  
Assistant U.S. Attorney

  
JOHN R. SUNAGOOWIE

*entered*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 11 1983

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DAVID E. COLLINS, et al., )  
 )  
Defendants. )

CIVIL ACTION NO. 83-C-64-B

O R D E R

For good cause having been shown, it is hereby ordered,  
adjudged, and decreed that the above referenced action is hereby  
dismissed without prejudice.

Dated this 11th day of July, 1983.

S/ THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

JUL 06 1983

Best, Sharp, Thomas,  
Glass & Atkinson

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

**FILED**

MARION E. CLEM, Administrator  
of the Estate of Leberta M. Clem,  
Deceased,

Plaintiff,

vs.

ALFRED L. LEE, D.C.,

Defendant.

JUL 7 1983

Jack F. Silver  
U. S. DISTRICT COURT

No. 82-C-806-C

APPLICATION

COME NOW the parties hereto, by and through their respective attorneys, and advise the Court that this matter has been compromised and settled and therefore they mutually request an Order of Dismissal with Prejudice in the above-captioned cause.

~~John W. Norman~~  
Attorney for Plaintiff

*Joseph M. Best*  
Joseph M. Best  
Attorney for Defendant

**FILED**

JUL 11 1983

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

ORDER

Now on this 11 day of July, 1983, upon the joint application of the parties hereto, the Court finds that all matters have been disposed of in the above-captioned cause and therefore this case is dismissed with prejudice.

s/H. DALE COOK  
United States District Judge



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

SHELLEY PETROLEUM, INC.,  
and E. DOUG COOK,

Plaintiffs,

vs.

AMERICAN ENERGY & OIL  
CORPORATION, and  
ARNOLD BRANNON,

Defendants.

No. 82-C-1184-C

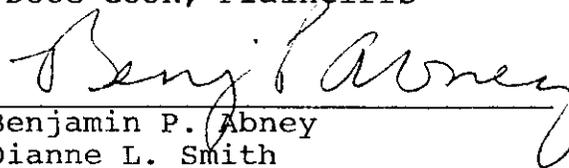
STIPULATION FOR DISMISSAL

COME NOW the plaintiffs, Shelley Petroleum, Inc. and E. Doug Cook, and the defendants, American Energy & Oil Corporation and Arnold Brannon, and stipulate that the above entitled action be dismissed without prejudice and that each party bear its own attorney fees and costs.

Dated this 28<sup>th</sup> day of June, 1983.

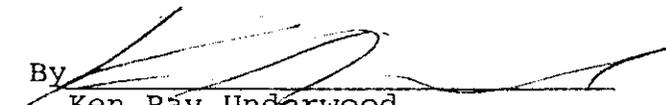
SHELLEY PETROLEUM, INC. and  
E. DOUG COOK, Plaintiffs

By

  
Benjamin P. Abney  
Dianne L. Smith  
502 West Sixth Street  
Tulsa, Oklahoma 74119  
(918) 587-3161  
Attorneys for Plaintiffs

AMERICAN ENERGY & OIL CORPORATION  
and ARNOLD BRANNON, Defendants

By

  
Ken Ray Underwood  
1424 Terrace Drive  
Tulsa, Oklahoma 74104  
(918) 744-7200  
Attorney for Defendants

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 JACK BENEFIELD; WILMA JOYCE )  
 BENEFIELD, a/k/a WILMA J. )  
 BENEFIELD; FEDERAL LAND BANK )  
 of WICHITA, KANSAS; COUNTY )  
 TREASURER, Delaware County, )  
 Oklahoma; and BOARD OF COUNTY )  
 COMMISSIONERS, Delaware County, )  
 Oklahoma; )  
 )  
 Defendants. )

**FILED**  
**JUL 1 1983**  
**Jack E. Silver, Clerk**  
**U. S. DISTRICT COURT**

CIVIL ACTION NO. 82-C-740-C

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 1<sup>st</sup> day of July, 1983. The Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney; the Defendant Federal Land Bank of Wichita, Kansas appearing by its attorney, Jot Hartley; and the Defendants Jack Benefield, Wilma Joyce Benefield, a/k/a Wilma J. Benefield, County Treasurer, Delaware County, Oklahoma, and Board of County Commissioners, Delaware County, Oklahoma, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants Jack Benefield, Wilma Joyce Benefield, a/k/a Wilma J. Benefield, and Board of County Commissioners, Delaware County, Oklahoma, were served with Summons and Complaint on August 3, 1982; that the Defendant Federal Land Bank of Wichita, Kansas, was served with Summons and Complaint on August 4, 1982; and that the Defendant County

Treasurer, Delaware County, Oklahoma, was served with Summons and Complaint on August 18, 1982.

It appears that the Defendant Federal Land Bank of Wichita, Kansas filed its Answer, Counterclaim, and Cross-Petition herein on December 16, 1982; and that the Defendants Jack Benefield, Wilma Joyce Benefield, a/k/a Wilma J. Benefield, County Treasurer, Delaware County, Oklahoma, and Board of County Commissioners, Delaware County, Oklahoma, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon certain promissory notes and for foreclosure of a real estate mortgage and security agreement securing said promissory notes upon the following-described real and personal property located in Delaware County, Oklahoma, within the Northern Judicial District of Oklahoma:

SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, containing 40 acres, more or less;  
LESS AND EXCEPT:

TRACT A:

Beginning at a point 46.86 feet S. 00° 25' 04" W. of the NE corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, thence S. 00° 25' 04" W. 345.06 feet; thence N. 48° 53' 46" W. 224.95 feet; thence N. 41° 06' 14" E. 261.66 feet to the point of beginning and containing 0.68 acres, more or less; subject to a 20.0 foot private road easement along the Southwest side of tract.

TRACT B:

Beginning at a point 46.86 feet S. 00° 25' 04" W. of the NE corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, thence S. 41° 06' 14" W. 261.66 feet; thence

N. 48° 53' 46" W. 280.80 feet; thence N. 88° 07' 12" E. 384.09 feet to the point of beginning and containing 0.84 acres, more or less.

TRACT C:

Beginning at a point 669.45 feet S. 00° 25' 04" W. of the NE corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, thence S. 00° 25' 04" W. 386.7 feet to the centerline of Round Springs Creek; thence N. 76° 00' 42" W. along the centerline of Round Springs Creek, 242.69 feet; thence N. 36° 00' E. 405.45 feet to the point of beginning and containing 1.05 acres, more or less.

TRACT D:

Beginning at a point 1056.15 feet S. 00° 25' 04" W of the NE corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, thence S. 00° 25' 04" W. 170.0 feet; thence N. 83° 31' 11" W. 243.49 feet; thence N. 10° 14' 40" W. 155.11 feet; thence N. 36° 00' E. 60.0 feet to the centerline of Round Springs Creek; thence S. 76° 00' 42" E. 242.69 feet to the point of beginning and containing 1.10 acres, more or less; subject to an easement for Power line and Telephone line across tract.

TRACT E:

Beginning at the point of intersection of the East line of the SW  $\frac{1}{4}$ , NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, with the Northerly right of way line of Oklahoma Highway 20; thence Southwesterly along said Northerly right of way line, same being a curve to the right having a radius of 769 feet, a distance of 15.46 feet; thence S. 89° 34' 58" W. 205.56 feet; thence N. 10° 14' 40" W. 130.0 feet; thence S. 83° 31' 11" E. 243.49 feet to a point on the East line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; thence S. 00° 25' 04" W. 90.0 feet to the point of beginning and containing 0.59 acres, more or less; subject to a 20.0 foot easement along the East side for private road.

TRACT F:

Beginning at a point 167.86 feet N. 89° 34' 58" E. of the SW corner of the SW¼ NW¼, Section 2, Township 22 North, Range 22 East, thence N. 89° 34' 58" E, 252.06 feet, thence N. 57° 57' 06" W. 270.50 feet, thence S. 49° 21' 49" W, a distance of 207.61 feet to a point on the Northerly right of way line of Highway 20; thence Southeasterly along said Northerly right of way line, same being a curve to the right having a radius of 1482.7 feet, a distance of 135.16 feet to the point of beginning, containing 0.65 acres, more or less.

TRACT G:

Beginning at a point 12.0 feet N. 00° 11' 23" E. of the SW corner of the SW¼ NW¼, Section 2, Township 22 North, Range 22 East, thence N. 00° 11' 23" E. 253.39 feet; thence S. 57° 57' 06" E. 223.88 feet; thence S. 49° 21' 49" W. 207.61 feet to a point on the Northerly right of way line of Oklahoma Highway 20; thence in a Westerly direction along said right of way line, same being a curve to the left having a radius of 1482.7 feet, a distance of 18.55 feet; thence N. 89° 08' W. 14.5 feet to the point of beginning containing 0.61 acres more or less.

SUBJECT TO a mortgage in favor of the Federal Land Bank of Wichita, Wichita, Kansas, a corporation, dated April 26, 1976, and filed for record April 26, 1976, in Book 344 at Pages 893 to 894, in the office of the County Clerk of Delaware County, Oklahoma, from Jack Benefield and Wilma Joyce Benefield, husband and wife, in the original amount of \$28,000.00.

AND

TRACT A:

Beginning at a point 46.86 feet S. 00° 25' 04" W. of the NE corner of the SW¼ NW¼, Section 2, Township 22 North, Range 22 East, thence S. 00° 25' 04" W. 345.06 feet; thence N. 48° 53' 46" W. 224.95 feet; thence N. 41° 06' 14" E. 261.66 feet to the point of beginning and containing 0.68 acres, more or less; subject to a 20.0 foot private road easement along the Southwest side of tract.

TRACT B:

Beginning at a point 46.86 feet S. 00° 25' 04" W. of the NE corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, thence S. 41° 06' 14" W. 261.66 feet; thence N. 48° 53' 46" W. 280.80 feet; thence N. 88° 07' 12" E. 384.09 feet to the point of beginning and containing 0.84 acres, more or less.

TRACT C:

Beginning at a point 669.45 feet S. 00° 25' 04" W. of the NE corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, Thence S. 00° 25' 04" W. 386.7 feet to the centerline of Round Springs Creek; thence N. 76° 00' 42" W. along the centerline of Round Springs Creek, 242.69 feet; thence N. 36° 00' E. 405.45 feet to the point of beginning and containing 1.05 acres, more or less.

TRACT D:

Beginning at a point 1056.15 feet S. 00° 25' 04" W of the NE corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, thence S. 00° 25' 04" W. 170.0 feet; thence N. 83° 31' 11" W. 243.49 feet; thence N. 10° 14' 40" W. 155.11 feet; thence N. 36° 00' E. 60.0 feet to the centerline of Round Springs Creek; thence S. 76° 00' 42" E. 242.69 feet to the point of beginning and containing 1.10 acres, more or less; subject to an easement for Power line and Telephone line across tract.

TRACT E:

Beginning at the point of intersection of the East line of the SW  $\frac{1}{4}$ , NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, with the Northerly right of way line of Oklahoma Highway 20; thence Southwesterly along said Northerly right of way line, same being a curve to the right having a radius of 769 feet, a distance of 15.46 feet; thence S. 89° 34' 58" W. 205.56 feet; thence N. 10° 14' 40" W. 130.0 feet; thence S. 83° 31' 11" E. 243.49 feet to a point on the East line of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; thence S. 00° 25' 04" W. 90.0 feet to the point of beginning and containing 0.59 acres, more or less; subject to a 20.0

foot easement along the East side for private road.

TRACT G:

Beginning at a point 12.0 feet N. 00° 11' 23" E. of the SW corner of the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 2, Township 22 North, Range 22 East, thence N. 00° 11' 23" E. 253.39 feet; thence S. 57° 57' 06" E. 223.88 feet; thence S. 49° 21' 49" W. 207.61 feet to a point on the Northerly right of way line of Oklahoma Highway 20; thence in a Westerly direction along said right of way line, same being a curve to the left having a radius of 1482.7 feet, a distance of 18.55 feet; thence N. 89° 08' W. 14.5 feet to the point of beginning, containing 0.61 acres more or less.

SUBJECT TO, HOWEVER, ALL VALID OUTSTANDING EASEMENTS, RIGHT-OF-WAYS, MINERAL LEASES, MINERAL RESERVATIONS AND MINERAL CONVEYANCES OF RECORD.

AND

Dozer, Gang Mower, Pickup, Farm Equipment, Propane Tank, Cows, and increases.

located on or affixed to the premises described above.

THAT Jack Benefield and Wilma J. Benefield, did, on the 24th day of February, 1978, execute and deliver to the United States of America acting through the Farmers Home Administration, their real estate mortgage and promissory notes in the sums of \$13,900.00 and \$39,100.00, payable in annual installments, with interest thereon at the rate of five (5) percent per annum.

That Jack Benefield and Wilma J. Benefield, did, on the 7th day of April, 1981, execute and deliver to the United States of America acting through the Farmers Home Administration, their Security Agreement as further security for the promissory notes referred to above.

That Wilma J. Benefield, is one and the same person as the Defendant Wilma Joyce Benefield.

The Court further finds that Defendants Jack Benefield and Wilma Joyce Benefield, a/k/a Wilma J. Benefield, made default under the terms of the aforesaid promissory notes by reason of their failure to make the annual installments due thereon, which default has continued, and that by reason thereof the above-named Defendants are indebted to the Plaintiff in the sum of \$52,932.82 as unpaid principal, plus accrued interest of \$2,634.78 as of April 13, 1982, plus interest accruing thereafter at the rate of \$7.2511 per day, until paid, plus the costs of this action accrued and accruing.

The Defendant Federal Land Bank of Wichita, Kansas, has an interest in 34.48 acres of the above-described real property by virtue of a real estate mortgage dated April 26, 1976. Thereafter certain tracts of land were released from said real estate mortgage, as is described in the Counterclaim and Cross-Petition of said Defendant. This real estate mortgage was given by the Defendants Jack Benefield and Wilma Joyce Benefield, a/k/a Wilma J. Benefield, to secure payment of their promissory note dated April 26, 1976, as is set forth in the Counterclaim and Cross-Petition of the Defendant.

Default has been made in the terms and conditions of said real estate mortgage and promissory note, and said Defendant has therefore exercised its option to declare and has declared the unmatured balance of such indebtedness due and payable, and there is now due and owing to said Defendant the various amounts,

together with interest thereon, as is specifically alleged and set forth in its Counterclaim and Cross-Petition. Said Defendant is therefore entitled to have and recover judgment herein against the Defendants Jack Benefield and Wilma Joyce Benefield, a/k/a Wilma J. Benefield, for all such amounts, and is entitled to have its mortgage foreclosed as a first and prior lien upon all of the real estate covered thereby and to have said real estate sold in the manner prescribed by law in satisfaction of the indebtedness so found to be due and owing to it. Said real estate mortgage contains the words, "appraisement waived," or words to that effect.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the Plaintiff have and recover judgment against the Defendants Jack Benefield, and Wilma Joyce Benefield, a/k/a Wilma J. Benefield in the principal sum of \$52,932.82, plus accrued interest in the amount of \$2,634.78 through April 13, 1982, plus interest thereafter at the rate of \$7.2511 per day, plus the costs of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Defendant Federal Land Bank of Wichita, Kansas, have and recover judgment herein against the Defendants Jack Benefield, and Wilma Joyce Benefield, a/k/a Wilma J. Benefield for the sum of \$30,829.41; together with interest at the rate of 13.75 percent per annum on \$26,793.74 from the 1st day of May, 1981, until paid; for the further sum of \$1,500.00 allowed said Defendant as attorneys fees herein; and for its costs accrued and accruing in this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that upon the failure of the previously named Defendants to satisfy, within six (6) months as of the date hereof, the money judgment of the Defendant Federal Land Bank of Wichita, Kansas, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell without appraisement the 34.48 acres of the real property herein upon which the Federal Land Bank of Wichita, Kansas has the first and prior lien, more particularly described hereinabove as the SW/4 of the NW/4 of Section 2, Township 22 North, Range 22 East, Delaware County, Oklahoma, LESS AND EXCEPT tracts A through G, inclusive, as hereinabove described, and apply the proceeds thereof as follows:

First:

In payment of the costs of this action, accrued and accruing, incurred by the Federal Land Bank Wichita, Kansas, including the costs of sale of such real property;

Second:

In payment of any real property taxes presently due and owing on said real property;

Third:

In payment of the judgment rendered herein in favor of the Defendant Federal Land Bank of Wichita, Kansas;

Fourth:

In payment of the judgment rendered herein in favor of Plaintiff.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of the previously named Defendants to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the remainder of the real property and the personal property herein, and apply the proceeds thereof as follows:

First:

In payment of the costs of this action, accrued and accruing, incurred by the Plaintiff, including the costs of sale of said real and personal property;

Second:

In payment of any real property taxes presently due and owing on said real property;

Third:

In payment of the judgment rendered herein in favor of Plaintiff.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that from and after the sale of the above-described real and personal property, under and by virtue of this judgment and decree, the Defendants and all persons claiming under them since the filing

of the Complaint herein, be and they are forever barred and foreclosed of any right, title, interest, or claim in or to the subject real and personal property or any part thereof.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED:

FRANK KEATING  
United States Attorney



NANCY A. NESBITT  
Assistant United States Attorney



JOT HARTLEY  
Attorney for Defendant  
Federal Land Bank of Wichita,  
Kansas

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

MARIE JANE STEVENS, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 STATE OF OKLAHOMA, )  
 )  
 Defendant. )

No. 83-C-255-C

FILED

JUL 1 1983

ck

ORDER

U. S. DISTRICT COURT

Now before the Court for its consideration is defendant's Motion to Dismiss and plaintiff's letter of reply.

Plaintiff Marie Jane Stevens has filed this action against defendant State of Oklahoma pursuant to Title 42 U.S.C.A. §1983, stating that she was arrested pursuant to unlawful search and seizure and asks on that basis that all charges or supervised probation be dropped.

The State of Oklahoma contends and the Court agrees that plaintiff's action must be dismissed, since under the Eleventh Amendment unconsenting States are immune from suits brought by their own citizens in federal courts. Edelman v. Jordan, 415 U.S. 651, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974); Alabama v. Pugh, 328 U.S. 781, 98 S.Ct. 3057, 57 L.Ed.2d 114 (1978). Prebble v. Broderick, 535 F.2d 605, 610 (10th Cir. 1975).

In addition, defendant State of Oklahoma is not a person within the meaning of 42 U.S.C. §1983 and is therefore not

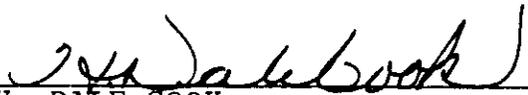
amenable to suit. Gomez v. Toledo, 446 U.S. 635, 100 S.Ct. 1920, 64 L.Ed.2d 572 (1980).

Plaintiff apparently plead guilty in State Court and was sentenced to 120 days in city jail and 32 months on supervised probation. She is not entitled to the relief requested herein in an action under Section 1983. Prieser v. Rodriguez, 411 U.S. 475, 93 S.Ct. 1827, 36 L.Ed.2d 439.

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); Smart v. Villar, 547 F.2d 112 (10th Cir. 1976).

In view of its holding herein, 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 1<sup>st</sup> day of July, 1983.

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