

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PROFESSIONAL INVESTORS LIFE
INSURANCE COMPANY,

Plaintiff,

vs.

RALPH A. HUNT, ISIDRO V. REYNA,
JR., and SAN JUANA A. BARROSO,
and NATIONAL WESTERN LIFE INSURANCE
COMPANY,

Defendants.

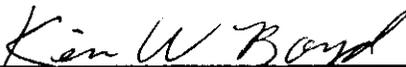
No. 84-C-553-C

JUN 29 1984
JAMES B. BOYD, CLERK
U.S. DISTRICT COURT

NOTICE OF VOLUNTARY DISCONTINUANCE

Please take notice that defendant, not having appeared and not having answered the complaint, the above entitled action is hereby discontinued without costs and without prejudice.

DATED: June 29, 1984


Kevin W. Boyd, Attorney for Plaintiff
P.O. Box 2888
Tulsa, Okla. 74101

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

DONNA D. GUEST;)

EDWARD LEE GREER;)

JESSIE ROBBINS; SAM GREER;)

CLAUDE ROBBINS; CLIFFORD)

ROBBINS;)

THE UNKNOWN HEIRS, EXECUTORS,)

ADMINISTRATORS, DEVISEES,)

TRUSTEES, SUCCESSORS and)

ASSIGNS of LEODES GUEST,)

Deceased, and of ALMARIE GUEST,)

a/k/a ALMAIRE GUEST, Deceased;)

COUNTY TREASURER, Tulsa County,)

Oklahoma; and BOARD OF COUNTY)

COMMISSIONERS, Tulsa County,)

Oklahoma,)

Defendants.)

CIVIL ACTION NO. 83-C-303-C

JOURNAL ENTRY OF JUDGMENT

This matter comes on for consideration this 29 day
of June, 1984, Plaintiff appearing by Layn R. Phillips,
United States Attorney for the Northern District of Oklahoma,
through Peter Bernhardt, Assistant United States Attorney, the
Defendant, County Treasurer, Tulsa County, Oklahoma, and the
Defendant, Board of County Commissioners, Tulsa County, Oklahoma,
appearing by David A. Carpenter, Assistant District Attorney,
Tulsa County, Oklahoma, and the Defendants, Donna D. Guest,
Edward Lee Greer, Jessie Robbins, Sam Greer, Claude Robbins,
Clifford Robbins, the Unknown Heirs, Executors, Administrators,
Devisees, Trustees, Successors and Assigns of Leodes Guest,

deceased, and of Almarie Guest, a/k/a Almaire Guest, deceased, appearing not.

The Court having examined the file and being fully advised finds that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, have filed their answers on April 29, 1983.

The Court further finds that the Defendant, Donna D. Guest, was served with Alias Summons and First Amended Complaint on October 25, 1983, and the Defendant, Donna D. Guest, has failed to answer and her default has been entered by the Clerk of this Court on March 8, 1984.

The Court further finds that the Defendant, Jessie Robbins, acknowledged receipt of Summons and First Amended Complaint on September 19, 1983, and the Defendant, Jessie Robbins, has failed to answer and his default has been entered by the Clerk of this Court on October 23, 1983.

The Court further finds that the Defendants, Edward Lee Greer, Sam Greer, Claude Robbins, Clifford Robbins, the Unknown Heirs, Executors, Administrators, Devisees, Trustees, Successors and Assigns of Leodes Guest, deceased, and of Almarie Guest, a/k/a Almaire Guest, deceased, were served by publication. The Court finds that Plaintiff has caused to be obtained an evidentiary affidavit from Guaranty Abstract Company, a bonded abstractor located in the City of Tulsa, Tulsa County, State of Oklahoma, as to the last addresses of Edward Lee Greer, Sam Greer, Claude Robbins, Clifford Robbins, the Unknown Heirs, Executors, Administrators, Devisees, Trustees, Successors and

Assigns of Leodes Guest, deceased, and of Almarie Guest, a/k/a Almaire Guest, deceased, which affidavit was filed on February 22, 1984; that the necessity and sufficiency of Plaintiff's due diligence search with respect to ascertaining the names and addresses of the Defendants, Edward Lee Greer, Sam Greer, Claude Robbins, Clifford Robbins, the Unknown Heirs, Executors, Administrators, Devisees, Trustees, Successors and Assigns of Leodes Guest, deceased, and of Almarie Guest, a/k/a Almaire Guest, deceased, was then determined by the Court conducting an evidentiary hearing on the sufficiency of the service by publication to comply with due process of law. From the evidence, the Court finds that the Plaintiff, United States of America, and its attorney, Peter Bernhardt, Assistant United States Attorney, appearing for Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, have fully exercised due diligence in ascertaining the true names and identity of the parties served by publication, with their present or last known places of residence and/or mailing addresses.

The Court finds that the Plaintiff and its attorneys have fully complied with all applicable guidelines and due process of law in connection with obtaining service by publication. Therefore, the Court approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to the subject matter and the Defendants served by publication.

The Court finds that this is one of the classes of cases in which service by publication may be had and that the

Court's order for service by publication has been published in the Tulsa Daily Business Journal & Legal Record, a newspaper authorized by law to publish legal notices, printed in Tulsa County, Oklahoma, a newspaper of general circulation in Tulsa County, State of Oklahoma, for six (6) consecutive weeks commencing on March 20, 1984, and ending on April 24, 1984, by which said Defendants, Edward Lee Greer, Sam Greer, Claude Robbins, Clifford Robbins, the Unknown Heirs, Executors, Administrators, Devisees, Trustees, Successors and Assigns of Leodes Guest, deceased, and of Almarie Guest, a/k/a Almaire Guest, deceased, were notified to answer the complaint filed herein within 20 days after such publication, as more fully appears from the verified proof of such publication by the printer and publisher of said Tulsa Daily Business Journal & Legal Record duly filed herein on May 3, 1984.

The Court finds that the Defendants, Edward Lee Greer, Sam Greer, Claude Robbins, Clifford Robbins, the Unknown Heirs, Executors, Administrators, Devisees, Trustees, Successors and Assigns of Leodes Guest, deceased, and of Almarie Guest, a/k/a Almaire Guest, deceased, have failed to answer and their default has been entered by the Clerk of this Court on May 25, 1984.

The Court finds that this is a suit based upon a certain promissory note for foreclosure of a real estate mortgage securing said promissory note upon the following described real property situated in Tulsa County, Oklahoma, within the Northern District of Oklahoma:

Lot One (1), in Block Five (5),
HARTFORD HILLS ADDITION to the City
of Tulsa, Tulsa County, State of
Oklahoma, according to the recorded
plat thereof.

The Court further finds that this is a suit brought for the further purpose of judicially determining the death of the joint tenants, Leodes Guest and Almarie Guest, a/k/a Almaire Guest, and of judicially terminating the joint tenancy of Leodes Guest and Almarie Guest, a/k/a Almaire Guest.

The Court finds that on September 23, 1975, Leodes Guest, now deceased, and Almarie Guest, a/k/a Almaire Guest, now deceased, who were then husband and wife, executed and delivered to the United States of America, acting through the Administrator of Veterans Affairs, their promissory note in the amount of \$9,650.00, payable in monthly installments, with interest thereon at the rate of 8 1/2 percent per annum.

The Court further finds that as security for the payment of the above described note, Leodes Guest, now deceased, and Almarie Guest, a/k/a Almaire Guest, now deceased, who were then husband and wife, executed and delivered to the United States of America, acting through the Administrator of Veterans Affairs, a real estate mortgage dated September 23, 1975, covering the above described property. Said mortgage was recorded on September 24, 1975, in Book 4183, Page 1991, in the records of Tulsa County, Oklahoma.

The Court finds that Leodes Guest, died on September 11, 1979, while seized and possessed with Almarie Guest, a/k/a Almaire Guest, of the subject property, as is

evidenced by Certificate of Death of the State Department of Health, State of Oklahoma, No. 19497. At the time of death of Leodes Guest, he and Almarie Guest, a/k/a Almaire Guest, were the record owners of the property involved in this action, by virtue of that certain Warranty Deed dated September 11, 1975, from Richard L. Roudebush, as Administrator of Veterans Affairs to Almaire Guest and Leodes Guest, husband and wife, as joint tenants and not as tenants in common, with full right of survivorship, the whole estate to vest in the survivor in the event of the death of either, which Warranty Deed was filed of record on September 24, 1975, in Book 4183, Page 1964, in the records of the County Clerk of Tulsa County, Oklahoma. Upon the death of Leodes Guest the subject property vested in his surviving joint tenant, Almarie Guest, a/k/a Almaire Guest, by operation of law.

The Court finds that Almarie Guest, a/k/a Almaire Guest, died on June 9, 1981, while seized and possessed of the subject real property, as is evidenced by Certificate of Death of the State Department of Health, State of Oklahoma, No. 15666.

The Court finds that Plaintiff is entitled to a judicial determination of the death of Leodes Guest and Almarie Guest, a/k/a Almaire Guest, and to a judicial termination of the joint tenancy of Leodes Guest and Almarie Guest, a/k/a Almaire Guest, in the real property involved herein.

The Court finds that there are no ad valorem or personal property taxes due to the Defendant, County Treasurer, Tulsa County, Oklahoma.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the death of Leodes Guest be and the same hereby is judicially determined to have occurred on September 11, 1979, in the City of Tulsa, Tulsa County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the death of Almarie Guest, a/k/a Almaire Guest, be and the same hereby is judicially determined to have occurred on June 9, 1981, in the City of Tulsa, Tulsa County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the joint tenancy of Leodes Guest and Almarie Guest, a/k/a Almaire Guest, in the above described real property be and the same hereby is judicially terminated as of the date of death of Leodes Guest on September 11, 1979.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendants, the Unknown Heirs, Executors, Administrators, Devisees, Trustees, Successors and Assigns of Leodes Guest, deceased, and of Almarie Guest, a/k/a Almaire Guest, deceased, for the sum of \$9,384.69, less credit for one payment made by Defendant, Donna D. Guest, in the amount of \$300.00, plus interest at the rate of 8 1/2 percent per annum from January 1, 1982, until judgment, plus interest thereafter at the current legal rate of 12.08 percent per annum until paid, 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 upon the failure of said 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 real property involved herein and apply the proceeds of the sale as follows:

First:

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

Second:

In payment of the judgment rendered herein in favor of the 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 property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any

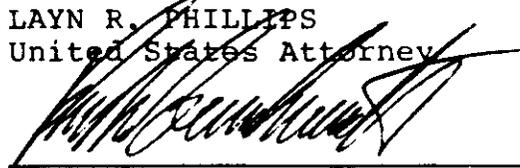
right, title, interest or claim in or to the subject real property or any part thereof.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

LAYN R. PHILLIPS
United States Attorney



PETER BERNHARDT
Assistant United States Attorney



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

Entered

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

Case No. 84-C-566-B

CANADIAN COMMERCIAL BANK
a Canadian chartered bank,

Plaintiff,

v.

BancTEXAS DALLAS, N.A., and
UNIVERSAL ENERGY CORPORATION,
an Oklahoma corporation, and
WADDELL & BUZZARD, P.C., an
Oklahoma professional corporation,
and ROBERT A. ALEXANDER, an
individual,

Defendants.

FILED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
MAY 20 1984
MUSKOGEE

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, Canadian Commercial Bank pursuant to Rule 41(a)(1), no Answer or Motion for Summary Judgment having been filed and herewith dismisses its causes of action against the defendant, Waddell & Buzzard, P.C., with prejudice for the reason that certain matters have come to the attention of Plaintiff subsequent to the filing of this action which convince Plaintiff that Defendant Waddell & Buzzard should not have been named a party to this action.

FAIRFIELD & WOODS
Jac K. Sperling
Stephen W. Seifert
1600 Colorado National Building
950 Seventeenth Street
Denver, CO 80202
(303) 534-6135

AND

GABLE & GOTWALS

By: 
Richard W. Gable

Fourth National Bank Building
20th Floor
Tulsa, Oklahoma 74119
(918) 582-9201

ATTORNEYS FOR PLAINTIFF

Address of Plaintiff

Dominion Plaza
600 17th Street
Suite 1700 North
Denver, Colorado 80202

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
KENNETH E. TURRENTINE,)	
)	
Defendant.	)	CIVIL ACTION NO. 84-C-324-B

DEFAULT JUDGMENT

This matter comes on for consideration this 28th day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Kenneth E. Turrentine, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Kenneth E. Turrentine, was served with Summons and Complaint on May 29, 1984. 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 the Defendant, Kenneth E. Turrentine, in the amount of \$262.20, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 10, 1983, and \$.68 per month from January 1, 1984, until judgment, plus interest thereafter at the

current legal rate of 12.8 percent from the date of judgment until paid, plus the costs of this action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

RECEIVED
U.S. DISTRICT COURT

RANDALL R. MORTON,)
)
 Plaintiff,)
)
 vs.) No. 82-C-881-C
)
 WESTERN HOLDING CORPORATION,)
)
 Defendant.)

JUDGMENT

This action came on for hearing before the Court, the Honorable H. Dale Cook presiding, parties announcing the settlement of this action by the submission of this judgment, the Court having reviewed the same and being fully advised in the premises, finds as follows:

1. This action was commenced by the Plaintiff who filed his Complaint herein on September 16, 1982. The Defendant was served personally with a copy of the Complaint and subsequently filed an answer herein. The Court has personal jurisdiction over the parties and pursuant to the allegations of the Complaint, subject matter, jurisdiction is proper.

2. All parties to the action consent to this judgment as evidenced by the signatures of their counsel of record, each of whom are members of the Bar of the United States District Court. The Defendant, Western Holding Corporation,

also consents as evidenced by the signature of its authorized representative hereon.

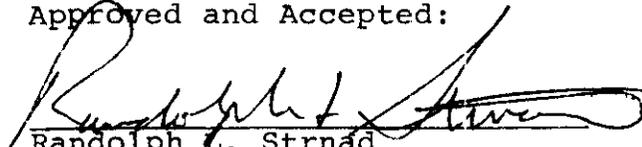
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that that the Plaintiff, Randall R. Morton, have and recover judgment from the Defendant, Western Holding Corporation, in the amount of \$31,512.00 plus interest at the Oklahoma legal rate until paid, plus stipulated costs and attorney fees in the amount of \$13,892.50.

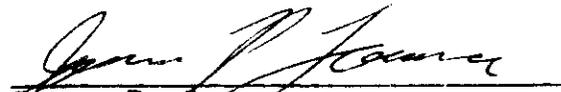
Entered this 29th day of June, 1984.

(Signed) H. Dale Cook

Honorable H. Dale Cook
United States District Judge

Approved and Accepted:


Randolph L. Strnad
Attorney for Plaintiff


James P. Laurence
Attorney for Defendant

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

FILED
JUN 21 1984
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

DANNY P. O'NEAL,)
)
 Plaintiff,)
)
 vs.)
)
 CITY INSURANCE COMPANY, a)
 New Jersey corporation,)
)
 Defendant and Third)
 Party Plaintiff,)
)
 vs.)
)
 MICHAEL J. LOFTON,)
)
 Third Party Defendant.)

NO. 84-C-263-C

ORDER OF DISMISSAL

ON this 29 day of June, 1984, 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 compromised settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

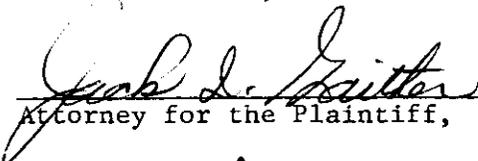
IT IS THEREFORE ORDERED ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff filed herein against the Defendant be and the same hereby are dismissed with prejudice to any future action.

(Signed) H. Dale Cook

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

APPROVAL:

JACK I. GAITHER,



Attorney for the Plaintiff,

JOHN HOWARD LIEBER,



Attorney for the Defendant.

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

JOSEPH LAUGEL and
MARGUERITE LAUGEL,

Plaintiffs,

vs.

AMERICAN BANK OF OKLAHOMA,
an Oklahoma banking corporation,
Pryor, Oklahoma, and CONSOLIDATED
FOODS CORP., a Maryland corporation,

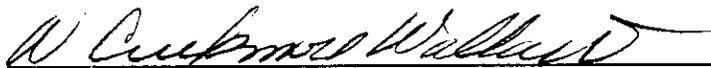
Defendants.

NO. 84-C-134-C

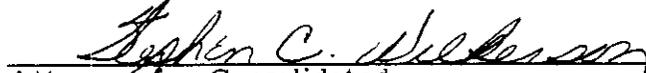
STIPULATION OF DISMISSAL

COME NOW the plaintiffs, Joseph Laugel and Marguerite Laugel, and the defendant, Consolidated Foods Corp., and hereby stipulate that this cause may be dismissed with prejudice since a satisfactory compromise and settlement has been agreed to by said parties.

W. CREEKMORE WALLACE


Attorney for Plaintiffs

STEPHEN C. WILKERSON


Attorney for Consolidated

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

RECEIVED
JUN 21 1984
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
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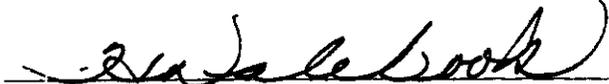
DANNY P. O'NEAL,)
)
Plaintiff,)
)
vs.)
)
CITY INSURANCE COMPANY, a)
New Jersey corporation,)
)
Defendant and Third)
Party Plaintiff,)
)
vs.)
)
MICHAEL J. LOFTON,)
)
Third Party Defendant.)

NO. 84-C-263-C ✓

ORDER OF DISMISSAL

ON this 29 day of June, 1984, 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 compromised settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

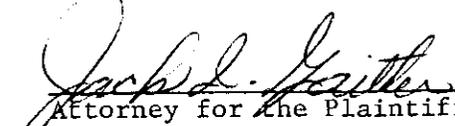
IT IS THEREFORE ORDERED ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff filed herein against the Defendant be and the same hereby are dismissed with prejudice to any future action.



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

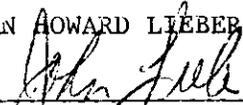
APPROVAL:

JACK I. GAITHER,



Attorney for the Plaintiff,

JOHN HOWARD LIEBER,



Attorney for the Defendant.

107

Entered
FILED
JUL 29 1984

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

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

ACCOUNTABILITY BURNS,)
)
 Plaintiff,)
)
 vs.)
)
 HARMON MOORE, TULSA COUNTY)
 ELECTION BOARD,)
)
 Defendant.)

No. 84-C-317-E

O R D E R

The Court has before it motion to dismiss filed by Defendant Harmon Moore. In support of his motion, Defendant argues that service of process is insufficient in that service was accomplished by an unauthorized party (the pro se Plaintiff) and that service was made on an unauthorized individual other than the Defendant. Defendant also argues that Plaintiff wholly fails to allege any jurisdictional grounds in his complaint. Defendant also asserts that the Plaintiff has failed to state a claim upon which relief can be granted, in that Plaintiff has refused to pursue available administrative remedies under Oklahoma state law, and, that the complaint fails to conform to Rule 8 of the Federal Rules of Civil Procedure.

In the alternative Defendant moves the Court to require a more definite statement or in the alternative to require Plaintiff to comply with the Federal Rules of Civil Procedure and local court rules in regard to proceedings.

Rule 8(a) of the Federal Rules of Civil Procedure provides in pertinent part:

Claims for Relief. A pleading which sets forth a claim for relief, ... shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, ... (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled.

The Defendant argues that, although Rule 8 has been interpreted liberally to grant the pleader wide latitude under the notice system of pleading, particularly where plaintiffs proceed pro se, that even a pro se complaint is subject to dismissal if the pleading fails reasonably to inform the adverse party of the asserted cause of action, citing Brown v. Califano, 75 F.R.D. 497 (D.C. 1977).

As in the Brown case, we have here a complaint which is a confusing and rambling narrative of charges and conclusions which falls far short of the liberal standards for a complaint set by the Federal Rules. The Plaintiff has wholly failed to allege a cause of action that may be maintained in federal court against the Defendant. He has failed to use available state remedies to challenge the police and fire commission election of April 3, 1984. This Court has no jurisdiction over claims alleging "election board fraud and indecency and offenses against the Plaintiff".

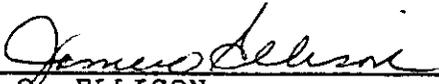
Additionally Plaintiff has failed to meet the requirements of the Federal Rules that the complaint should set out clearly the facts necessary to supply jurisdiction.

For the above reasons, this Court finds that Plaintiff's complaint must be dismissed. It will therefore be unnecessary for the Court to address the alternative motions of the Defendant to require the Plaintiff to comply with the Federal Rules and for a more definite statement.

IT IS THEREFORE ORDERED AND ADJUDGED that the motion of Defendant to dismiss be and is hereby granted.

IT IS FURTHER ORDERED that this case be dismissed with prejudice.

ORDERED this 27th day of June, 1984.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Extended

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

JUN 2 1984

KEY OIL COMPANY OF TULSA, INC.,)
an Oklahoma corporation,)
)
Plaintiff,)
)
vs.)
)
DRESSER INDUSTRIES, INC.,)
a Delaware corporation,)
)
Defendant.)

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

No. 83-C-229-E

ORDER OF DISMISSAL

NOW on this 27th day of June, 1984, the Court has for its consideration the Stipulation for Dismissal jointly filed in the above-styled and numbered cause by plaintiff and defendant. Based upon the representations and requests of the parties, as set forth in the foregoing stipulation, it is

ORDERED that plaintiff's Complaint and claims for relief against the defendant, Dresser Industries, Inc., be and the same are hereby dismissed with prejudice.

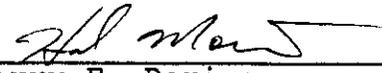
The parties hereto shall each bear their own costs.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

APPROVED:

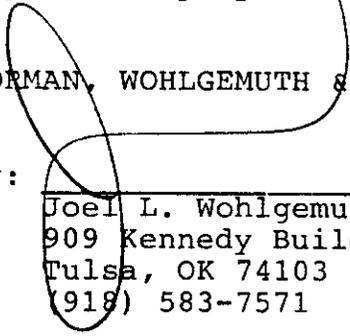
CHAPEL, WILKINSON, RIGGS, ABNEY
& HENSON

By: 

Jerry E. Perigo
Hal F. Morris
502 West Sixth Street
Tulsa, OK 74119
(918) 587-3161

Attorneys for Plaintiff,
Key Oil Company of Tulsa, Inc.

NORMAN, WOHLGEMUTH & THOMPSON

By: 

Joel L. Wohlgemuth
909 Kennedy Building
Tulsa, OK 74103
(918) 583-7571

Attorneys for Defendant,
Dresser Industries, Inc.

FILED

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

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

MERRILL LYNCH PIERCE)
FENNER & SMITH, INC.)
a Delaware Corporation,)
)
Plaintiff,)
)
vs.)
)
DENNIS C. HALL,)
)
Defendant.)

Case No. 81-C-76-E

ORDER OF DISMISSAL

Now on this the 27 day of June, 1984, upon stipulation of the parties; it appearing to the Court that the above entitled action has been settled, adjusted and compromised pursuant to the terms and conditions of the Settlement Agreement and Mutual General Release dated June 22, 1984;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above action be, and is hereby dismissed without further cost to any party and with prejudice to both the Plaintiff and Defendant as to their claims for relief.

Dated this 27 day of June, 1984.

S/ JAMES O. ELLISON
United States District Judge

Entered

FILED

JUNE 2 1981

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

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

FLYNN ENERGY CORPORATION, GENE E.)
WILLIAMS AND PATRICIA R. WILLIAMS,)

Plaintiffs,)

vs.)

UNITED STATES OF AMERICA,)

Defendant.)

No. 78-C-532-E and ✓
79-C-549-E ✓
(Consolidated)

PARTIAL JUDGMENT

Upon consideration of the pleadings, the briefs and arguments presented by counsel for the parties, and the evidence offered at the trial of the issues, as is more fully set out in the Findings of Fact and Conclusions of Law previously filed in the above consolidated cases,

IT IS ORDERED, ADJUDGED AND DECREED that Judgment be and is hereby granted in favor of the Plaintiffs, Flynn Energy Corporation and Gene E. Williams and Patricia R. Williams, and against Defendant, United States of America on the respective Plaintiffs' claims in the consolidated cases against such Defendant.

IT IS FURTHER, ORDERED, ADJUDGED AND DECREED that Judgment be and is hereby granted in favor of the Plaintiff Flynn Energy Corporation and against United States of America in the amount of Twenty-Three Thousand One Hundred Thirty-Three Dollars (\$23,133.00), together with interest thereon to be calculated in accordance with applicable Internal Revenue Laws.

21

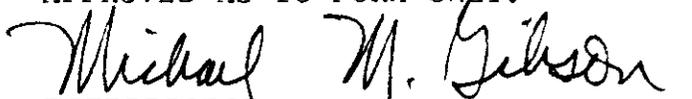
IT IS FURTHER, ORDERED, ADJUDGED AND DECREED that Judgment be and is hereby granted in favor of the Plaintiffs Gene E. Williams and Patricia R. Williams and against United States of America in the amount of Two Thousand Four Hundred Eighty-Six Dollars (\$2,486.00), together with interest thereon to be calculated in accordance with applicable Internal Revenue Laws.

IT IS FURTHER ORDERED that this Judgment does not cover the additional issues pertaining to the income tax liabilities of Plaintiffs Gene E. Williams and Patricia R. Williams relating to certain business promotion and entertainment expenses and medical expense limitations which were not before the ^{Court} in the case which was tried. A trial on such additional issues is hereby set for August 3, 1984. At such time as this remaining issue is decided the Court will enter a Final Judgment disposing of all issues in this case from which Final Judgment an appeal may be taken.

IT IS SO ORDERED THIS 27th day of June, 1984.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM ONLY:


MICHAEL M. GIBSON, Counsel for
Defendant United States of America


G. DOUGLAS FOX, Counsel for
Plaintiffs Flynn Energy Corporation
and Gene E. Williams and Patricia R.
Williams

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

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

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

JOHNNY F. TAYLOR,)

Defendant.)

CIVIL ACTION NO. 84-C-172-E

ORDER GRANTING JUDGMENT ON THE PLEADINGS

This case comes on before the Court on this 1st day of April, 1984, upon the Motion of the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, for a judgment on the pleadings in favor of the United States of America and against the Defendant, Johnny F. Taylor.

Upon examination of the pleadings contained in the Court file, the Motion and Brief submitted by the United States of America, and being fully advised in the premises, the Court finds that the Defendant, Johnny F. Taylor, filed his Answer to the Complaint on March 29, 1984, wherein he does not deny any of the allegations contained in the Complaint and acknowledges the existence of the debt sued upon. The United States of America is therefore entitled to a judgment on the pleadings against the Defendant, Johnny F. Taylor, for the amounts alleged in the Complaint.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, United States of America, shall have judgment on the pleadings in its favor and against the Defendant, Johnny F. Taylor, for the amounts alleged in the Complaint.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Entered

FILED

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

JUN 21 1984

MARVIN TESTERMAN,)
)
 Plaintiff,)
)
 vs.)
)
 SAV-MOR FOODS, a corporation,)
 Subsid. DILLION COMPANIES, INC.,)
)
 Defendants.)

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

NO. 84-C-367-E

ORDER OF DISMISSAL

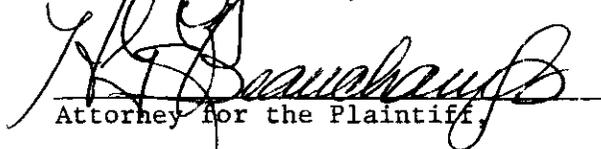
ON this 27th day of June, 1984, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromised settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

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

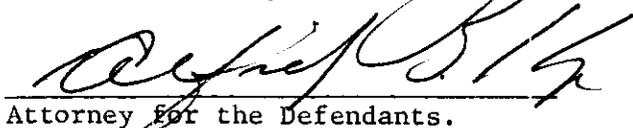
S/ JAMES O. ELISON
 JUDGE, DISTRICT COURT OF THE UNITED STATES,
 NORTHERN DISTRICT OF OKLAHOMA

APPROVAL:

H. G. E. BEAUCHAMP,


 Attorney for the Plaintiff.

ALFRED B. KNIGHT,


 Attorney for the Defendants.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

1984 JUN 28

JUN 28 1984

UNITED STATES OF AMERICA,
Plaintiff,
vs.
BERTRAM H. DEAN, JR.,
Defendant.

)
)
)
)
)
)
)
)
)
)
)

WILLIAM G. OLIVER, CLERK
DISTRICT COURT *rl*

CIVIL ACTION NO. 83-C-670-C ✓

JUDGMENT

In accordance with the Court's Order Granting Judgment on the Pleadings filed herein on June 11, 1984, Plaintiff, United States of America, is awarded Judgment against Defendant, Bertram H. Dean, Jr., in the principal amount of \$1,050.00, plus accrued interest of \$222.08 as of July 31, 1983, plus interest on the principal sum of \$1,050.00 at 7 percent from July 31, 1983, until date of Judgment, plus interest on the Judgment at the legal rate of 12.08 percent until paid, and costs of this action.

IT IS SO ORDERED this 28 day of June, 1984.

W. S. ...
UNITED STATES DISTRICT JUDGE

Entered
FILED

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

JUN 10 1984

ITT INDUSTRIAL CREDIT COMPANY,)
)
) Plaintiff,)
)
 vs.)
)
 JOHN L. LEONARD,)
)
) Defendant.)

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

Case No. 84-C-181-E

~~REDACTED~~ JOURNAL ENTRY OF JUDGMENT

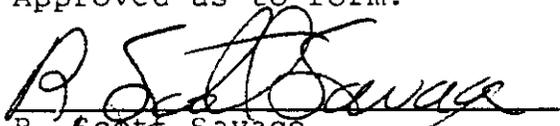
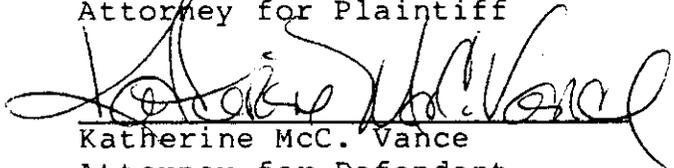
This action came before the Court upon stipulation of the parties, the Honorable James O. Ellison, District Judge presiding, the parties stipulating that the plaintiff is entitled to judgment against the defendant in the amounts demanded in the plaintiff's Complaint.

It is therefore Ordered and Adjudged that the plaintiff be and hereby is granted judgment against the defendant in the amount of \$70,876.18, together with interest accruing thereon at the contract rate of 18% from July 5, 1982 to June 5, 1984 of \$24,452.28 and accruing, interest to accrue from the date of this judgment at a rate of 12.08, an attorney's fee of \$7,000.00 and the costs of this action.

S/ JAMES O. ELLISON

Judge of the District Court

Approved as to form:


R. Scott Savage
Attorney for Plaintiff

Katherine McC. Vance
Attorney for Defendant

Entered

IN THE UNITED STATES DISTRICT COURT FOR
NORTHERN DISTRICT OF OKLAHOMA

FILED

R.A. SELLERS, JR., SILVAN E. LEVINSON,)
JEFFREY G. LEVINSON, KAY LEVINSON, A J)
PETROLEUM COMPANY, an Oklahoma corporation,)
EVA C. LITTLE, NORMA BERGER, JAMES PATRICK)
LITTLE, MARIE WIDEL, LAURA JANE GOWING ELLER,)
VIRGIL VAUGHAN, THE ESTATE OF JOSEPH M.)
McNULTY, Deceased; THE ESTATE OF DOROTHY)
McNULTY DICKSON, Deceased; LILLIAN L. BREWER,)
BEVERLY B. PRUETT, FRANK A. PRUETT, ROSCOE)
VAUGHAN, WARREN VAUGHAN, JOHN WHEATLEY,)
AUSTIN WOODRELL AND STELLA WOODRELL,)

Judge C. [unclear] Clerk
U.S. DISTRICT COURT

Plaintiffs,)

vs.)

CASE NO. 84-C-154E)

H.J.D. CATTLE COMPANY, INC.,)
a Kansas corporation, d/b/a H.J.D.)
GAS COMPANY,)

Defendant.)

ORDER FOR DISMISSAL WITHOUT PREJUDICE

COMES NOW, the Court, on this 7th day of June, 1984, and
dismisses this action without prejudice to the refiling of the
same.

S/ JAMES W. HILGON

JUDGE OF THE DISTRICT COURT

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

FILED
7 20 1983
CLERK
COURT

JOHN L. LEGGETT,)
)
 Plaintiff,)
)
 v.)
)
 TIM WEST, et al.,)
)
 Defendants.)

NO. 83-C-1013-B

O R D E R

Before the Court for consideration is the motion to dismiss this action pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and 28 U.S.C. §1915(d) for failure to state a claim upon which relief can be granted and for the filing of a frivolous complaint. The petitioner has responded to the defendant's motion to dismiss. For the reasons set forth below, the Court finds the defendant's motion to dismiss should be sustained.

Plaintiff alleges that recent changes in the classification system of the Department of Corrections deprived him of due process and violated the ex post facto clause of the United States Constitution. On February 10, 1983, plaintiff was classified as a medium security inmate with a total point score of eleven.¹ On June 15, 1983, plaintiff was evaluated by the Department of Corrections and maintained his status as a medium security inmate with a total score of eight points. Plaintiff

¹ This score reflects penalty points obtained by plaintiff as a result of an escape in April 1982, and subsequent conviction.

contends that at this evaluation he should have been assessed a score of six rather than eight points. It is plaintiff's contention that implementation of the DOC's new escape policy prevented him from receiving a lower score, as it provided for a five-year penalty duration rather than the two-year penalty duration of the policy in effect at the time of his escape and conviction.² Thereafter, in November of 1983, plaintiff was reclassified under the DOC's new policy adopted August 1, 1983. At this time plaintiff received a total point score of nine, maintaining his medium security status.

Two elements are necessary for recovery under 42 U.S.C. §1983. As stated in Adickes v. S. H. Kress Co., 398 U.S. 144, 151 (1970):

"First, the plaintiff must prove that the defendant has deprived him of a right, secured by the 'Constitution and laws' of the United States. Second, the plaintiff must show that the defendant deprived him of this constitutional right 'under color of any statute, or usage, of any state or territory.'"

It is this first element which the Court now addresses.

The United States Supreme Court has held that it will not hold that "any substantial deprivation imposed by prison authorities triggers the procedural protection of the Due Process Clause...[especially those] that traditionally have been the business of prison administrators rather than of the federal

² It appears plaintiff is mistaken as to the policy in effect at the time of the June classification. The new policy was not effective until August 1, 1983. Plaintiff was evaluated on June 15, 1983, in accordance with the old policy. Thus, the new policy did not affect the June classification.

courts." Meachum v. Fano, 427 U.S. 215, 225 (1975). "Where there are no state laws or prison regulations creating either a right or an expectation for a prisoner to remain in a particular prison or classification to which he was assigned, no due process hearing is required in conjunction with the transfer." Twyman v. Crisp, 584 F.2d 352, 356 (10th Cir. 1978).

The security assessment procedures followed by the Department of Corrections provide for a two-step process: (1) initial classification and (2) reclassification. Plaintiff was never assured that he would be only initially classified and not reclassified. Consequently, plaintiff was not entitled to a due process hearing, nor was he deprived of a protected liberty interest by the lack of a hearing.

Plaintiff also contends that the ex post facto clause of the United States Constitution was violated by this system of security assessment. "[I]t is the effect, not the form of the law that determines whether it is ex post facto." Weaver v. Graham, 450 U.S. 24, 31 (1980). The security assessment system is authorized, but not promulgated, by 57 O.S. §521 (1981), which provides for the classification and assignment of a "facility designated by the Department [of Corrections]," to any person convicted of a felony and sentenced to imprisonment to be served in other than a county jail. The classification system is not a law, but is a set of internal guidelines, for the employees of the Department of Corrections to follow.

In Weaver, the Court stated that in order to be ex post facto, a "criminal or penal law . . . must be retrospective, . . . and it must disadvantage the offender affected by it." 450 U.S. at 29. In other words, the law is ex post facto if it imposes penalties for actions not punishable at the time they were committed, or imposes harsher penalties than those in force at the time of the crime. See Weaver, 450 U.S. at 28.

The policy in effect at the time of plaintiff's escape provided for assessment of penalty points against escapees, just as the new one does. Petitioner will not be imprisoned for any longer period of time under the new system than he would under the old one. Although the penalty points may remain against him for a longer period of time, and thus prolong his classification as a medium security inmate, other factors are considered as well in the classification process. In fact, the Department has the authority to act outside the classification guidelines (See OP-060101 [Effective January 3, 1983] at p. 5, "2.A.(3) Other informational categories shall be considered to determine if there is just cause to override the assessed security grade.").

The Court concludes that plaintiff has not demonstrated that he has been deprived of a constitutionally protected right -- the first element of a §1983 cause of action. As such, the Court need not decide whether the second element of a §1983 cause of action exists.

IT IS THEREFORE ORDERED defendant's motion to dismiss is sustained.

ENTERED this 27 day of June, 1984.

A handwritten signature in cursive script, reading "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED
IN OPEN COURT

JUN 28 1984

SUNBELT ENERGY CORPORATION,)
a Corporation, d/b/a SUNCATCHER)
OF OKLAHOMA, INC.,)

Plaintiff,)

vs.)

SOLAR SERVICE CORPORATION,)
an Oklahoma Corporation,)
EUGENE B. BEACHLEY, MIKE)
QUINN, and JIM LYNN,)

Defendants,)

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

No. 83-C-950-E

AGREED UPON PERMANENT INJUNCTION

The Plaintiff, Sunbelt Energy Corporation, d/b/a Suncatcher of Oklahoma, Inc., by and through its attorney of record, Mark H. Iola, and the Defendants, Solar Service Corporation, Mike Quinn and Jim Lynn, individually, by and through their Attorney of Record, William E. Gaddis, having mutually agreed to the following Permanent Injunction, have agreed to certain terms and conditions and shall prevail and cover both the Plaintiff, and the Defendants, and each of them, and hereby agree to same as expressed hereinafter.

The said parties, with the permission and order of the United States District Court for the Northern District of Oklahoma, hereby reciprocally agree, and are ORDERED to be bound by the terms and conditions of the following:

I.

Both the Plaintiff and each of the Defendants, herein, agree to refrain from slandering, degrading, disparaging, impugning, or ridiculing the integrity of the opposite company or their employees, by name, either through any direct or indirect action, either to the public, or through own in house training sessions.

However, the Permanent Injunction does in no manner interfere with the legal right of either of the parties or their officers, agents, servants, or employees to sell their own company and product, and does in no way interfere with the rights to promote same as being better than any product of any competitor currently on the market, or that may be marketed at a later date.

II.

The Defendants, and each of them, hereby agree to immediately return forthwith, any and all materials that may be in their possession, that were originally the property of, or under the control of or were generated by Sunbelt Energy Corporation, d/b/a Suncatcher of Oklahoma, Inc., that might have been removed from the Plaintiff's place of business. Said materials shall include any and all customer lists, sales information, catalogue booklets, training manuals, technical specification manuals, and any and all other documentation relative to the sales, service, manufacture and distribution of solar heating equipment, manufactured or sold by the Plaintiff. This Order is restricted to those materials that were formulated

directly by the Plaintiff herein, and does not cover any materials which might be in the public domain, that the Defendant, Solar Service Corporation is legally bound to use, under their independent agency contract with First American Solar of Colorado, the distributor of Solar Service Corporation products.

III.

The Defendants, and each of them, and their officers, agents, servants, and employees hereby agree not to directly or indirectly use any of the above referenced materials, originally owned or under the control of, or originally generated by the Plaintiff, as specified in paragraph II above, for any use whatsoever, in the sale of their own solar energy equipment or in calling on or attempting sale of same.

IV.

Both the corporate parties hereto, and the individual Defendants are mutually restrained and enjoined from knowingly instituting any contact with customers of the other party, with the intent to dissuade them from using said products or services. Customer is defined to be any individual, company, or association that has purchased or is utilizing products or services of the other company.

However, this Permanent Injunction shall in no manner interfere with the legal right of either of the parties or their officers, agents, servants, or employees to sell their own

company and product or to contact customers in an attempt to do so, and shall in no way interfere with the right of each of the parties hereto to promote their products as being better than any product of any competitor currently on the market, or that may be marketed at a later date.

V.

Both the Plaintiff and the Defendants, and each of them are restrained from contacting the present employees, agents, servants, or successors of the other, for the purpose of interfering with the contractual employment obligations. Further, both the Plaintiff and each of the Defendants herein, are ordered not to call, write, or in any way contact the present employees, agents, servants, or successors of the other, for the purpose of harassing the other parties.

VI.

This Order shall in no manner prevent either the corporate parties hereto or their agents or employees from informing potential customers of the existence of certain illegal or unethical business practices within the solar energy industry and the potential danger from involvement with such practices. Except that both corporate parties hereto and their servants, agents, and employees, are enjoined from stating or implying that the opposite corporate party hereto, or their officers, agents, or employees, is engaged in such practices, by name.

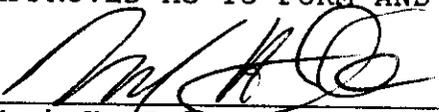
WHEREFORE, premises considered, the above and foregoing

Agreed Upon Injunction is hereby accepted by the United States District Court For The Northern District Of Oklahoma, and it is hereby ORDERED, ADJUDGED AND DECREED to be in full force and effect, on a permanent basis.

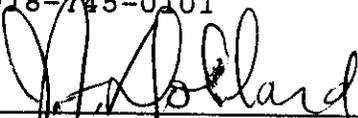
S/ JAMES O. ELLISON

James Ellison, Judge of the District Court For the Northern District of Oklahoma

APPROVED AS TO FORM AND CONTENT:



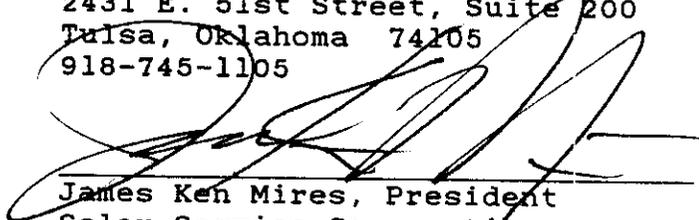
Mark H. Iola, Attorney for Plaintiff
2727 E. 21st Street, Suite 400
P.O. Box 2099
Tulsa, Oklahoma 74101
918-745-0101



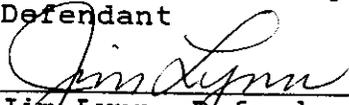
Jimmy Dollard, President Sunbelt Energy Corporation, Plaintiff



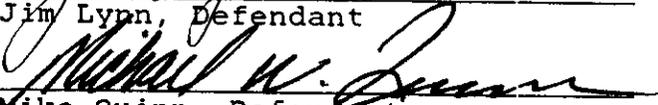
William E. Gaddis, Attorney for the Defendants, Solar Service Corporation, Jim Lynn and Mike Quinn
2431 E. 51st Street, Suite 200
Tulsa, Oklahoma 74105
918-745-1105



James Ken Mires, President Solar Service Corporation Defendant



Jim Lynn, Defendant



Mike Quinn, Defendant

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

CLERK OF DISTRICT COURT

In Re
HOME-STAKE PRODUCTION COMPANY
SECURITIES LITIGATION
PETER PAUL LUCE, et al,
Plaintiffs,
-vs-
ARTHUR ANDERSEN & Co.,
Defendant.

MDL DOCKET NO. 153 ✓

75-C-431
ORDER AND
FINAL JUDGMENT

A Stipulation of Settlement dated November 2, 1983, having been entered into by the parties herein, and the Court having found the terms of the Stipulation of Settlement to be fair, reasonable and adequate, and the Court having expressly determined that there is no just reason for delay in the entry of final judgment, and that a final judgment should be entered as, and be deemed, a final judgment in accordance with Fed.R.Civ.P. 54(b),

And the defendant having expressly denied any liability and any wrongdoing of any description, or any deficiencies, faults, errors or omissions of any nature whatsoever; having entered into the Stipulation of Settlement solely for the purpose of terminating this litigation as to it,

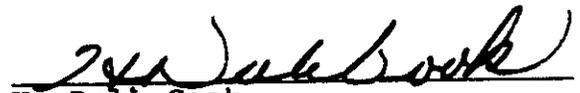
and to avoid the cost, expense and effort required to continue to participate in such complex and protracted litigation; and not admitting or conceding the validity of any of the claims asserted against it, any liability to any of the plaintiffs or others, or any wrongdoing, deficiencies, faults, errors or omissions of any nature whatsoever,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The above-captioned action is hereby dismissed in its entirety with prejudice to the plaintiffs and all other members of the class who have not been excluded from the class, and without prejudice to J. Lindsay Ware, each party to bear his own costs.

2. Jurisdiction is hereby reserved by the Court over the consummation of the compromise and settlement provided for in the Stipulation of Settlement and all matters related thereto.

Dated: Tulsa, Oklahoma
June 27, 1984


H. Dale Cook
United States District Judge

JUDGMENT ENTERED:


Clerk

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

WESTSIDE INVESTMENTS,)
an Oklahoma partnership,)
)
Plaintiff,)
)
v.)
)
C. W. CULPEPPER, JAMES C.)
NILES, MEL BRAZELL and)
J. CARTER HINES, individuals,)
)
Defendants.)

83-C-1063
No. 83-C-963-C
Bkrptcy No. 83-02379
(Chapter 11)
Adv. No. 83-01179-B

ORDER OF DISMISSAL

Plaintiff, Westside Investments ("Westside"), and Defendants, J. Carther Hines, Mel Brazell and James C. Niles by their attorneys of record, having filed a Stipulation to Dismiss and the Court being advised of the premises;

IT IS HEREBY ORDERED that the Complaint filed herein by Westside and each count thereof, is dismissed with prejudice as to J. Carter Hines, Mel Brazell and James C. Niles and without prejudice as to C. W. Culpepper, each party to bear its own costs.

s/H. DALE COOK

Judge of the District Court

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

FILED

JUN 27 1984

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

BOARD OF TRUSTEES OF PIPELINE)
INDUSTRY BENEFIT FUND,)

Plaintiff,)

vs.)

COUNTIES CONTRACTING AND)
CONSTRUCTION COMPANY,)

Defendants.)

No. 83-C-918-C

ORDER

Now before the Court for its consideration is the issue of dismissal for lack of prosecution.

Rule 36(a) of the Local Court Rules of the Northern District of Oklahoma provides:

(a) In any case in which no action has been taken by the parties for six (6) months, it shall be the duty of the Clerk to mail notice thereof to counsel of record or to the parties, if their post office addresses are known. If such notice has been given and no action has been taken in the case within thirty (30) days of the date of the notice, an order of dismissal may in the Court's discretion be entered.

In accordance with the above Rule, notice was given by the Clerk of the United States District Court for the Northern District of Oklahoma on May 9, 1984, that pursuant to Rule 36(a) dismissal would occur if no action was taken within thirty (30) days.

The record herein reflects no action has been taken as provided for in Rule 36(a).

It is therefore the Order of this Court that the present action should be and is hereby dismissed.

It is so Ordered this 27 day of June, 1984.



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

FILED
MAY 27 1984
COURT CLERK
DISTRICT COURT

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

RUSSELL H. CLASSEN,)
)
 Plaintiff,)
)
 vs.)
)
 CHARLES H. HERRINGTON, ET AL.,)
)
 Defendants.)

No. 82-C-349-C

ORDER

Now before the Court for its consideration is the issue of dismissal for lack of prosecution.

Rule 36(a) of the Local Court Rules of the Northern District of Oklahoma provides:

(a) In any case in which no action has been taken by the parties for six (6) months, it shall be the duty of the Clerk to mail notice thereof to counsel of record or to the parties, if their post office addresses are known. If such notice has been given and no action has been taken in the case within thirty (30) days of the date of the notice, an order of dismissal may in the Court's discretion be entered.

In accordance with the above Rule, notice was given by the Clerk of the United States District Court for the Northern District of Oklahoma on May 9, 1984, that pursuant to Rule 36(a) dismissal would occur if no action was taken within thirty (30) days.

The record herein reflects no action has been taken as provided for in Rule 36(a).

It is therefore the Order of this Court that the present action should be and is hereby dismissed.

It is so Ordered this 27th day of June, 1984.


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

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

FILED
June 27, 1984
Jack (Silver) Clerk

KWB OIL PROPERTY MANAGEMENT,)
INC., an Oklahoma corporation,)
)
Plaintiff,)
)
vs.)
)
JOHN McISAAC,)
)
)
Defendant.)

No. 83-C-704-C

ORDER OF DISMISSAL

On stipulation of the parties, and there being no objection, IT IS ORDERED that this action be and the same is hereby dismissed with prejudice to the filing of any other action based upon the matters which are the subject-matter hereof.

Dated June 27, 1984.

s/H. DALE COOK

H. Dale Cook, District Judge

APPROVED:

Ronald G. Reynolds
Ronald G. Reynolds,
Attorney for Plaintiff

Harvey Payne
Harvey Payne
Attorney for Defendant

FILED

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

JUN 27 1984

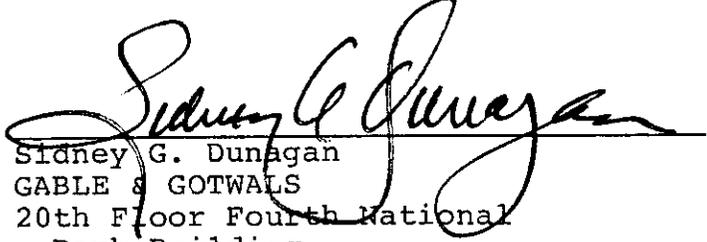
JACK D. SILVER, CLERK
DISTRICT COURT

OCCIDENTAL LIFE INSURANCE)
COMPANY OF CALIFORNIA,)
)
Plaintiff,)
)
vs.)
)
TOM INMAN TRUCKING, INC.,)
)
Defendant.)

No. 81-C-246-H

DISMISSAL WITHOUT PREJUDICE

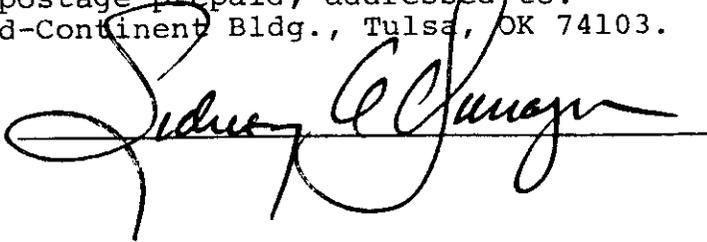
The plaintiff, pursuant to Rule 41(a)(1)(i), does hereby dismiss the above-captioned action and the claims for relief set forth therein without prejudice to the filing of a future action thereon.


Sidney G. Dunagan
GABLE & GOTWALS
20th Floor Fourth National
Bank Building
Tulsa, Oklahoma 74119
918/582-9201

ATTORNEYS FOR PLAINTIFF
TOM INMAN TRUCKING, INC.

CERTIFICATE OF MAILING

This is to certify that on this 27th day of June, 1984, a true and correct copy of the foregoing instrument was deposited in the U. S. Mail, postage prepaid, addressed to: John B. Jarboe, Esq., 1210 Mid-Continent Bldg., Tulsa, OK 74103.



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

Entered

THE BURGGRAF CORPORATION, an)
Oklahoma corporation, et al.,)
)
Plaintiffs,)
)
v.)
)
THE GOODYEAR TIRE & RUBBER COMPANY,)
a corporation, et al.,)
)
Defendants.)

APR 20 1984
NEWSPRING CLERK
DISTRICT COURT

No. 82-C-1177-B

O R D E R

This matter comes before the Court on the motion for continuance and motion to vacate of plaintiffs; the motion for summary judgment of defendants Goodyear Tire & Rubber Company and Lee Tire and Rubber Company; and the motion for corporate defendants to dismiss for lack of subject matter jurisdiction or in the alternative motion to drop parties, motion to sever or motion for separate trial. For the reasons set forth below, the motion for continuance and motion to vacate of plaintiffs is overruled; the motion for summary judgment of Goodyear and Lee is sustained; and the motion to dismiss and alternative motions to drop parties, sever or for separate trial are overruled. However, the trial will be bifurcated as to the Robinson-Patman claims and the common law claims.

Motion for Continuance and Motion to Vacate

Plaintiffs move the Court pursuant to F.R.Civ.P. 60(b) to vacate its orders of February 28, 1984 and April 18, 1984 and continue jury trial of this case. In support of this motion, plaintiffs contend corporate defendants made material misrepresentations of fact to the Court, and further state plaintiffs have additional evidence of

alleged contemporaneous sales by corporate defendants in violation of the Robinson-Patman Act. The Court, having heard oral arguments and reviewed the record, concludes plaintiffs' motion is without merit and should be overruled. With regard to plaintiffs' offer of new evidence, it appears to the Court the evidence also fails to identify with sufficient specificity the alleged contemporaneous sales. Therefore, plaintiffs' motion for continuance and motion to vacate earlier rulings is overruled.

Motion for Summary Judgment

Corporate defendants Goodyear Tire & Rubber Company and Lee Tire and Rubber Company have moved for summary judgment on plaintiffs' Robinson-Patman violation claims on the grounds the five alleged contemporaneous sales in violation of the Act were made by Kelly-Springfield Tire Company; therefore, the other two defendants have no liability. The plaintiffs have conceded the corporate defendants are correct in their analysis, and summary judgment is appropriate. Therefore, the motion for summary judgment of defendants Goodyear Tire & Rubber Company and Lee Tire and Rubber Company is sustained.

Motion to Dismiss and Alternative Motions

The corporate defendants contend the Court lacks pendent jurisdiction over plaintiffs' claims against individual defendants for common law fraud and breach of fiduciary duty; therefore, they urge dismissal of the common law claims against individual defendants. Alternatively, they have moved to drop the individual defendants or sever the lawsuit as to the antitrust claims and the common law claims. The individual defendants oppose the motions.

The Court has reviewed the facts and concludes pendent jurisdiction exists. United Mine Workers v. Gibbs, 383 U.S. 715 (1966). Further, in the interest of judicial economy, the Court concludes all claims should be heard at the same trial. However, the Robinson-Patman claims and common law claims against individual defendants will be bifurcated, and the Robinson-Patman claims will be tried first.

IT IS SO ORDERED.

ENTERED this 25th day of June, 1984.

A handwritten signature in cursive script, reading "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

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

JUN 26 1984

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

MIDCOAST AVIATION SERVICES, INC.,)
)
Plaintiff,)
)
vs.)
)
DALCO PETROLEUM CORP., et al,)
)
Defendants.)

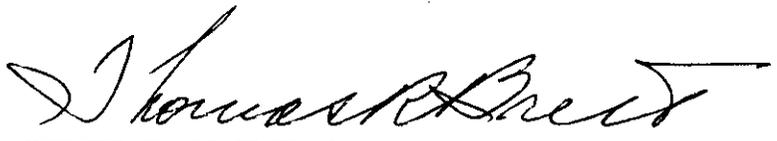
Case No. 82-C-872-BT

ADMINISTRATIVE CLOSING ORDER

The Defendants having filed its petition in bankruptcy and these proceeding being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other prupose required to obtain a final determination of the litigation.

IF, within 60 days of a final adjudication of the bankruptcy proceedings, the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

IT IS SO ORDERED this 26th day of JUNE, 19 84.



UNITED STATES DISTRICT JUDGE
THOMAS R. BRETT

Entered

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

FILED
JUN 26 1984

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

JOHN CLARK,)
)
 Plaintiff,)
)
 vs.)
)
 PINKERTON'S, INC., a)
 foreign corporation,)
)
 Defendant.)

No. 83-C-736-B

ORDER OF DISMISSAL

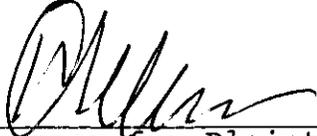
This matter came on for consideration on this *26th* day of June, 1984 upon the Joint Application For Dismissal With Prejudice filed herein. The court being duly advised in the premises, finds that said Application For Dismissal is in the best interest of justice and should be approved, and the above styled and numbered cause of action dismissed with prejudice to a refiling.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the court that the Joint Application For Dismissal With Prejudice by the parties be and the same is hereby approved and the above styled and numbered cause of action and complaint is dismissed with prejudice to a refiling.

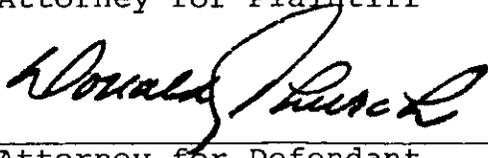
S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:



Attorney for Plaintiff



Attorney for Defendant

Entered

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

FILED

JUN 26 1984

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

NANCY CLARK,)
)
 Plaintiff,)
)
 vs.)
)
 PINKERTON's, INC., a)
 foreign corporation,)
)
 Defendant.)

No. 83-C-735-B

ORDER OF DISMISSAL

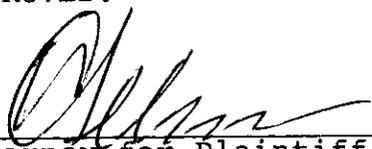
This matter came on for consideration on this 26th day of June, 1984 upon the Joint Application For Dismissal With Prejudice filed herein. The court being duly advised in the premises, finds that said Application For Dismissal is in the best interest of justice and should be approved, and the above styled and numbered cause of action dismissed with prejudice to a refiling.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the court that the Joint Application For Dismissal With Prejudice by the parties be and the same is hereby approved and the above styled and numbered cause of action and complaint is dismissed with prejudice to a refiling.

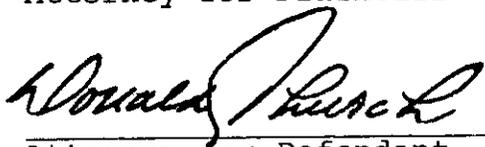
S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:



Attorney for Plaintiff



Attorney for Defendant

Entered

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

RECEIVED
CLERK
COURT

FORD MOTOR CREDIT COMPANY,)
)
Plaintiff,)
)
v.)
)
RJR MANUFACTURING CO., an)
Oklahoma corporation;)
NORTHWEST INDUSTRIES, INC.,)
an Oklahoma corporation;)
ROY J. LITTLE, an individual;)
RODNEY C. EASTHAM, an individual;)
JOHN R. ANDERSON, an individual;)
EMERLY L. WEST, an individual;)
and LINDA WEST, an individual,)
)
Defendants.)

No. 83-C-489-B

JOURNAL ENTRY OF JUDGMENT

NOW on this 26 day of June, 1984, the above-captioned matter comes on for hearing before me, the undersigned Judge of the District Court, pursuant to a regular setting thereof, the plaintiff, Ford Motor Credit Company, appearing by Thomas G. Marsh of Marsh and Armstrong, its attorneys; and the defendants, RJR Manufacturing Co., an Oklahoma corporation; Roy J. Little, an individual; Rodney C. Eastham, an individual; John R. Anderson, an individual; appearing by their attorney, Terrel B. DoRemus; whereupon upon announcement of counsel of both parties to the Court that the parties have entered into a stipulation whereby the defendants and each of them stipulate to the truthfulness of the allegations of the plaintiff's complaint; that the defendants further stipulate that the plaintiff may have and recover a judgment

from the defendants of the sum of \$30,978.40, plus interest at 12% from April 18, 1983, and for reasonable attorney fees of \$4,646.00; and that the parties further stipulate that the defendants have paid the sum of \$15,000.00 on April 18, 1984, and are entitled to receive credit therefor.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff have and recover a judgment of \$15,978.40.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff recover a judgment of interest on \$30,978.40 from April 18, 1983, to April 18, 1984, at the rate of 12% per annum.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff have and recover a judgment for interest at the rate of 12% per annum from April 18, 1984, on \$15,978.40 until paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff have and recover its costs of this action and attorney fees in the sum of \$4,646.00.

Dated at Tulsa, Oklahoma, this 26 day of June, 1984.

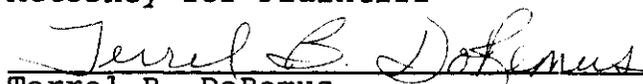
S/ THOMAS R. BRETT

JUDGE OF THE DISTRICT COURT

APPROVED:



Thomas G. Marsh
Attorney for Plaintiff



Terrel B. DoRemus
Attorney for Named Defendants

Entered

FILED

1984 APR 28 11

CLERK OF DISTRICT COURT

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

JOHN ALLEN MOSIER,)
)
 Plaintiff,)
)
 v.)
)
 JACK GRAVES, et al.,)
)
 Defendants.)

No. 82-C-16-B

O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed April 17, 1984, in which United States Magistrate Robert S. Rizley recommended disposition of certain pending motions. Plaintiff has objected to the Findings and Recommendations and defendant Glen H. (Pete) Weaver has responded thereto. The Court has conducted a de novo review of the record and concludes plaintiff's objections should be overruled and the Magistrate's Findings and Recommendations be affirmed and adopted.

This is a civil rights suit filed pursuant to 42 U.S.C. §1983. Plaintiff alleged the defendants conspired to deny him a fair trial in a first degree murder trial in Mayes County, Oklahoma. On December 30, 1982, the Court sustained motions to dismiss of defendants Jack Graves and Austin Webb on the basis of prosecutorial immunity. The Court further sustained the motion to dismiss of Weaver, but ordered plaintiff to amend his complaint to state with specificity facts that in the plaintiff's mind show the existence and scope of an alleged conspiracy between Weaver

and other defendants and to allege Weaver acted under color of state law. Plaintiff filed an amended complaint on March 8, 1983. The complaint alleged Weaver acted under color of state law, but did not allege facts establishing the existence of a conspiracy as to Weaver.

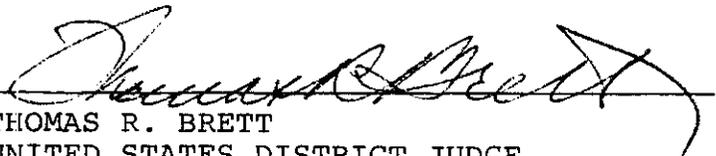
On December 28, 1983, plaintiff filed a motion to dismiss the suit as to Weaver without prejudice. Weaver filed a motion to dismiss with prejudice. In addition, plaintiff has filed a motion for summary judgment against defendant Wanda L. Cable, who has never answered his complaint or otherwise responded. The Magistrate recommended the suit be dismissed with prejudice and the motion for summary judgment be overruled.

Having reviewed the record, the Court concurs with the Magistrate. Plaintiff failed to comply with the Court's order of December 30, 1982, to amend his complaint to allege facts showing the existence and scope of an alleged conspiracy involving defendant Pete Weaver. Since the Court in the same order sustained a motion to dismiss Weaver, the suit should be dismissed with prejudice. In addition, the Court concludes that although defendant Wanda Cable appears to be in default, the motion for summary judgment should be overruled on the basis of witness immunity. Briscoe v. Lahue, ___ U.S. ___, 103 S.Ct. 1108, 75 L.Ed.2d 96 (1983),

The Findings and Recommendations of the Magistrate are hereby affirmed and adopted. The objection of plaintiff to the Findings

and Recommendations is overruled. The plaintiff's motion to dismiss without prejudice is overruled and defendant Weaver's motion to dismiss with prejudice is sustained. Plaintiff's motion for summary judgment against Wanda Cable is overruled. Further, since plaintiff's claim against Cable appears to be barred by the doctrine of witness immunity, the Court, sua sponte, hereby dismisses with prejudice plaintiff's claim against Cable.

ENTERED this 26th day of June, 1984.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

JUN 26 1984

DANNY P. O'NEAL,)

Plaintiff,)

vs.)

CITY INSURANCE COMPANY, a)
New Jersey corporation,)

Defendant and Third)
Party Plaintiff,)

vs.)

MICHAEL J. LOFTON,)

Third Party Defendant.)

JACK C. HENDON CLERK
U.S. DISTRICT COURT

NO. 84-C-263-C

NOTICE OF DISMISSAL

COMES NOW the Defendant City Insurance Company and dismisses without prejudice its third party action against Michael J. Lofton. This dismissal is made in accordance with Rule 41(a)(1) because Third Party Defendant has not yet filed an Answer in the case.

KNIGHT, WAGNER, STUART, WILKERSON & LIEBER
Attorneys for Defendant
233 West 11th Street
Tulsa, Oklahoma 74119
(918) 584-6457

By: _____

John Howard Lieber

I hereby certify that a true and correct copy of the above and foregoing Notice of Dismissal was mailed to the Third Party Defendant, Michael J. Lofton, 806 North Date, Broken Arrow, Oklahoma, with sufficient postage thereon, on this ____ day of June, 1984.

John Howard Lieber

Entered

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

FILED
MAY 23 1981
COURT CLERK
U.S. DISTRICT COURT

SOONER PRODUCTS COMPANY, an)
Oklahoma corporation,)
)
Plaintiff,)
)
v.)
)
PAUL McBRIDE, GEORGE L. BROWN,)
CITIZENS SECURITY BANK OF)
BIXBY, a State Banking Corpo-)
ration in Oklahoma, et al.,)
)
Defendants.)

No. 81-C-31-B ✓

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered in favor of defendants and against counsel for plaintiff, Craig Tweedy and Earl Wolfe, for costs and attorneys fees in the appeal of this matter to the Tenth Circuit Court of Appeals. The Court hereby awards judgment against the counsel for plaintiff and in favor of defendants in the following amounts:

- Defendants McBride and Sellers \$1,674.95
- Defendants James M. Sturdivant,
Wilbur L. Dunn, Arch Investments,
Inc., Arch Manufacturing Company \$3,213.31
- Defendants R. Dow Bonnell,
Pittenger Sintered Products, Inc.,
Richard D. Pittenger and Gerldine
Pittenger \$ 851.25
- Defendants George L. Brown and
Citizens Security Bank of Bixby \$1,108.05

In addition, the Court awards post-judgment interest on these amounts at the rate of 12.08% until paid.

IT IS SO ORDERED.

ENTERED this 26th day of June, 1984.

A handwritten signature in cursive script, reading "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

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

FILED

NOV 25 1981

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

GREGORY D. WILLIAMS,)	
)	
Petitioner,)	
)	
v.	)	No. 83-C-715-BT
)	
LARRY R. MEACHUM, et al.,)	
)	
Respondents.)	

ORDER GRANTING PETITION FOR
WRIT OF HABEAS CORPUS

Before the Court for consideration is the petition for writ of habeas corpus of Gregory D. Williams. Respondents filed their initial response and petitioner replied to it. Respondents filed a supplemental response to which petitioner has also replied. For the reasons set forth below, the Court concludes the petition should be granted.

Petitioner was convicted in Tulsa County District Court on June 8, 1981, in Case No. CFR-80-1086, of Escape from a Penal Institution. Petitioner was sentenced to two years imprisonment to run consecutively with another sentence received in Payne County, Oklahoma.

Petitioner did not perfect a direct appeal to the Oklahoma Court of Criminal Appeals.

Petitioner filed his application for post-conviction relief in the District Court of Tulsa County on September 29, 1982. His application was denied on October 15, 1982.

Petitioner appealed the denial of post-conviction relief to the Oklahoma Court of Criminal Appeals. The denial of post-conviction relief was affirmed on November 17, 1982, Case No. PC-82-654.

Petitioner has exhausted his state court remedies and may properly proceed herein. Rose v. Lundy, 455 U.S. 509 (1982).

In his petition for writ of habeas corpus, petitioner raises four grounds of error:

1. Petitioner's guilty plea to the charge of Escape from a Penal Institution was involuntary because it was induced by the unconstitutional conditions existing at the Tulsa County Jail.

2. Petitioner's sentencing was unconstitutional because the judge knew of the unconstitutional conditions of the Oklahoma prison system yet sentenced petitioner to two years incarceration.

3. Petitioner's sentence is illegal because the Oklahoma Department of Corrections is not operated according to federal, constitutional and state standards.

4. Petitioner's incarceration is illegal because he made no knowing and intelligent waiver of his right to jury trial, right against self-incrimination and right to confront his accusers. Petitioner claims the trial court gave him no explanation of the dangers of waiving these rights, nor of the maximum/minimum possible punishment for the crime charged.

In habeas corpus actions, a federal court must give the findings made by the state court judge a presumption of

correctness. 28 U.S.C. §2254(d). The burden rests upon the habeas applicant to establish "by convincing evidence" that the factual determination by the state court was erroneous. Sumner v. Mata, 449 U.S. 539, 550 (1981). In Sumner v. Mata, 455 U.S. 591, 591-92 (1982), the United States Supreme Court said:

"This is the second time that this matter has come before us. In Sumner v. Mata, 449 U.S. 539, 66 L.Ed.2d 722, 101 S.Ct. 764 (1981), decided last Term, we held that 28 U.S.C. §2254(d). . . requires federal courts in habeas proceedings to accord a presumption of correctness to state-court findings of fact. This requirement could not be plainer. The statute explicitly provides that 'a determination after a hearing on the merits of a factual issue, made by a State court of competent jurisdiction . . . shall be presumed to be correct.' Only when one of seven specified factors is present or the federal court determines that the state-court finding of fact 'is not fairly supported by the record' may the presumption properly be viewed as inapplicable or rebutted."

The "seven specified factors" to which the Court refers are as follows:

- (1) that the merits of the factual dispute were not resolved in the State court hearing;
- (2) that the factfinding procedure employed by the State court was not adequate to afford a full and fair hearing;
- (3) that the material facts were not adequately developed at the State court hearing;
- (4) that the State court lacked jurisdiction of the subject matter or over the person of the applicant in the State court proceeding;
- (5) that the applicant was an indigent and the State court, in deprivation of his constitutional right, failed to appoint counsel to represent him in the State court proceeding;
- (6) that the applicant did not receive a full, fair,

and adequate hearing in the State court proceeding;

(7) that the applicant was otherwise denied due process of law in the State court proceeding.

With Sumner in mind, the Court first addresses petitioner's fourth ground of error, the basis for granting the writ of habeas corpus. Grounds one, two and three addressed thereafter are without merit.

GROUND FOUR: KNOWING AND INTELLIGENT
WAIVER OF PETITIONER'S RIGHTS

Petitioner claims his incarceration is illegal and in "violation of the 5th, 6th, 9th, and 14th Amendments to the United States Constitution in that the petitioner did not knowingly, willingly, and intelligently waive his constitutional rights to, (1) A JURY TRIAL, (2) RIGHT AGAINST SELF INCRIMINATION, (3) RIGHT TO CONFRONT HIS ACCUSERS (sic)." Moreover, petitioner claims the district court did not fully explain to petitioner the dangers of waiving the above rights or "advise or inform the petitioner of the minimum or maximum punishment provided by law for the crime of which he stood accused (sic)."¹

In North Carolina v. Alford, 400 U.S. 25, 31 (1970), the United States Supreme Court held that the standard for determining the validity of a guilty plea "was and remains whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant."

¹ Petitioner's Application for Post-Conviction Relief Supporting Brief attached and incorporated into the Petition for Writ of Habeas Corpus filed August 23, 1983, p. 7.

A plea of guilty is a solemn act on the part of a defendant charged with a crime and is not to be disregarded because of belated misgivings about the wisdom of such plea. United States v. Woolsley, 440 F.2d 1280 (8th Cir. 1971).

The following is the transcript of petitioner's plea and sentencing hearing before the state trial judge on June 8, 1981:

THE COURT: CRF 80-1086, the State of Oklahoma versus Gregory D. Williams. This matter comes on for arraignment today. The Defendant appears in person represented by Mr. Laphen, the State by Mr. Morgan. The Defendant waived a preliminary hearing on June 2, and was bound over to this Court for trial on a felony offense of escape from a penal institution, although the minute reflects robbery with firearm from the preliminary.

MR. LAPHEN: Your Honor, it would be escape from a penal institution, not robbery with firearm.

Your Honor, it's my understanding at this time Mr. Williams waives his right to jury trial, trial to the Court, and enters a plea of guilty. Mr. Williams further waives his right to a pre-sentence investigation report and requests immediate sentencing.

THE COURT: Mr. Williams, what is your middle name?

MR. WILLIAMS: Douglas.

THE COURT: D-O-U-G-L-A-S?

MR. WILLIAMS: Yes, sir.

THE COURT: Your full name is Gregory Douglas Williams?

MR. WILLIAMS: Yes, sir.

THE COURT: What is your birth date?

MR. WILLIAMS: May 12, 1950.

THE COURT: Mr. Laphen tells me it's your desire to waive, or give up, your right to a jury trial in this case.

MR. WILLIAMS: Yes, sir.

THE COURT: The purpose of the hearing today is for an arraignment, to set the case to a day certain for a jury trial, if you want a jury trial in this case. I can set this case for a jury trial in approximately two weeks time, at which time jurors would be available to try your case; do you understand that?

MR. WILLIAMS: Yes, sir.

THE COURT: Do you understand it's the burden of the State of Oklahoma to bring witnesses into this courtroom to testify under oath to prove to a jury beyond a reasonable doubt that you committed this offense?

MR. WILLIAMS: Yes, sir.

THE COURT: Do you understand that law presumes that you're innocent of this charge until your guilt has been established beyond a reasonable doubt?

MR. WILLIAMS: Yes, sir.

THE COURT: Mr. Laphen tells me you not only want to give up your right to a jury trial, you want to give up your right to any trial and plead guilty to this charge?

MR. WILLIAMS: Yes, sir.

THE COURT: You're charged with the felony offense of escape from a penal institution, I understand from Horace Mann Treatment Facility. On what day is that?

MR. MORGAN: The first day of April, 1980.

THE COURT: Do you understand that's the charge presently pending against you?

MR. WILLIAMS: Yes, sir.

THE COURT: Are you guilty of that offense?

MR. WILLIAMS: Yes, sir.

THE COURT: Did you escape from that institution or fail to return from a leave or what?

MR. WILLIAMS: I just --

MR. LAPHEN: I understand he was requesting to go to a program and walked off from that and didn't return.

THE COURT: Have you ever gone under the name of Alfonso Thomas?

MR. WILLIAMS: Yes, sir.

THE COURT: Your legal name is Gregory D. Williams?

MR. WILLIAMS: Yes, sir.

THE COURT: Is the sentence you were serving at Horace Mann a sentence under the name of Gregory D. Williams?

MR. WILLIAMS: Yes, sir.

THE COURT: What do you understand the penalty is for this escape charge, Mr. Williams? Has anybody advised you what the maximum penalty is?

MR. WILLIAMS: I believe seven years.

THE COURT: The District Attorney indicates that is correct. Do you tell me you are desirous of pleading guilty to an offense that carries that much penitentiary time?

MR. WILLIAMS: Yes, sir.

THE COURT: Mr. Williams, I understand that the State is going to make a recommendation to me about sentencing in this case. I understand there is going to be a recommendation of a two year sentence. I'm sure that's been communicated to you.

MR. WILLIAMS: Yes, sir.

THE COURT: Do you tell me that regardless of what sentence is imposed that you are guilty of this charge?

MR. WILLIAMS: Yes, sir."

THE COURT: Are satisfied if you went to a trial that the State has sufficient evidence to prove you guilty?

MR. WILLIAMS: Yes, sir.

THE COURT: You've been represented by Mr. Laphen or other members of his office throughout the entire proceedings in this case, have you, sir?

MR. WILLIAMS: Yes, sir.

THE COURT: Are you satisfied with the legal representation you've had?

MR. WILLIAMS: Yes, sir.

THE COURT: Do you understand what's going on here today?

MR. WILLIAMS: Yes, sir.

THE COURT: Other than a recommendation of sentence to me in this case, Mr. Williams, have any other promises of any kind been made to get you to plead guilty to this charge?

MR. WILLIAMS: No, sir.

THE COURT: Do you have any questions you want to ask about the proceedings here today or the legal effect of your plea of guilty?

MR. WILLIAMS: No, sir. I would like to ask why it's not possible for these two years to be run with the sentences in Washington state?

THE COURT: The reason, I don't know why; the District Attorney is recommending it. I assume that's why. The District Attorney is recommending just a two year sentence.

MR. WILLIAMS: I never had a chance to talk to him.

THE COURT: Your attorney talked to him, I assume. If you run concurrent with the Washington or the Paine County case, in effect that's not giving you any time at all. I'm sure the District Attorney felt like there should be some penalty connected with this offense.

MR. WILLIAMS: You don't think the consecutive sentences would do just as much good as these two consecutive sentences?

THE COURT: Do I think?

MR. WILLIAMS: Or the District Attorney? Do you think it would just serve as well?

THE COURT: I don't know whether it would serve as well or not. You wouldn't do any additional time.

MR. MORGAN: I want you to know your attorney made that request. I didn't feel like under the circumstances it was possible.

MR. LAPHEN: We sought to get it concurrent.

MR. MORGAN: We talked about it at length.

MR. LAPHEN: We sought to get it concurrent with Paine County and also with Washington state, both of which were rejected by the District Attorney's office; is that correct, Mr. Morgan?

MR. MORGAN: That's correct.

THE COURT: Do you desire to go ahead with this plea today?

MR. WILLIAMS: Yes, sir."

THE COURT: Let the record show the Defendant waives his right to a jury or non-jury trial and enters a plea of guilty. The Court accepts that plea and finds the Defendant guilty of the felony offense of escape from a penal institution. You are entitled to have forty-eight hours elapse before sentencing is imposed. Do you want that time or to have sentence imposed today?

MR. WILLIAMS: I would like to have sentencing imposed today, sir.

THE COURT: You are entitled under the law to have the Department of Corrections make a presentence investigation report to be considered for sentencing purposes. Mr. Laphen indicates you desire to waive, or give up, your right to do that.

MR. WILLIAMS: That's correct.

THE COURT: Does the State have a recommendation in this case?

MR. MORGAN: The State recommends two years, Your Honor?

THE COURT: On the recommendation of the State, it will be the judgment and sentence of this Court that the Defendant be sentenced to serve a term of two years in the custody of the Department of Corrections for this felony offense. Mr. Williams, you are entitled to remain in the Tulsa County Jail for up to ten days before being transported to begin serving this time. Do you want to remain for that time or have immediate transportation?

MR. WILLIAMS: I would like immediate transportation.

THE COURT: Mr. Williams, on the Paine County charge

that you are serving, did you have a trial in that case or did you plead guilty?

MR. WILLIAMS: Pled guilty.

THE COURT: I'm sure the judge advised you then of your rights to appeal that you have. Even though you waived your right to a trial and pled guilty and received a minimum sentence, you do have a right to appeal the judgment and sentence that I've imposed today. If you desire to appeal, the first thing you have to do is file in this Court with the court clerk a written motion to withdraw your plea of guilty. That's got to be filed within ten days from today. The Court will rule on that within thirty days, and if it's overruled, you must file a petition for a writ of certiorari in the Court of Appeals in Oklahoma City within ninety days from today. If you let those time intervals go by without filing those instruments, in all likelihood you would lose any appeal rights you have in this case. Are there any questions you want to ask me about your appeal rights or anything connected with this matter?

MR. WILLIAMS: No, sir.

THE COURT: Thank you, Mr. Williams.

In King v. State, 553 P.2d 529, 534-36 (Okl.Cr.App. 1976), the Oklahoma Court of Criminal Appeals set forth a three-step procedure for use by trial courts in accepting a guilty plea. First, the trial court must determine if the defendant is competent. If so, the trial court must advise the defendant of the nature and consequences of a plea of guilty. In so doing, the trial court shall advise the defendant 1) that he has a right to counsel; 2) that he has a right to a trial by jury and that by entering a plea of guilty he is waiving his right to trial by jury; 3) that he has a right to be confronted by witnesses who would testify against him and that by entering a plea he is waiving the right of confrontation; 4) that he has a privilege against compulsory self-incrimination and by entering a

plea he is waiving his privilege against compulsory self-incrimination; and 5) of the range of punishment provided by law for the offense of which the defendant is charged, including the minimum and maximum punishment. Further, the trial court shall advise the defendant that he is presumed to be innocent, has a right to enter his plea of not guilty and require the State to prove its allegations to a jury beyond a reasonable doubt. Finally, the trial court must determine the voluntariness of the guilty plea by 1) inquiring whether the plea is the result of force, threats or coercion; 2) inquiring whether the plea is the result of a plea agreement.²

In its October 15, 1982 Order Denying Application for Post-Conviction Relief and Amended Application, the District Judge stated:

"The only issue properly before this Court is did Petitioner enter a voluntary and intelligent guilty plea.

"The record reflects that Petitioner was represented by counsel. The Honorable Joe Jennings advised Petitioner of his rights and the effects of a guilty plea. Petitioner was asked if there was any reason why judgment should not be entered and the Petitioner responded in the negative. This Court finds that Petitioner's plea was entered voluntarily and intelligently." Page 2.

The Oklahoma Court of Criminal Appeals, affirming the trial court's denial of post-conviction relief by order dated

² Should the trial court determine that the plea is the result of a plea agreement, there are further inquiries to be made and advice to be given. See King v. State at 535-36. Although a plea agreement was involved herein, petitioner raises no allegations of error with respect to the plea agreement. Thus, the Court does not set forth the further King v. State inquiries.

November 17, 1982, stated: "Having examined the record, and being fully advised in the premises, we find that the record fully supports the findings of the district court."

The findings of the trial court are entitled to a presumption of correctness. Although the transcript of petitioner's change of plea does not reflect that petitioner was advised of his right against self-incrimination and that by entering his plea of guilty, he was waiving that right, the record does reflect petitioner stated the following: 1) he waived his right to a jury trial (TR 3); 2) he understood that it was the State's burden to produce witnesses to prove to a jury that petitioner was guilty beyond a reasonable doubt (TR 3); 3) he understood that he was presumed innocent until he was proven guilty beyond a reasonable doubt (TR 3); 4) he wanted to plead guilty to the charge of escape from a penal institution (TR 3-4); 5) he understood that the maximum penalty for the crime charged was seven years (TR 4-5); 6) he understood that the State would recommend a sentence of two years and that he was guilty of the crime charged regardless of whether he received the recommended two year sentence (TR 5); and 7) he understood what was going on in the proceedings that day. Moreover, petitioner was represented by Frank Laphen, a public defender. The Court therefore addresses whether the failure of the trial court to advise petitioner of his right against self-incrimination is a constitutional infirmity that invalidates the guilty plea.

Rule 11 of the Federal Rules of Criminal Procedure embodies the United States Supreme Court standards for determining the validity of a guilty plea. These standards were put forth in McCarthy v. United States, 394 U.S. 459 (1969). Rule 11(c) provides:

"Advice to Defendant. Before accepting a plea of guilty or nolo contendere, the court must address the defendant personally in open court and inform him of, and determine that he understands, the following:

(1) the nature of the charge to which the plea is offered, the mandatory minimum penalty offered by law, if any, and the maximum possible penalty provided by law, including the effect of any special parole term; and

(2) if the defendant is not represented by an attorney, that he has the right to be represented by an attorney at every stage of the proceeding against him and, if necessary one will be appointed to represent him; and

(3) that he has the right to plead not guilty or to persist in that plea if it has already been made, and he has the right to be tried by a jury and at that trial has the right to the assistance of counsel, the right to confront and cross-examine witnesses against him, and the right not to be compelled to incriminate himself; and

(4) that if his plea of guilty or nolo contendere is accepted by the court there will not be a further trial of any kind, so that by pleading guilty or nolo contendere he waives the right to a trial; and

(5) if the court intends to question the defendant under oath, on the record, and in the presence of counsel about the offense to which he has pleaded, that his answers may later be used against him in a prosecution for perjury or false statement."

As explained by the Supreme Court in McCarthy v. United States, Id. at 466:

"A defendant who enters such a plea simultaneously waives several constitutional rights, including his privilege against compulsory self-incrimination, his right to trial by jury, and his right to confront his accusers. For this waiver to be valid under the Due Process Clause, it must be 'an intentional relinquishment or abandonment of a known right or privilege.' Johnson v. Zerbst, 304 U.S. 458, 464 (1938). Consequently, if a defendant's guilty plea is not equally voluntary and knowing, it has been obtained in violation of due process and is therefore void. Moreover, because a guilty plea is an admission of all the elements of a formal charge, it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts."

The constitutional safeguards set forth in Fed.R.Crim.P. 11(c) and McCarthy v. United States, supra, were applied to the states in Boykin v. Alabama, 395 U.S. 238 (1969). See Hicks v. Oliver, 523 F.Supp. 64, 69 (D.Kan. 1981). As can be seen from an examination of King v. State, supra, the procedures set forth by the Oklahoma Court of Criminal Appeals to be used by trial courts for determining the validity of a guilty plea are nearly identical to those set forth in Rule 11(c). Further, a determination of the validity of a plea involves consideration of federal rights. Thus, case law applicable to Rule 11 is equally applicable to determining the validity of a guilty plea taken in the Oklahoma court system.

Boykin v. Alabama, 395 U.S. 238 (1969) involved a black defendant indicted on five counts of common-law robbery, an offense punishable by death. Counsel was appointed to represent the defendant and at his arraignment, defendant pleaded guilty to all five indictments. At the arraignment, the trial court asked

no questions of defendant concerning his plea and the defendant did not address the court. Holding that defendant's guilty pleas were invalid, the Supreme Court stated:

"Several federal constitutional rights are involved in a waiver that takes place when a plea of guilty is entered in a state criminal trial. First, is the privilege against compulsory self-incrimination guaranteed by the Fifth Amendment and applicable to the States by reason of the Fourteenth Amendment. Malloy v. Hogan, 378 U.S. 1. Second, is the right to trial by jury. Duncan v. Louisiana, 391 U.S. 145. Third, is the right to confront one's accusers Pointer v. Texas, 380 U.S. 400. We cannot presume a waiver of these three important federal rights from a silent waiver." (Emphasis added)

In Smith v. Oklahoma City, 513 P.2d 1327 (Okl.Cr.App. 1973), the trial court did not inform the defendant of his right to a jury trial nor the minimum and maximum punishment provided by law for the crime of which he was charged. The court vacated defendant's plea of guilty, stating:

"It is very difficult for this Court to conceive that the defendant was not aware of the fact that he had a right to a jury trial as the case was set for a jury trial on the date the defendant entered his plea of guilty. We further find it difficult to conceive that the defendant was not aware of the minimum and maximum punishment for the offense he was charged as he was represented by an able and experienced attorney. Nevertheless, as the record is silent as to these rights we will not presume the defendant waived these rights." (Smith at 1329.)

Nor can this Court presume petitioner waived his privilege against self-incrimination from the silent transcript before the court. An affirmative waiver of the privilege against compulsory

self-incrimination must be reflected in the record prior to the acceptance of a plea of guilty.³

The Court therefore concludes petitioner has established by convincing evidence that the factual determination made by the trial court with respect to the validity of petitioner's plea was erroneous. When the trial court failed to obtain a knowing waiver of the defendant's right against self-incrimination, the defendant was denied due process and his guilty plea void. For this reason, the Court concludes the petition for writ of habeas corpus should be granted.

GROUND ONE:

Petitioner claims his incarceration, "pursuant to the judgement (sic) and sentence in CRF 81-1086 . . . is illegal and in violation of the 5th, 6th, 8th, and 14th Amendments to the United States Constitution in that the conviction obtained by plea of guilty was unlawfully induced and not made voluntarily."⁴ Petitioner then lists the adverse conditions existing at the time he was detained in the Tulsa County Jail. Petitioner states, "All of the above conditions, as petitioner will show the court by competent testimony and evidence, induced

³ Like the Oklahoma Court of Criminal Appeals, this Court finds it difficult to believe petitioner was not aware of his privilege against self-incrimination and the effect of his guilty plea on that privilege. Petitioner's conviction for escape from a penal institution was obviously not his first conviction. Moreover, it appears petitioner had been arraigned prior to his change of plea and had presumably been advised of his Miranda rights at that point.

⁴ Petitioner's Application for Post-Conviction Relief Supporting Brief attached and incorporated into the Petition for Writ of Habeas Corpus filed August 23, 1983, p. 3.

petitioners guilty plea in this case. Petitioners only desire was to 'GET OUT' of the Tulsa county jail as quickly as possible. Therefore, petitioner, on 6/8 1981, entered a plea of guilty to this court . . . "5

"Jail conditions do not make guilty pleas 'coerced.' Specialized instances, though inexcusable, still do not amount to duress. . . . [T]he national norm is that undesirable jail conditions do not result in 'coerced' guilty pleas." Bishop, Federal Habeas Corpus in State Guilty Pleas, 71 F.R.D. 235, 287. See, e.g., Cunningham v. Wingo, 443 F.2d 195, 205 (6th Cir. 1971), cert. denied, 404 U.S. 1064 (1972), reh'g denied, 405 U.S. 948 (1972); Reso v. Rodriguez, 373 F.2d 20, 22 (10th Cir. 1967); Dickel v. Rundle, 328 F.Supp. 1013, 1015 (E.D.Pa. 1971); and Hardin v. Hocker, 298 F.Supp. 606, 607 (D.Nev. 1968), aff'd 409 F.2d 1358 (9th Cir. 1969).

The Court therefore concludes petitioner has failed to state in ground one a constitutional ground for relief.⁶

GROUNDS TWO AND THREE

In his second ground of error, petitioner states he was unconstitutionally sentenced to the Oklahoma prison system. Petitioner states:

5 Id.

6 Moreover, the Court notes that petitioner's complaints about the conditions of the Tulsa County jail were addressed and remedied in the class action, Clayton v. Thurman, Case No. 79-C-723-BT (N.D.Okl. 1983). See the Findings of Fact and Conclusions of Law entered therein by this Court sitting en banc on August 2, 1983.

". . . Luther Bohanon, on May 30, 1974, had ruled in Battles -v- Anderson #72-95 USDCEO, that conditions in the Oklahoma prison system were (and still are) unconstitutional in violation of the 1st, 8th, and 14th Amendments to the United States Constitution, and petitioner's rights to guarantee of, and protection against. The trial judge was, or should have been, aware of his ruling and should not have subjected petitioner to a situation violative of his Constitutional rights. In doing so, said sentencing, and sentence, was in deliberate violation of petitioner's rights even though there was statutory grounds for time imposed as time and space are inseparable."⁷

The Court notes that Oklahoma's prison system is constitutional, Battle v. Anderson, 708 F.2d 1523 (10th Cir. 1983), and was constitutional at the time petitioner was sentenced.

In his third ground of error, petitioner states:

"Petitioner's incarceration, pursuant to the judgement (sic) and sentencing in CRF 81-1086 as aforesaid, is illegal and in violation of Article VI, and the 8th, 13th and 14th Amendments to the UNITED States Constitution in that the Oklahoma Department of Corrections Is not fully operated congruent to constitutional standards, U.S. Supreme Court Mandates, State and Federal law, and departmental policies and procedures."⁸

In support of Ground three, petitioner alleges that prison officials have ignored federal and state laws as they relate to the care and treatment of prisoners, wages, medical and health standards and rehabilitation. Petitioner alleges that state prison officials have stolen and embezzled state and federal funds, goods and equipment as well as funds held in trust for prisoners. Petitioner alleges that prison officials have

7 Id. at 6.

8 Id. at 6-7.

overcharged inmates for canteen items. Finally, petitioner alleges that prison officials have forced the prisoners to be exposed to an "atmosphere and environment of HOMOSEXUALITY."⁹

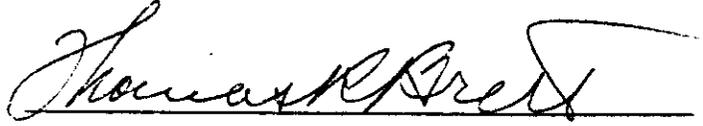
Petitioner's broad conclusory assertions unsupported by specific factual allegations are not sufficient to state a claim for habeas relief. Lorraine v. United States, 444 F.2d 1, 2 (10th Cir. 1971); Atkins v. Kansas, 386 F.2d 819 (10th Cir. 1967); and Martinez v. United States, 344 F.2d 325 (10th Cir. 1965).

The Court finds that there are no disputed issues of material fact and the writ application, response and the state court records provide an adequate basis for review; thus, an evidentiary hearing is not necessary. Townsend v. Sain, 372 U.S. 293 (1963); Moore v. Anderson, 474 F.2d 1118 (10th Cir. 1973).

For the above reasons the Court concludes the petition for habeas corpus is hereby granted. The petitioner, Gregory D. Williams's conviction of June 8, 1981 for escape from a penal institution in the case of State of Oklahoma v. Gregory D. Williams, No. CRF-80-1086 in the District Court of Tulsa County, Oklahoma is set aside as void. The defendant is granted a new trial to the court on said charge, the defendant having entered a knowing intelligent waiver of his right to a jury trial. In the event a new trial on said charge is timely pursued by the State, and a conviction of the defendant obtained, the defendant is to be credited with any time already served on said void conviction in the imposition of a new sentence.

⁹ Id. at 7.

IT IS SO ORDERED this 25th day of June, 1984.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRET
UNITED STATES DISTRICT JUDGE

Entered

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

FILED

2025 JUN 19

RECORDED CLERK
DISTRICT COURT

THE HUGHES GROUP,)
 an Arizona corporation,)
)
 Plaintiff,)
)
 v.)
)
 SUN REFINING AND MARKETING)
 CO., a corporation, and)
 PHILLIPS PETROLEUM CORP.,)
 a Delaware corporation,)
)
 Defendants.)

No. 83-C-769-BT

ORDER

Before the Court for consideration is the 1) motion to dismiss, or in the alternative, to stay and motion to dismiss party of defendant Sun Refining and Marketing Co.; and 2) motion to dismiss or to add and drop parties of defendant Phillips Petroleum Corp.; and 3) cross-motion of plaintiff for order requiring a deposit of funds into court. All the motions have been responded to and oral arguments have been heard by the Court. For the reasons set forth below, the Court concludes defendants' motions to dismiss should be sustained for failure to join indispensable parties.

Plaintiff brings this action seeking payment by defendants of oil and gas runs purchased from the Jacobs 3-1-N well in Creek County, Oklahoma.¹ This well is drilled on a lease which is the subject of a lawsuit presently upon appeal to the Tenth

¹ Apparently, Sun purchased the oil runs and Phillips purchased the gas runs by virtue of separate contracts entered into with plaintiff.

Circuit Court of Appeals from this Court, The Hughes Group v. Morgan, Case No. 81-C-231-BT. In that case, this court determined that plaintiff, The Hughes Group, had a valid oil and gas lease and was entitled to enter on the property to drill.

Defendants admit they are in possession of the oil and gas runs but dispute that plaintiff is entitled to 100% of them.

Defendant Sun claims that in the Division Order Title Opinion provided to Sun by The Hughes Group it is indicated that The Hughes Group is entitled to a maximum of a 3/16 interest in the runs. Sun further claims that the entire 3/16 interest has been assigned by The Hughes Group to First Interstate Bank of Arizona, N.A.² At the minimum Sun claims First Interstate Bank should be joined as a party plaintiff, along with the other royalty owners and operating revenue interest owners. Sun claims there are at least six lien claimants as indicated by the above title opinion and at least three persons who have indicated to Sun itself by letter they claim an interest in the runs.³

Similarly, defendant Phillips points to five lien claimants, additional working interest owners, royalty owners and overriding interest owners who have not been joined as parties plaintiff. Defendant Phillips claims First Interstate Bank of Arizona has a security interest in the funds. Defendant claims Perry Morgan and

² Should defendant be correct, the plaintiff may not be a real party in interest.

³ In the alternative to its motion to dismiss for failure to join indispensable parties, Sun seeks a stay of this proceeding pending the outcome of the appeal in The Hughes Group v. Morgan, No. 81-C-231-B, and a dismissal on the basis of misjoinder of Sun with defendant Phillips.

Ruby C. Morgan who originally contested the validity of plaintiff's lease in The Hughes Group v. Morgan, 81-C-231-BT, have executed a lease in favor of Jireh Circle 6 Corporation directly conflicting with the oil and gas lease of the Hughes Group.⁴

Finally, Phillips directs the Court's attention to an action pending in the District Court of Creek County, in which at least three lien claimants seek to foreclose their liens against Loren Hughes, d/b/a the Hughes Group and other lien claimants. See W-B Pump & Supply Co. v. Loren Hughes, et al., Case No. C-83-341. Defendant Sun, by way of supplement to its brief in support of its motion to dismiss, advises the Court that Sun has been named as a party defendant in the Creek County case.

Plaintiff opposes the motion to dismiss for failure to join indispensable parties for the reason that plaintiff believes defendants' appropriate remedy is to interplead the funds into court. Plaintiff claims all affected parties who desire to have their rights determined in this proceeding may intervene under Fed.R.Civ. P. 24.

There is no dispute that joinder of First Interstate Bank of Arizona as a party plaintiff would defeat diversity herein.

Rule 19(a) of the Federal Rules of Civil Procedure, dealing with persons to be joined if feasible, provides as follows:

⁴ In the alternative to its motion to dismiss, Phillips seeks dismissal on the basis of misjoinder of Phillips with defendant Sun.

"A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party if (1) in his absence complete relief cannot be accorded among those already parties; or 2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest."

Apparently, joinder of all claimants except First Interstate Bank of Arizona is governed by Rule 19(a). However, as stated by the Tenth Circuit Court of Appeals in Manygoats v. Kleppe, 558 F.2d 556, 558 (10th Cir. 1977):

"A finding that the Tribe is a necessary party under Rule 19(a) does not complete the inquiry. When it is determined that a party is necessary, a decision must then be made whether he is an indispensable party whose absence requires the dismissal of the lawsuit under Rule 19(b). . . . The Rule 19(b) test is 'whether in equity and good conscience the action should proceed.'"

Here, the Court concludes the lienors, working interest owners, royalty interest owners, overriding royalty interest owners and the other known-claimants are necessary parties. Plaintiff seeks all the funds held by defendants. If, as defendants assert, plaintiff is not entitled to any of the funds, or at the most, to 3/16 of the funds, clearly the rights of the other claimants to the funds will be impaired to the extent of plaintiff's interest as determined by the Court. Moreover, any determination of plaintiff's interest in the proceeds held by defendants (other

than a finding that plaintiff has no interest), would subject defendants to possible multiple liability or inconsistent obligations with respect to the other claimants.

The same conclusion is reached by the Court with respect to First Interstate Bank of Arizona, either plaintiff's assignee or the owner of a security interest in plaintiff's interest in the runs.

Rule 19(b) of the Federal Rules of Civil Procedure states:

"If a person as described in subdivision (a)(1)-(2) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: first, to what extent a judgment rendered in the person's absence might be prejudicial to him or those already parties; second, the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; third, whether a judgment rendered in the person's absence will be adequate; fourth, whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder."

Simply stated, "Indispensable parties are those without whom the action cannot proceed, and must be joined even if by such joinder the court loses jurisdiction over the controversy." Milligan v. Anderson, 522 F.2d 1202, 1204 (10th Cir. 1975). In Skelly Oil Co. v. Wickham, 202 F.2d 422 (10th Cir. 1953), the Tenth Circuit defined an "indispensable party" as follows:

"An indispensable party is one who has such an interest in the subject matter of the controversy that a final decree cannot be rendered as between other claimants, of interest in the subject matter, who are parties to the action, without radically and

injuriously affecting his interest and without leaving the controversy in such a situation that its final determination may be inconsistent with equity and good conscience."

The Court further concludes that not only are the claimants to the proceeds held by defendants necessary parties, but also indispensable parties. Any judgment rendered in the absence of the claimants would be prejudicial; there is no apparent manner in which the Court could avoid such prejudice by protective measures in its judgment; nor would a judgment rendered in the absence of the claimants be adequate. The Court further notes that plaintiff will have an adequate remedy for enforcement of its rights as it may assert them in the pending lawsuit in the District Court of Creek County, Oklahoma.

In the exercise of its discretion herein, the Court concludes claimant's case should be dismissed for failure to join indispensable parties pursuant to Fed.R.Civ.P. 12(b)(7).

IT IS THEREFORE ORDERED defendants' motions to dismiss are sustained. Plaintiff's cross-motion for an order requiring a deposit of funds into court is overruled.

ENTERED this 25 day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered
FILED
JUN 25 1984
JAMES B. BLOOMER, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 TIMOTHY A. KELLAR,)
)
 Defendant.) CIVIL ACTION NO. 84-C-480-B

AGREED JUDGMENT

This matter comes on for consideration this 25th day
of June, 1984, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney, and the Defendant, Timothy A. Kellar, appearing pro se.

The Court, being fully advised and having examined the
file herein, finds that the Defendant, Timothy A. Kellar,
was served with 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 \$195.97, plus interest at the rate of 15.05 percent per
annum and administrative costs of \$.61 per month from August 15,
1983, and \$.68 per month from January 1, 1984, until judgment,
plus interest thereafter at the legal rate from the date of
judgment until paid, plus the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Timothy A. Kellar, in the amount of \$195.97, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 15, 1983, and \$.68 per month from January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 12.08 percent from the date of judgment until paid, plus the costs of this action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


NANCY NESBITT BLEVINS
Assistant U.S. Attorney


TIMOTHY A. KELLOR
E

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Entered
FILED
19 JUN 25 1984
JACK D. SILVER, CLERK
U.S. DISTRICT COURT

KEITH GRAYSON,)
)
 Plaintiff,)
)
 v.)
)
 AMERICAN AIRLINES, INC.,)
)
 Defendant.)

NO. 83-C-298

JUDGMENT

In keeping with the Court's order of June 14, 1984, sustaining defendant's motion for summary judgment, judgment is hereby entered in favor of defendant, American Airlines, Inc., and against plaintiff, Keith Grayson, with costs assessed against plaintiff.

ENTERED this 25th day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

Entered

FILED

MAR 25 1984

JOHN W. PALMER, CLERK
DISTRICT COURT

JAMES L. SMITH,)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
 INTERNAL REVENUE SERVICE,)
 COMMISSIONER OF INTERNAL)
 REVENUE, NORRELL C. SMITH,)
 and SUN REFINING & MARKETING)
 COMPANY, a corporation,)
)
 Defendants.)

No. 83-C-589-BT

ORDER

Before the Court for consideration is the motion for summary judgment of Sun Refining & Marketing Company pursuant to Fed.R. Civ. P. 56. Plaintiff has filed his objection thereto. For the reasons set forth below, the Court finds the motion for summary judgment should be sustained.

Plaintiff brings this lawsuit for an alleged wrongful levy of his wages by the United States of America for taxes it claims are owed by plaintiff. Defendant, Sun Refining & Marketing Company ("Sun"), honored a Notice of Levy on Wages served on it April 22, 1983 by the Internal Revenue Service. Plaintiff sues Sun for conversion alleging Sun withheld his wages and honored the IRS levy despite plaintiff's notification to Sun "that it was unconstitutional and outside of any authority" of Sun to do so. Plaintiff seeks compensatory and punitive damages from Sun.

Sun claims it is entitled to summary judgment against plaintiff on the basis of 26 U.S.C. §6332(d). Under 26 U.S.C.

§6332(a), any person in possession of property subject to levy upon which a levy has been made must surrender the property.

26 U.S.C. §1332(d) provides as follows:

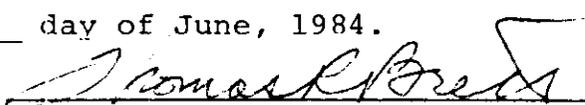
(d) Effect of honoring levy. -- Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary or his delegate, surrenders such property or rights to property (or discharges such obligation) to the Secretary or his delegate (or who pays a liability under subsection (c)(1)) shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment. . . . " (Court's emphasis)

It is clear from the language of 26 U.S.C. §6332(d) that payment to the government pursuant to a levy is a complete defense against any action brought against the person complying with the levy. See also U.S. v. Bowery Savings Bank, 297 F.2d 380 (2d Cir. 1961); Howe v. U.S., 277 F.2d 116 (9th Cir. 1960); and Sunderlin v. Oneida National Bank of Utica, New York, 42 A.F.T.R.2d ¶78-5056 (N.D.N.Y. 1978).

Rule 56 of the Federal Rules of Civil Procedure provides summary judgment is proper when no genuine issue of material fact remains and the moving party is entitled to judgment as a matter of law. Bruce v. Martin-Marietta, 544 F.2d 442, 445 (10th Cir. 1974); and Ando v. Great Western Sugar Co., 475 F.2d 531, 535 (10th Cir. 1973).

IT IS THEREFORE ORDERED the motion for summary judgment of defendant Sun Refining & Marketing Company is sustained.

ENTERED this 25 day of June, 1984.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 25 1984

B.J. THOMAS, a minor, by and through
his guardian, NORVEL RAY THOMAS,
JR., AND NORVEL RAY THOMAS, JR.,
Personal Representative of the
Estates of Christine Thomas and
Allen Dale Thomas,

Plaintiff,

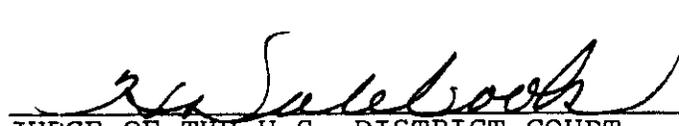
v.

STATIONER'S DISTRIBUTING
COMPANY and CROWN ZELLERBACH
CORPORATION, Defendants.

No. C-82-C-753-C

ORDER

NOW ON this 21 day of June, 1984, comes on to be heard the Stipulation of the parties that the above-captioned action may be dismissed with prejudice. The Court, being well advised in the premises, finds that the Stipulation of the parties should be accepted and this action is dismissed with prejudice to the filing of another.



JUDGE OF THE U.S. DISTRICT COURT

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

FILED

JUN 25 1984 19

W. D. SILVER, CLERK
DISTRICT COURT

DELLA KAY McCULLOCH, ET AL.,)
)
 Plaintiffs,)
)
 v.)
)
 ROGERS STATE COLLEGE, et al.,)
)
 Defendants.)

No. 81-C-868-BT ✓

JUDGMENT RE ATTORNEY FEES

In accordance with the Findings of Fact and Conclusions of Law entered June 25th, 1984, the Court enters judgment in favor of plaintiff Della Kay McCulloch and against defendants, Rogers State College and The Board of Regents of Rogers State College, in the amount of \$40,752.50 for attorney fees and \$1,812.75 for expenses, post-judgment interest to run on said sums at the rate of 12.08%.

IT IS SO ORDERED this 25th day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

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

FILED
JUN 22 1984

J

JOHN B. WEISS,)
)
 Plaintiff,)
)
 vs.)
)
 DELTA CATTLE CORPORATION)
 AND OSCAR E. TAYLOR,)
)
 Defendants.)

WILLIAM C. SHIVERS, CLERK
U.S. DISTRICT COURT

No. 84-C-108-EV

ADMINISTRATIVE CLOSING ORDER

The Defendants having filed a petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If, within thirty (30) days of a final adjudication of the bankruptcy proceedings the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

It is so ORDERED this 21st day of June, 1984.

James D. Ellison

JAMES D. ELLISON P
UNITED STATES DISTRICT JUDGE

6

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA **FILED**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 WESLEY M. KERSEY,)
)
 Defendant.)

JUNE 9 1984

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

CIVIL ACTION NO. 84-C-163-E

AGREED JUDGMENT

This matter comes on for consideration this 21st day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Wesley M. Kersey, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Wesley M. Kersey, was served with Summons and Complaint on April 6, 1984. 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 \$474.93, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 5, 1983, until judgment, plus interest thereafter at the legal rate from the date of judgment until paid, plus the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Wesley M. Kersey, in the amount of \$474.93, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 5, 1983, until judgment, plus interest thereafter at the current legal rate of 12.08 percent from the date of judgment until paid, plus the costs of this action.

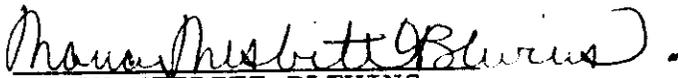
S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


NANCY NESBITT BLEVINS
Assistant U.S. Attorney


WESLEY M. KERSEY

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 FRED R. HYDE,)
)
 Defendant.)

JUN 20 1984

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

CIVIL ACTION NO. 84-C-252-E

DEFAULT JUDGMENT

This matter comes on for consideration this 21st day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Fred R. Hyde, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Fred R. Hyde, was served with Summons and Complaint on May 7, 1984. 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 the Defendant, Fred R. Hyde, in the amount of \$226.00, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 26, 1983, and \$.68 from January 1, 1984, until

judgment, plus interest thereafter at the current legal rate of 12.08 percent from the date of judgment until paid, plus the costs of this action.

S/ JAMES O. HILSON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 EDWARD E. WILLIAMS,)
)
 Defendant.)

JUN 22 1984

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

CIVIL ACTION NO. 84-C-337-E

DEFAULT JUDGMENT

This matter comes on for consideration this 21 day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Edward E. Williams, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Edward E. Williams, was served with Summons and Complaint on May 15, 1984. 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 the Defendant, Edward E. Williams, in the amount of \$422.00, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 10, 1983, until judgment, plus interest thereafter at the current legal rate of 12.08

percent from the date of judgment until paid, plus the costs of this action.

S/ TAMAR C. ELLISON

UNITED STATES DISTRICT JUDGE

Entered
FILED

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

(JUN 22 1984)

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 JOHN W. ATTERBERRY, et al.,)
)
 Defendants.)

Case Nos. 82-C-896-B
through 82-C-949-B,
inclusive

O R D E R

The Court has for consideration Plaintiff's Motion for Partial Summary Judgment and various Motions of Defendants for Summary Judgment.

On October 26, 1983, the Court entered an Order which stated, inter alia, that the parties had agreed that "[t]he primary legal issue involved in each of these 54 cases is interpretation of the Enid and Anadarko Act, (32 Stat. 43) as to reversion of title to lands, acquired by a railroad and used for railroad purposes, when such lands cease to be used for railroad purposes"; that this issue "should be briefed and decided by the Court before any additional issue or issues are addressed by the parties," and that "the 54 captioned cases should be consolidated for the purpose of briefing and decision as to such primary issue." Pursuant to the Order of the Court this issue has been briefed by the parties, and motions for summary judgment have been filed by the Defendants and a motion for partial summary judgment has been filed by Plaintiff as directed by the Court on February 27, 1984. Oral arguments were heard on March 22, 1984.

For the reasons stated herein, the Court has concluded that Plaintiff's Motion for Partial Summary Judgment should be denied and that the various motions of Defendants for Summary Judgment

should be sustained.

Plaintiff contends the following: (1) that the Enid and Anadarko Act (Act) "has not been repealed or superseded insofar as Osage Tribal lands are concerned"; (2) that "there have been no Supreme Court cases or circuit court cases decided which involved the question of reverter or abandonment of lands owned by the Osage Tribe, when acquired by a railroad company pursuant to the terms of the Enid and Anadarko Act"; (3) that "the only language in the entire act regarding reversion of land upon abandonment of use for railroad purposes, is found in Section 2 . . . [which] language is so plain that there should be no question about reverter in any instance where the Enid and Anadarko Railway Company was the taker of lands for railroad purposes" and that the language of Section 2 also applies to any additional railroad companies because "[t]he last phrase of [Section 13] shows that the authorization to build and operate a railroad is granted to companies 'which shall comply with this Act'"; (4) that "'This Act' consists of 23 sections," of which Section 2 is a part, and that "the requirements regarding reverter, contained in Section 2, apply to any railroad company taking advantage of the powers granted by Section 13." (emphasis in original) (Plaintiff's opening brief filed December 15, 1983 at 4-7) Plaintiff further argues that "there is no language in the Act which shows a 'clearly expressed legislative intention' that Section 2 of the Act does not apply to any railroad company which takes tribal land for railroad purposes." (emphasis in original) (Id. at 7) Plaintiff also cites authority for the "Canon of Statutory Construction" which requires that "[t]he language of acts of congress relating to Indians is construed favorably to them." (Citing 42 C.J.S.

Section 70, Page 778 and other authorities). Plaintiff further argues that "'there is no clear expression of congressional intent' [in the Enid and Anadarko Act] to cause property acquired by railway companies other than the Enid and Anadarko Railway Company to revert, [o]n abandonment, to anyone other than the Tribe of Indians from whom it was taken," and that "[t]herefore, the statute should not be interpreted so as to divest the Osage Tribe of Indians of its reversionary interest in such property." (emphasis in original) (Id. at 8)

In its reply brief filed January 30, 1984, Plaintiff further argues that "Oklahoma law does not apply in this matter because Indian lands are involved which subject is controlled by federal existing statutes." Plaintiff also cites the case of Oklahoma City-Ada-Atoka Ry. Co. v. City of Ada, 182 F.2d 293 (10th Cir. 1950). In that case "[t]he land in question was originally part of Indian lands and was acquired in 1903 by condemnation proceedings under Section 13 of the Enid-Anadarko Act, . . . granting the right 'to take and condemn lands for right of way, depot grounds, terminal, and other railway purposes, in or through any lands held by any Indian tribe or nation.' The trial court found that title had reverted to the City of Ada under Section 14 of the [Five Civilized Tribes] Act of Congress of April 26, 1906, 34 Stat. 137, 142, upon failure of the Railway Company to use the land 'for the purpose for which it was reserved.' Title was quieted in the City of Ada . . ." Id. at 294. In affirming the judgment, the court stated:

. . .as the parties substantially agree, the acts constituting abandonment for reversionary purposes must, in our case, be determined by a construction of the Acts of Congress granting the right of way, and

expressly providing for reverter. Indeed, jurisdiction of the court rests upon the postulate that the suit arises out of these Federal Acts.

The Enid-Anadarko Act, under which the land was taken, expressly provides 'that no part of the lands herein authorized to be taken shall be leased or sold by the company, and they shall not be used except in such manner and for such purposes only as shall be necessary for the construction and convenient operation of said railway' and further that 'when any portion thereof shall cease to be so used such portion shall revert to the nation or tribe of Indians from which the same shall have been taken.' The Act of April 26, 1906, Section 14, defines the title acquired under the original Act as an easement; reenacts the reversionary conditions and extends the right of reverter to subdivisions and municipalities under circumstances like ours. (emphasis added)

Id. at 295.

The language of the "Enid-Anadarko Act" quoted by the court includes provisions of Section 13, under which the land was taken, and Section 2, the reversion language. The Act of April 26, 1906 referred to is the Five Civilized Tribes Act of April 26, 1906, 34 Stat. 137, and the "reverter" language of Section 14 of that Act was applicable because the land involved in the City of Ada case was "Indian Lands." Section 14 provides:

That the lands in the Choctaw, Chickasaw, Cherokee, Creek, and Seminole nations reserved from allotment or sale under any Act of Congress for the use or benefit of any person, corporation, or organization shall be conveyed to the person, corporation, or organization entitled thereto:...Provided further, That this section shall not apply to land reserved from allotment because of the right of any railroad or railway company therein in the nature of an easement for right of way, depot, station grounds, water stations, stock yards or other uses connected with the maintenance and operation of such company's railroad, title to which tracts may be acquired by the railroad or railway company under rules and regulations to be prescribed by the Secretary of the Interior at a valuation to be determined by him; but if any such company shall fail to make payment within the time prescribed by the regulations or shall cease to use such land for the purpose for which it was reserved, title thereto shall thereupon vest in the owner of the legal subdivision of which the land so

abandoned is a part, except lands within a municipality the title to which, upon abandonment, shall vest in such municipality.

Although the court did state in its discussion of the Enid and Anadarko Act that Section 2 was applicable where land was taken pursuant to Section 13 of the Act, the issue in City of Ada did not relate to reverter under Section 2 as in the instant case and such language is, therefore, dicta.

Plaintiff also relies on a case decided by Judge Luther Bohanon, United States v. Texas and Pacific Railway Co., No. 70-C-329, slip op. (N.D. Okla., filed Feb. 22, 1972). In that case the United States on behalf of the Osage Tribe of Indians brought an action against Texas and Pacific Railway Company and others to recover possession of and quiet title to certain real estate situated in Osage County in the City of Pawhuska, Oklahoma. The City of Pawhuska was the only defendant that contested Plaintiff's cause of action, the other defendants either disclaimed any interest in the abandoned right of way or defaulted. The case was submitted to the court on a stipulation of facts together with briefs and oral argument. (Id. at 1-2) In its brief filed on December 15, 1983, Plaintiff states that the case before Judge Bohanon "involved a part of the same railroad line which is involved in the subject 54 cases"; that "the same question, as to reverter upon abandonment of the railroad, was involved in that case"; and that "Judge Bohanon decided that issue in favor of the government and the Osage Tribe of Indians." (Id. at 5)

In the brief filed on behalf of the Defendants represented by W. Robert Wilson, of Kane, Kane, Wilson & Mattingly,² De-

defendants point out that although similar questions were raised in that case, the court should not consider the case as controlling since "no adjacent landowner contested the action"; that "[t]he City of Pawhuska was the only primary defendant in that case which contested the same" and that he, W. Robert Wilson, represented the City of Pawhuska in that action. Mr. Wilson further states that "in its brief to the Court in that case [the City] recognized the weakness of its claim and suggested to the court that even if the court could not find that the City should prevail, that ownership should be awarded to the Defendants who were the owners of the lands adjoining said property even though said Defendants were in default before the court." (Id. at 10) Defendants contend that "Judge Bohanon erred in his construction of the applicable Acts of Congress and in particular the Act of June 28, 1906 when he concluded that the Osage Tribe intended to retain Tribal ownership of said lands which had been acquired for said railroad purposes." (Ibid.)

The legislative history of the Enid and Anadarko Railway Company Act of February 28, 1902 (Act)³ reveals that on February 1, 1902, the Enid and Anadarko Railway Company bill (bill), H.R. 3104, which at that time contained only Sections 1 through 12 of the Act, was reported by the Committee on Indian Affairs to the House of Representatives by the Committee Chairman, Mr. Curtis, for action on the bill by the House. The report of the Committee (Report No. 257) accompanying the bill stated that "[t]he corporation named in this bill has already constructed about 60 miles of its railway in Oklahoma Territory, and a portion of its proposed line is to be constructed in the Indian Territory, and

it is important that the progress of construction should not be delayed"; that "[t]he general law in relation to the right of way for railways in Indian Reservations [Act of March 2, 1899 (30 Stat., 990), and the additional station grounds act of April 25, 1896 (29 Stat., 109)] has been found defective in some respects and should be amended" and that "[t]here is no provision for appeal or determination by a court and jury as to the damages to tribal rights in the land to be taken, thus involving a grave constitutional difficulty." The report also refers to a letter from the Secretary of the Interior to the Committee which states, inter alia: "I believe it is very much better for all concerned that the railroad rights of way in Indian Territory should be obtained and held under general legislation of like application to all instances of a like character; ..." The Enid and Anadarko Railway Company bill, consisting of only Sections 1 through 12 of the Act, was passed by the house on February 1, 1902.

On February 14, 1902, the Enid and Anadarko Railway Company bill was considered by the Senate. The bill had been reported from the Senate Committee on Indian Affairs, with an amendment to add to the bill as "new sections", sections 13 through 23. The Senate Amendment (Sections 13 through 23), except for the portion of Section 23 referring to "the Osages' Reservation and other Indian reservations and allotted Indian lands in the Territory of Oklahoma," are identical to provisions in a bill, H.R. 10065, which had been introduced in the House of Representatives on January 24, 1902 by Mr. Curtis, which bill was "To provide for the acquiring of rights of way by railway companies in the Indian Territory, and for other purposes." A bill (S.

3745) containing the same provisions as H.R. 10065 was also introduced in the Senate on February 11, 1902. The Amendment of the Enid and Anadarko Railway Company bill by the Senate simply incorporated in the House bill as Sections 13 through 23 the provisions of S. 3745 so as to permit all railway companies rights to acquire rights of way in Indian Territory.

The Enid and Anadarko Railway Company bill, as amended by the Senate was then referred to a conference committee of the House and Senate. On February 19, 1902 the conference committee reported to the House and Senate with the recommendation "[t]hat the House agree to the Senate amendment with the following amendments ... add the following to Section 23: 'And provided further, That the provisions of this Act shall apply also to the Osage Reservation and other Indian reservations and allotted Indian lands in the Territory of Oklahoma, and all judicial proceedings herein authorized may be commenced and prosecuted in the courts of said Oklahoma Territory, which may now or hereafter exercise jurisdiction within said reservations or allotted lands.'" The Enid and Anadarko Railway Company bill, as amended, was passed by the House and Senate and then approved by the President on February 28, 1902.

At the time the Enid and Anadarko Railway Company bill was introduced in the House of Representatives, and prior to its enactment into law, other bills, in addition to H.R. 10065 and S. 3745, the two bills discussed above, had been introduced in the House and Senate which if passed would have granted rights of way to other railway companies. H.R. 10098 and S. 3741 were introduced in the House and Senate on February 10, 1902. Those bills

contained identical provisions for the stated purpose of "grant-[ing] [a] right of way through Oklahoma Territory, including the Osage Reservation, and the Indian Territory to the Missouri, Kansas and Oklahoma Railroad Company, and for other purposes." (emphasis added) Also those bills both contained the following language in Section 2 thereof: "That said corporation is authorized to take and use for all purposes of a railway, and for no other purpose, a right of way one hundred feet in width through said Oklahoma Territory, the Osage Reservation, and said Indian Territory ... Provided further, That no part of the lands herein authorized to be taken shall be leased or sold by the company, and they shall not be used except in such manner and for such purposes only as shall be necessary for the construction and convenient operation of said railway, telegraph and telephone lines; and when any portion thereof shall cease to be so used such portion shall revert to the nation or tribe of Indians from which the same shall have been taken." It should be noted that this language beginning with the words "Provided further" is identical to the language at the end of Section 2 of the Enid and Anadarko Act of February 28, 1902.

S. 3601 was introduced in the Senate on February 6, 1902 and H.R. 11003 in the House on February 7, 1902. These bills were identical, with the stated purpose of "grant[ing] [a] right of way through the Oklahoma Territory and the Indian Territory to the St. Louis and San Francisco Railroad Company." Section 2 of each of the bills contained the same language as the Enid and Anadarko Act and H.R. 11098 and S. 3741 with respect to reversion "to the nation or tribe of Indians."

While the special bills, i.e., the Enid and Anadarko Railway Company bill, the Missouri, Kansas and Oklahoma Railroad Company bill and the St. Louis and San Francisco Railroad Company bill, each grant specific rights of ways described as "beginning at a point on its railway" and then further describe the right of way granted by the bill, the general bill, S. 3745, which was incorporated as an amendment (sections 13 through 23) to the Enid and Anadarko Railway Company bill, provided "for the acquiring of rights of way by railway companies in the Indian Territory, and for other purposes." (emphasis added) The general bill (Sections 13 through 23) did not contain reversionary language such as that contained in the special bills, and in fact contained no language whatsoever with respect to reversion in the event any portion of the right of way should cease to be used for railway purposes.

Although the Five Civilized Tribes Act of April 26, 1906, (Section 14), did amend the Enid and Anadarko Act as to reversion, where Five Civilized Tribes' lands are involved, it did not alter or amend the Enid and Anadarko Act with respect to lands taken or condemned by railroad companies in the Osage Reservation. The Osage Allotment Act, 34 Stat. 539, which became law two months later, on June 28, 1906, during the same session of Congress, does not amend, nor even refer to, the Enid and Anadarko Act, but merely states in Section 11 thereof:

That all lands taken or condemned by any railroad company in the Osage Reservation, in pursuance of any Act of Congress or regulation of the Department of the Interior, for rights of way, station grounds, side tracks, stock pens and cattle yards, water stations, terminal facilities, and any other railroad purpose, shall be, and are hereby, reserved from selection and allotment and confirmed in such railroad companies for their use

and benefit in the construction, operation, and maintenance of their railroads . . .

There has been no other legislation since the enactment of the Enid and Anadarko Act and the Osage Allotment Act that specifically provides for reversion with respect to lands taken or condemned by railroad companies in the Osage Reservation. Two years after the enactment of the Osage Allotment Act, on May 27, 1908, "An Act For the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," was passed by Congress. In that act it was provided that

[n]o restriction of alienation shall be construed to prevent the exercise of the right of eminent domain in condemning rights of way for public purposes over allotted lands, and for such purposes sections thirteen to twenty-three inclusive, of an act entitled "An act to grant the right of way through Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes," approved February twenty-eighth, nineteen hundred and two (Thirty-second Statutes at Large, page forty-three), are hereby continued in force in the State of Oklahoma. (emphasis added)

This act did not apply to the Osage Tribe of Indians but the language of the act is significant in that only "sections thirteen to twenty-three inclusive" of the Enid and Anadarko Act are "continued in force in the State of Oklahoma."

In Oklahoma, K. & M. I. Ry. Co. v. Bowling, 249 F. 592 (8th Cir. 1918), the court had occasion to consider Sections 13 through 23 of the Enid and Anadarko Act and the language quoted above from the Act of May 27, 1908. In Bowling, the court stated that

[t]he precise question [was] whether the [Enid and Anadarko Act] of 1902, aided by [the Act of May 27, 1908] continued to apply to lands . . . [which] had been tribal property of the confederated Wea, Peoria, and other tribes of Indians [which] had been allotted in severalty, and after

the expiration of all restrictions upon alienation had been conveyed to and become the property of the Plaintiff, a citizen of Missouri."

(Id. at 593) The court further noted that "[t]he Indian title and interest had wholly ceased." (Ibid.) Referring to the Enid and Anadarko Act the court stated:

The act of 1902 prescribed a procedure for the exercise of the right of eminent domain and by its terms applied to all lands in the Indian Territory, regardless of Indian title. This was naturally so, because there was then no other competent legislative authority than Congress. But the comprehensive scope of the legislation did not survive the admission of the state. By the act of 1908 Congress merely sought to preserve it so far as it affected Indian lands including those that had been allotted but were still subject to restrictions against alienation. That was the extent of its interest during statehood. The power of Congress to legislate ends when the transitory character of the subject-matter ceases to be of federal concern.

. . . The obvious, apparent reason for the continuance of the legislation in question during statehood is in the peculiar character of the tenure of a particular class of lands, and when that ceases the laws of the state attach and are exclusive.

(Id. at 594).

Although Bowling did not involve lands of the Osage Tribe or Osage allottees, and the issue presented was not the same as before the court herein, the language of the court in discussing the Enid and Anadarko Act is relevant to the issue involved herein.

In the Answer Brief of Defendants, Bank of Oklahoma and William H. Bell, Co-Trustees (BOK and Bell, Trustees), filed January 9, 1984, Defendants contend that "[a]fter the division in severalty of the common tribal lands, the allottee was governed by state and federal laws like every other citizen." (Id. at 2) Defendants BOK and Bell, Trustees, further contend that "in

light of the congressional legislative history, the laws of Oklahoma apply in this case" and that "[t]here are numerous cases holding that an abandoned easement or a right-of-way in land granted to a railroad will revert to the owner of the legal subdivision out of which the strip was carved." (Id. at 9)

The Defendants, BOK and Bell, Trustees, further contend in their brief filed March 6, 1984, in support of their motion for summary judgment that "[t]he failure to be more specific about the abandonment of the railroad right of way in the Osage Allotment Act was an oversight of Congress as the Five Civilized Tribes' Act was passed a scant two months prior to the Osage Allotment Act and was intended to be the controlling legislation for Indian Territory, as indicated by its very title." (Id. at 11) Defendants argue that "The Five Civilized Tribes Act rectified this omission yet failed to include the Osage Indians within the clarifying provisions of Sec. 14." (Ibid.) They further urge that "[t]he lack of an expressed reservation in the allotment deeds, and the lack of compensation to the original allottees for the land used for the right of way, coupled with the silence of the Enid and Anadarko Act regarding the reversionary interest, clearly indicate the intent that the right of way revert to the abutting landowners," and that "[t]o hold otherwise, would cheat the original allottee, his heirs, beneficiaries, and assigns." (Id. at 11-12) There being "no relevant federal statute reserving the right of way to the Osage Indians," (Id. at 12) Defendants contend that "common law rules regarding reversionary interests apply," and that "abandoned

railroad right of way easements revert to the abutting landowners unless there is a clear and expressed reservation by the grantor or there is an overriding statute." (Ibid.)

In their reply brief filed on March 21, 1984, the Defendants, BOK and Bell, Trustees, further contend that "state law unequivocally established that the owner of the reversionary interest in a railroad right of way is the owner of the land on which the easement was carved and not the remote grantor of the right of way" for the reason that "Section 23 of [the Organic Act, 26 Stat. 81] vested the reversionary interest in public highways in the abutting landowner" and "[t]he Oklahoma Constitution clarified the public highway reversionary interest by clearly stating that the '[r]ailroads...are...public highways,' Okla. Const. art. No. 9 § 6." (emphasis added) (Id. at 3)

With respect to federal law, Defendants, BOK and Bell, Trustee, contend that under the Act of June 26, 1906, 34 Stat. 481, which Act was passed by Congress two days before the Osage Allotment Act was passed, railroad rights of way in Oklahoma Territory came under the provisions of the General Railroad Right of Way Act of March 3, 1875, 18 Stat. 482; that "[b]y placing Oklahoma Territory under the General Railroad Right of Way Act, Congress dissolved the legislative void inherently created by Section[s] 13 through 23 of the Enid and Anadarko Act" and, therefore, "[u]pon abandonment, the reversionary interest in the railroad right of way reverts to the abutting landowners in Osage County." (Id. at 3-4) In support of this contention Defendants

BOK and Bell, Trustees, cite Great Northern Ry. Co. v. United States, 315 U. S. 262 (1942). Reliance on Great Northern Ry. Co. for this proposition is misplaced. The issue in that case was whether Great Northern Ry. Co. "has any right to the oil and minerals underlying its right of way acquired under the general right of way statute, Act of March 3, 1875, c. 152, 18 Stat. 482." (Id. at 270) The Court held that under that Act the petitioner acquired "only an easement, and not a fee"; that under Section 1 of the Act "the right is one of passage since it grants 'the,' not a, 'right of way through the public lands of the United States.'" (emphasis added) (Id. at 271) Both the Act of March 3, 1875 and the Act of June 26, 1906 are acts covering rights of way through the public lands of the United States, not Indian lands such as the Osage Reservation. Capurro v. U. S., 2 Cl. Ct. 722 (1983). Nor does the language in the Organic Act vesting the reversionary interest in "public highways" in the abutting landowner, or the language in the Oklahoma Constitution that the "[r]ailroads...are...public highways" apply to railroad rights of way acquired under the Enid and Anadarko Act, as urged by Defendants, BOK and Bell, Trustees. Congress simply failed to specifically provide for reversion under the "General right of way" provisions (Sections 13 through 23) of the Enid and Anadarko Act, and have not enacted any legislation covering reversion with respect to rights of way acquired under the Enid and Anadarko Act in the Osage Reservation since the passage of that act in 1902

Turning to the Enid and Anadarko Act, it is clear that the Act had two separate and distinct purposes, and was created by combining two separate bills, H.R. 3104, which was a special bill

containing Sections 1 through 12 for the limited stated purposes "to grant the right of way through the Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes," and S. 3745, which was the general right of way bill containing eleven sections for the stated purposes "[t]o provide for the acquiring of rights of way by railway companies in the Indian Territory, and for other purposes." Sections 1 through 11 of S. 3745 were simply added as an amendment by the Senate to the House bill as Sections 13 through 23 without changing any of the language therein. Section 11 of the Senate bill, which became Section 23, repealed the earlier General Right of Way Act of March 2, 1899, "so far as it applies to the Indian Territory and Oklahoma Territory," and any other acts inconsistent with the Enid and Anadarko Act. Also, prior to its enactment, Section 23 was amended by the Conference Committee of the two houses so as to provide, inter alia, "[t]hat the provisions of this Act shall apply also to the Osages' reservation and other Indian reservations and allotted Indian lands in the territory of Oklahoma."

There was no attempt by Congress to integrate the provisions of the two bills into the Enid and Anadarko Act. Each bill contained its own separate provisions with respect to "Width" and "Stations" (Sec. 2 and Sec. 14); "Damages to individuals", "Appraisal", "Referees", "Compensation", "Award", and "Appeal" (Sec. 3 and Sec. 15); "Freight charges", "Passenger rates" and "Regulations" (Sec. 4 and Sec. 16); "Payment to tribes" and "Annual rental" (Sec. 5 and Sec. 16). Condemnation proceedings were provided in Section 15 of the "general right of way"

sections, while under the special provisions granting the right of way to the Enid and Anadarko Railway Company, Sec. 10 provided that as a condition of its acceptance of the right of way, the Enid and Anadarko Railway Company "will neither aid, advise, nor assist in any effort looking toward the changing or extinguishing of the present tenure of the Indians in their land, and will not attempt to secure from the Indian nation any further grant of land, or its occupancy, than is hereinbefore provided." Sec. 12, which was the last of the twelve sections covering the special grant of the right of way to the Enid and Anadarko Railway Company, stated: "That Congress may at any time amend, add to, alter, or repeal this Act." It is significant that Sec. 21 also provides: "That Congress hereby reserves the right at any time to alter, amend, or repeal this Act, or any portion thereof." Therefore, it is reasonable to assume that when Congress used the words "this Act" in Sec. 12 it was referring to the first eleven sections of the Enid and Anadarko Act. Otherwise, it would have not been necessary to state again in Sec. 21 that Congress was reserving the right to amend "this Act." By including the same language in Sec. 21 (which is identical to that in Section 9 of the Senate bill S. 3745) Congress apparently intended that "this Act" in Sec. 21 referred to those sections of the Enid and Anadarko Act commencing with Section 13 and ending with Section 23.

There is also language in the Senate bill, S. 3745, which refers to particular "sections", which language was included without change in the Enid and Anadarko Act. For example, the language in Sec. 17 of the Enid and Anadarko Act which states:

"The provisions of section three of this Act with respect to the condemnation of right of way through tribal or individual lands shall, except as in this section otherwise provided, apply to proceedings to acquire the right to cross or connect with another railroad," was taken from Sec. 5 of Senate bill, S. 3745. The reference to "section three" should have been to Sec. 15 of the Act since that section does provide for condemnation proceedings and was "section three" in the Senate bill from which the language was taken. Sec. 3 of the Enid and Anadarko Act contains no provisions for "condemnation of right of way," nor do any of the other special provisions (Sections 1 through 12) of the Act permit condemnation proceedings. In fact, as noted above, Sec. 10 of the act states that the Enid and Anadarko Railway Company "will not attempt to secure from the Indian nations any further grant of land."

At the time the Enid and Anadarko Railway Company bill (H.R. 3104) was introduced in the House, its sponsor, Congressman Curtis, was asked why it was necessary to introduce a special bill when there is a general law authorizing the Secretary of Interior to grant rights of way through Indian territories. Mr. Curtis stated that the land through which the right of way is asked belongs to the Indian tribes; that the tribes in the Indian Territory hold their land by patents from the Government and the title is in the tribes; that in the general law it is provided that settlement shall be made with the allottees in possession; that the general law passed in 1899 which grants rights of way through Indian reservations in the Territories, including the Indian Territory, is defective so far as the Indian Territory is

concerned because under that law the tribes were given no voice in the proceedings to take their lands for right-of-way purposes and it did not give them a day in court. (Congressional Record of February 1, 1902 at page 1201) Since Congress was aware that the land from which the right of way was to be taken belonged to certain Indian Tribes or Nations, it follows that Congress would provide in the special bill (Sec. 2) that "when any portion [of the right of way] shall cease to be so used such portion shall revert to the nation or tribe of Indians from which same shall have been taken." There are no references in the special provisions (Sections 1 through 12) of the Enid and Anadarko Act to "allottee" or "allottees," or to lands "allotted in severalty." On the other hand, under Sec. 13 of the "General right of way" provisions of the act (Sections 13 through 23), railroads are given the right to acquire rights of way "through any lands held by any Indian tribe or nation, person, individual, or municipality in said [Indian Territory] or in or through any lands in said Territory which have been or may hereafter be allotted in severalty to any individual Indian or other person under any law or treaty, whether same have or have not been conveyed to the allottee . . ." Because of the two different purposes to be served by the act, and because under the "General right of way" provisions, rights of way would pass through lands owned by individuals, including lands which "may hereafter be allotted in severalty to any individual Indian," Congress apparently did not deem it necessary or desirable to include any special reversionary provisions in the "General right of way" sections of the Enid and Anadarko Act. Nor did the earlier

General Right of Way Act of March 2, 1899, 30 Stat. 990, which was repealed by section 23 of the Enid and Anadarko Act "so far as it applies to the Indian Territory and Oklahoma Territory, and all other Acts or parts of Acts inconsistent" therewith, contained no reversionary provisions such as found in Sec. 2 of the Enid and Anadarko Act.

It is the view of the Court, and the Court so finds, that the "General right of way" provisions (sections 13 through 23) of the Enid and Anadarko Act do not incorporate the reversionary language of Sec. 2, and that the "this Act" language in Sec. 23, as well as in Sections 15, 16, 17, 21 and 22, means only those sections of the Enid and Anadarko Act commencing with Sec. 13 thereof and concluding with Sec. 23. Likewise, the "this Act" language in Sections 3, 5, 8, 9, 10 and 12 of the Enid and Anadarko Act means only those sections commencing with the first section and ending with Sec. 12 thereof.

"The starting point in every case involving the construction of a statute is the language of the statute itself." Stauffer Chemical Company v. Environmental Protection Agency, 647 F.2d 1075, 1077 (10th Cir. 1981) (citing Greyhound Corp. v. Mount Hood Stages, Inc., 437 U.S. 322, 330 (1978); Blue Chip Stamps v. Manor Drug Stores, 421 U.S. 723, 756 (1975)). As stated by the court in Board of Trustees of Firemen's Relief and Pension Fund of City of Muskogee v. Templeton, 184 Okl 281, 86 P.2d 1000, 1002 (1939):

Generally the word "act" as used in a legislative enactment refers to the entire statute enacted. (citations omitted) . . .

Unquestionably the use of the word in a legislative enactment should be given its general and ordinary meaning unless, in doing so, we transgress the fundamental rule of construction which requires the courts to, above all, ascertain if possible the true legislative will and intent. 59 C.J. 974-978, 1011, 1012.

"It is a familiar maxim of statutory interpretation that courts should enforce a law so as to achieve its overriding purpose, even if the words of the act leave room for a contrary interpretation." Martin v. Harris, 653 F.2d 428, 435 (10th Cir. 1981) (McKay, J., dissenting) (quoting Rosenberg v. Richardson, 538 F.2d 487, 490 (2d Cir. 1976)); (citing Haberman v. Finch, 418 F.2d 664, 666 (2d Cir. 1959)). "[I]t is one of the surest indexes of a mature and developed jurisprudence not to make a fortress out of the dictionary; but to remember that statutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning." Id. at 435, (quoting Cabell v. Markham, 148 F.2d 737, 739 (2d Cir.) (L. Hand, J.), aff'd, 326 U.S. 404 (1945))

In Capurro v. United States, 2 Cl. Ct. 722 (1983) the issue involved title to right of way which had been granted under the General Right of Way Act of 1899 to Central Pacific Railway by the United States across land located in the Pyramid Lake Palute Indian Reservation in Nevada. The court noted that the 1899 Act, which provides for railroad rights of way through Indian land, and the 1875 Act, pertaining to public land, "are the principal federal statutes governing the establishment of railroad rights-of-way."

The court found it "significant that Congress enacted [legislation] governing the extinguishment of railroad rights-of-way on public land, but passed no similar [act] governing the extinguishment of railroad rights-of-way on Indian land." The court then held that "[s]ince statutory guidance is lacking," the court "must resort to common law principles in ascertaining ownership to the strip of land after the railroad abandoned the right-of-way." The court further stated:

While an abundance of authority in this area is lacking, courts have generally held that under such circumstances the strip of land belongs to the fee owner of the adjacent land. It is a rule of general application that the servient estate in a strip of land burdened with an easement for a railroad right of way or other purposes passes with a conveyance of the fee to the abutting legal subdivision or tract out of which it was carved without express provision to that effect in the instrument of conveyance. Upon abandonment of the easement the dominant estate becomes extinguished and the entire title and estate vests in the owner of such abutting subdivision or tract. *Fitzgerald*, 281 F.2d at 718 (footnote omitted) (citing *United States v. Magnolia Petroleum Co.*, 110 F.2d 212 (10th Cir. 1939); *United States v. Drumb*, 152 F.2d 821 (10th Cir. 1946)). See also *Sand Springs Home*, 536 P.2d at 1280.

It is significant that this rule was developed by courts in the western United States where this land is located. Courts familiar with local conditions are best suited to enunciate and interpret the law pertaining to real estate. The court adopts the quoted rule and holds that the strip of land in question accrued to the abutting estate which belonged to plaintiffs.

Plaintiff agrees (See Plaintiff's reply brief filed January 30, 1984, at page 24) with the statement of the general common law rule as announced by the Tenth Circuit in *Fitzgerald v. City of Ardmore, Oklahoma*, 281 F.2d 717 (10th Cir. 1960); *United States v. Magnolia Petroleum Co.*, 110 F.2d 212 (10th Cir.

1939); United States v. Drumb, 152 F.2d 821 (10th Cir. 1946); Seminole Nation v. White, 224 F.2d 173 (10th Cir. 1955); St. Louis-San Francisco Railway Company v. The Town of Francis, 249 F.2d 546 (10th Cir. 1957); Chickasha Cotton Oil Co. v. Town of Maysville, 249 F.2d 542 (10th Cir. 1957); Town of Maysville, Oklahoma v. Magnolia Petroleum Co., 272 F.2d 806 (10th Cir. 1959) However, Plaintiff points out that "the courts in each of these seven cases, while recognizing the existence of this common law left it and based their decision on a controlling statute [Five Civilized Tribes Act]." (emphasis in original) (Id. at 24)

In the instant cases, we have no controlling statute with respect to reversion of the subject lands. Therefore, this court must apply the general common law rule as announced by the 10th Circuit in Fitzgerald and the other cases cited above.

With respect to the allotment deeds from which the Defendants in the instant cases claim to have derived title, Plaintiff contends that Sec. 11 of the Osage Allotment Act, which states "[t]hat all lands taken or condemned by any railroad company in the Osage reservation, in pursuance of any act of Congress . . . are hereby reserved from selection and allotment and confirmed in such railroad companies for their use and benefit in the construction, operation, and maintenance of their railroads," clearly indicates the intent of Congress in 1906 "to reserve the land in the right of way from allotment, because i[t] already had been acquired by the railroad, by condemnation, in 1905 for railroad purposes"; that there is "[t]otally missing

from [Sec. 11] any limiting terms such as 'interest in land' or 'easement in land,' or 'dominant estate.'" (emphasis in original) (Plaintiff's brief filed January 30, 1984 at 20) Attached to Plaintiff's brief is a copy of an allotment deed, which Plaintiff claims is "typical of the form used for all" of the allotment deeds in the instant cases; that "[t]he deeds recite that they are subject to all conditions, limitations and provisions of the Osage Allotment Act" and that "[t]his recitation, together with the language 'less "x" acres reserved,' etc., used in the deeds shows that the deeds did in fact comply exactly with the requirements of the said Act," and that "if the 'lands' involved in the right of ways had not been reserved, the deeds would have violated the Act." (emphasis in original) (Id. at 20-21) Plaintiff cites Chickasha Cotton Oil Co. v. Town of Maysville, Okl., 249 F.2d 542 (10th Cir. 1957) and Fitzgerald v. City of Ardmore, Oklahoma, 281 F.2d 717 (10th Cir. 1960) to "refute Defendants' theory that title to the land in a railroad right of way passed to the allottee under a deed in the form" used in the instant cases. (emphasis in original) (Id. at 21)

In Fitzgerald, the facts were stipulated that "[t]he predecessors of the St. Louis-San Francisco Railway Company acquired the right of way under the Acts of Congress [General Right of Way Act of March 2, 1899 and the Enid and Anadarko Act of February 28, 1902] providing for acquisition by railroads of easements over Indian tribal lands"; that on September 5, 1905, patent was issued by the Choctaw-Chickasaw Nations to Rosa

McLish, a citizen of the Chickasaw Nation, conveying her certain lands less 12.08 acres occupied as a railroad right of way"; (emphasis added) and that "[i]n 1916, the allottee platted that portion of the lands abutting the right of way into lots and blocks which was annexed as a new addition to the City of Ardmore." 281 F.2d at 718. In holding that upon abandonment by the railway company of the right of way, the land reverted to the original allottee, the court stated:

In our case the land in question upon which the railway company had obtained an easement was reserved from allotment and title remained in the tribes. The railway company did not take advantage of its right to purchase the fee title to the land, and the "failure to exercise such right constituted abandonment of the title in fee" on November 1, 1908. Title to the strip of land thereupon vested in the allottee, Rosa McLish, who was then the owner of the legal subdivision of which such strip was a part. (emphasis added)

(Id. at 719)

The court further stated that its decision in Chickasha Cotton Oil Co. "is controlling and that abandonment occurred in 1908 at which time title vested in the abutting owner," who at that time was the original allottee. (Id. at 718) Title then passed by mesne conveyances to the remote grantees of the original allottee. (Ibid.)

In Chickasha Cotton Oil Co., the Atcheson, Topeka, and Santa Fe Railway Company acquired a right of way pursuant to Sec. 13 of the Enid and Anadarko Act. "The land involved was originally a portion of the tribal lands of the Choctaw and Chickasaw Nations, members of the Five Civilized Tribes of Indians." 249 F.2d at 543 The court held "that the railway company had the right to acquire the easement for a right of way; that upon acquiring the

easement the land was reserved from allotment." (emphasis added)
(Id. at 546)

The attorneys representing the various Defendants have adopted the brief filed on behalf of BOK and Bell, Trustees, and some of the Defendants have filed separate briefs. In the brief filed on January 13, 1984, on behalf of Defendants represented by Bruce W. Gambill, of Kelly and Gambill,⁴ the Defendants contend that "[t]he Department of Interior, interpreted the involved acts as granting fee simple title subject to reservation of the minerals and an easement to the railroad"; that "[t]his conclusion is necessarily reached in that without exception Allotment Deeds wherein the Railroad was located were in 160 acre increments without additional acreage granted to the allottee to compensate for the Railroad taking"; that "[i]t is implicit under the Act, that the Allottee receive 160 acre tracts in his first two selections and that therefore the Secretary must have interpreted the legislation to grant the fee to the Allottee subject to Railroad easement." (Gambill's brief at 5). In support of their motion for summary judgment, the Defendants represented by Mr. Gambill, have filed an affidavit in which Mr. Gambill states "[t]hat he has contacted the Solicitor for the Osage Indian Agency with regard to the original allotments of land to tribal members, upon whom railroad easements are reflected in their respective acreage allotments"; that "[s]aid Solicitor informed affiant that no compensating acreage was deeded to said allottees." (emphasis in original)

In the brief filed on behalf of the Defendants represented

by W. Robert Wilson, of Kane, Kane, Wilson & Mattingly,² Defendants point out that Section 2 of the Osage Allotment Act provides "[t]hat all lands belonging to the Osage tribe of Indians in Oklahoma territory, except as herein provided, shall be divided among the members of said Tribe, giving to each his or her fair share thereof in acres. . ." Defendants urge that this language is clear and shows that "[t]he intent was that each member was to have his or her fair share of land in acres, and therefore, by necessity, all deeds of allotment, both surplus and homestead lands, did contain the exact acreage as set forth in the deeds, to comply with an equal division of lands as to acreage." (emphasis in original) (Defendants' brief filed January 13, 1984 at page 4) Defendants further note that Subsection 5 of Section 2 of the act provides that "[a]fter each member has selected his or her first, second or third selections of 160 acres of land, as herein provided, the remaining lands of said Tribe in Oklahoma territory, except as herein provided, shall be divided as equally as practical among said members..." (emphasis added in original) (Id. at 4-5) Defendants contend that "[by] the addition of this provision, Congress again expressed its explicit intent that all lands belonging to the Osage Tribe located in Oklahoma territory were to be distributed." (emphasis in original) (Id. at 5) Defendants further point out that "Subsections 8, 9, 10, 11 and 12 of Section 2 of the [Osage Allotment Act] specifically provide that certain lands are to be reserved from selection and allotment in severalty, but nowhere therein is any reference made to railroad property"; (emphasis in original) (Ibid.) that "Subsection 12 specifically

provides that if the 20 acres reserved for cemetery purposes is not used, that the same shall revert to the use and benefit of the individual members of the tribe." (emphasis in original) (Id. at 5) Defendants further point out that "Section 11 of the [Osage Allotment Act] specifically deals with railroad lands and while by necessity since said lands were not capable of being 'used' by an allottee, and the Tribe by Section 2 was mandated to divide the land among the Tribal members giving to each his fair share in acres, the same were reserved from allotment, but no mention of reversion to the Tribe upon abandonment or non-use was made." (Ibid.) Defendants urge that Congress "intended for all lands of every kind and character, except as specifically reserved and excepted, to be distributed in severalty among the members of the Tribe, and to terminate completely and forever Tribal ownership of said lands." (Id. at 6)

Plaintiff contends that "[i]t is not essential to use the word 'reserve' or some derivative thereof such as 'reserved' or 'reservation' in order to withhold lands or an interest therein from allotment"; that "in situations where the land intended to be withheld is very small or very irregular in shape, the description of the land to be granted would become very cumbersome" and that "under such circumstances it is not unusual for a deed to first describe all of the land, including the part intended to be withheld, and then exclude from the description a certain area described with particularity"; that "[i]n the case of the Osage allotment deeds the exclusion was accomplished by use of the word 'less,' followed by a number of acres of lands,

described and identified as those under the railroad right of way." (emphasis in original) (Plaintiff's brief filed March 16, 1984 at 5-6)

Plaintiff further states that "[w]hen the language of [Sections 2 and 3 of the Osage Allotment Act] reserving minerals to the Osage Tribe [is] compared with . . . Section 11, it will be observed that the word 'reserved' is used in both instances . . . [and] that the sections reserving minerals to the Tribe do not specifically say that the minerals are reserved from allotment." (emphasis in original) (*Id.* at 9) Plaintiff points out that in Adams v. Osage Tribe of Indians, 59 F.2d 653 (10th Cir. 1932), which involved construction of the language in the Osage Allotment Act with respect to the minerals, "the Adams Court had no difficulty in determining that the language used withheld the minerals from allotment." (*Ibid.*) In Adams the Court stated:

The Congress had full power, when it passed the Allotment Act, to make such provisions for safeguarding and administering the communal estate of the tribe, and dividing it in severalty among the members of the tribe, as its informed judgment might dictate, for the benefit of all concerned--whether it would be equitable and just that all tribal property, including minerals under the land, be at once allotted among the members in severalty. There must have been a doubt, well founded in later developments, that the minerals, since proven to be of great wealth, could not then be equitably divided, and so Congress chose a method by which that could be and is being accomplished. For that purpose the act provided that minerals under lands to be allotted were reserved to the Osage Tribe and were not to be sold. The necessary effect of this was to withhold the minerals from division, and set them apart from the lands to be divided, for the use and benefit of the tribe, not disturbing the tribe's communal equitable estate in them . . .

Plaintiff contends that "the deeds involved in the Adams case and the deeds involved in [the instant] cases are both authorized and controlled by the same act of Congress, to-wit: the Osage

Allotment Act" and, therefore, "the principles applied by the Adams Court" should be used in the instant cases. (Id. at 9) At the same time Plaintiff recognizes that "[t]he only section in the entire [Osage Allotment Act] which deals with railroad right of ways is Section 11 . . . [which] says very plainly that all railroad lands are reserved from selection and allotment, but it says nothing whatsoever about what happens upon abandonment of railroad use of such lands. "(Id. at 19) Plaintiff then turns to Sec. 2 of the Enid and Anadarko Act to support its claim that the abandoned right of way reverted to the Osage tribe.

Applying the same rules of statutory construction with respect to the Osage Allotment Act as stated above in connection with the Enid and Anadarko Act, this Court concludes that it was not intended by the language used in Section 11 of the Osage Allotment Act that land taken or condemned by a railroad company in the Osage Reservation for a right of way which was "reserved from selection and allotment," would revert to the Osage Tribe in the event such right of way was abandoned. On the contrary, the overriding purpose of the Osage Allotment Act was to divide among the members of the Osage Tribe all lands (excluding the minerals) belonging to the Tribe, "giving to each his or her fair share thereof in acres." (Sec. 2 of the Osage Allotment Act)

Therefore, since the Osage Allotment Act did not contain provisions for reversion in the event of abandonment, the general common law rule (see pages 21-22 herein) dictates that title to such land vest in the abutting owners of the land from which the right of way was taken upon abandonment or non-use by the railroad company. This result is consistent with other acts of Congress where the same

subject matter has been considered. As noted above in the discussion of the Five Civilized Tribes Act, Sec. 14 of that act "reserved from allotment" land which had been acquired by a railroad for a right of way, and vested the title to the land in the abutting landowners in the event the railroad company failed to purchase the land within a certain period of time or "cease[d] to use such land for the purpose for which it was reserved." The result is also consistent with 43 U.S.C. § 912 which provides for "Disposition of abandoned or forfeited railroad grants" where a right of way has been granted to a railroad company across public lands of the United States. It also complies with the policies of the Department of Interior as expressed by the Secretary of Interior at the time the Enid and Anadarko bill was introduced in Congress where, in the report of the Committee on Indian Affairs the Secretary of Interior is quoted in a letter to the Committee as stating that "it is very much better for all concerned that the railroad rights of way in Indian Territory should be obtained and held under general legislation of like application to all instances of a like character." (Congressional Record of February 1, 1902 at pages 1201-1202). And finally, the general common law rule which vests in the abutting landowner the entire title and estate in the strip of land set apart for a railroad right of way just makes good sense. As expressed by the Court in Magnolia Petroleum Co., 110 F.2d 212, 217-218 (10th Cir. 1939):

The evils resulting from the retention and remote dedications of the fee in gores and strips, which for many years are valueless because of the public easement in them and which then become valuable because by reason of an abandonment of the public use, have led courts to strain constructions to include the fee of such gores and strips in deeds of the abutting lots. And modern decisions are even more radical in this regard than the older cases. (quoting In Paine v.

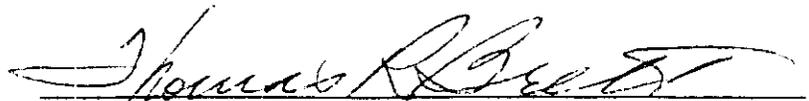
Consumers' Forwarding and Storage Co., 6 Cir. 71 F.
626, 632)

This reasoning is particularly pertinent to the facts of these consolidated cases with the 45 mile long 100 yard wide strip of land, and its effect upon the rights of the myriad of abutting fee holders.

Accordingly, Plaintiff's Motion for Partial Summary Judgment is overruled and the various Motions of Defendants for Summary Judgment are sustained.

As mentioned above, the Court's order of October 26, 1983 provided that "any additional issue or issues" were to be addressed following the Court's decision on the issue considered herein. It is, therefore, ordered that the parties in each of the 54 cases file a joint stipulation setting forth any additional issue or issues remaining for trial. Such stipulation shall be filed by July 2, 1984. A status conference is hereby set on July 3, 1984 at 8:30 a.m. Thereafter, the court will enter a final judgment as to one or more of the claims and/or parties pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

DATED this 22nd day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FOOTNOTES

1. The relevant language of Sections 2, 13 and 23 of the Enid and Anadarko Act is as follows:

Sec. 2. That said corporation [Enid and Anadarko Railway Company] is authorized to take and use for all purposes of a railway, and for no other purpose, a right of way one hundred feet in width through said Oklahoma Territory and said Indian Territory . . . Provided further, That no part of the lands herein authorized to be taken shall be leased or sold by the company, and they shall not be used except in such manner and for such purposes only as shall be necessary for the construction and convenient operation of said railway, telegraph, and telephone lines; and when any portion thereof shall cease to be so used such portion shall revert to the nation or tribe of Indians from which the same shall have been taken.

Sec. 13. That the right to locate, construct, own, equip, operate, use, and maintain a railway and telegraph and telephone line or lines into, in, or through the Indian Territory, together with the right to take and condemn lands for right of way, depot grounds, terminals, and other railway purposes, in or through any lands held by any Indian tribe or nation, person, individual, or municipality in said Territory, or in or through any lands in said Territory which have been or may hereafter be allotted in severalty to any individual Indian or other person under any law or treaty, whether same have or have not been conveyed to the allottee, with full power of alienation, is hereby granted to any railway company organized under the laws of the United States, or of any State or Territory, which shall comply with this Act.

Sec. 23. . . . That the provisions of this Act shall apply also to the Osages' Reservation and other Indian reservations and allotted Indian lands in the Territory of Oklahoma, . . .

2. Defendants in case numbers: 82-C-897-B, 82-C-898-B, 82-C-899-B, 82-C-901-B, 82-C-902-B, 82-C-903-B, 82-C-904-B, 82-C-908-B, 82-C-912-B, 82-C-913-B, 82-C-916-B, 82-C-921-B, 82-C-922-B, 82-C-924-B, 82-C-925-B, 82-C-926-B, 82-C-927-B, 82-C-928-B, 82-C-929-B, 82-C-930-B, 82-C-931-B, 82-C-938-B.

3. For the convenience of the Court and the parties in the various actions, the Court has placed in the court file in United States of America v. Atteberry, 82-C-896-B, the legislative history documents to which the Court has referred, which includes copies of the following documents: (1) "Congressional Record-House" of February 1, 1902, pages 1201-1202; (2) "Congressional Record-Senate" of February 14, 1902, pages 1751-1752; (3) "Congressional Record-Senate" of February 19, 1902, page 1900; (4) "Congressional Record-House" of February 19, 1902, page 1959; (5) Report No. 257 of the Committee on Indian Affairs, dated

January 29, 1902 with respect to the Enid and Anadarko Railway Company bill; (6) H.R. 3104, a bill to grant the right of way through the Oklahoma Territory and the Indian Territory to the Enid and Anmadarko Railway Company, and for other purposes; (7) H.R. 10065, a bill to provide for the acquiring of rights of way by railway companies in the Indian Territory, and for other purposes; (8) S. 3745, a bill to provide for the acquiring of rights of way by railway companies in the Indian Territory, and for other purposes; (9) H.R. 11098, a bill to grant the right of way through Oklahoma Territory, including the Osage reservation, and the Indian Territory to the Missouri, Kansas and Oklahoma Railroad Company, and for other purposes; (10) S. 3741, a bill to grant the right of way through Oklahoma Territory, including the Osage reservation, and the Indian Territory to the Missouri, Kansas and Oklahoma Railroad Company, and for other purposes; (11) S. 3601, a bill to grant the right of way through the Oklahoma Territory and the Indian Territory to the St. Louis and San Francisco Railroad Company; (12) H.R. 11003, a bill to grant the right of way through the Oklahoma Territory and the Indian Territory to the St. Louis and San Francisco Railroad Company

4. Defendants in case numbers: 82-C-907-B, 82-C-909-E, 82-C-910-E, 82-C-913-E, 82-C-914-E, 82-C-915-C, 82-C-917-B, 82-C-918-B, 82-C-919-E, 82-C-920-C, 82-C-921-B, 82-C-923-E.

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

Entered

81-313

JUN 22 1984

JUDICIAL CLERK
U.S. DISTRICT COURT

LITTLE WING, INC., d/b/a)
LITTLE WING PRODUCTIONS,)
)
Plaintiff,)
)
vs.)
)
DOLLY PARTON,)
)
Defendant.)

Case No. 81-C-95-B

STIPULATION OF DISMISSAL

Pursuant to Rule 41(1) of the Federal Rules of Civil Procedure, the undersigned parties hereby enter into a Stipulation of Dismissal wherein it is stipulated that the Plaintiff, Little Wing, Inc., d/b/a Little Wing Productions, dismisses with prejudice any cause of action pending against the above named defendant.

Robert S. Durbin

ROBERT S. DURBIN
ATTORNEY FOR PLAINTIFF

Laurence L. Pinkerton

LAURENCE L. PINKERTON
ATTORNEY FOR PLAINTIFF

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

Minute Sheet - General

Perez

Plaintiff(s),

Case No. 84-C-200 ✓

vs.

Date 6.22.87

Mingo Valley

PROCEEDING Sched

Defendant(s).

JUDGE COOK _____	Deputy R. Miller _____	Reporter Mickey _____
JUDGE ELLISON _____	Deputy McCullough _____	Reporter Dorrough _____
JUDGE BRETT _____	Deputy Overton _____	Reporter Caslavka _____
JUDGE _____	Deputy _____	Reporter _____

COUNSEL FOR: Plaintiff Jackson Zanerkeft

2:40 - 2:45 Defendant Phil Mc Bowen

MINUTES: IT oral imp/dismiss, no obj by A, case dismissed by Ct.

A ✓

LIST WITNESSES ON BACK:

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RONALD E. BILKE,)
)
 Defendant.)

JUN 21 1984

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

CIVIL ACTION NO. 84-C-370-E

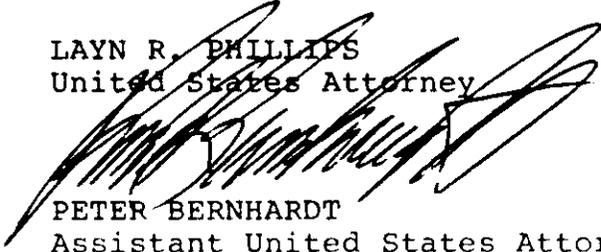
NOTICE OF DISMISSAL

COMES NOW the United States of America by
Layn R. Phillips, 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 June, 1984.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



PETER BERNHARDT
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 21st day of June,
1984, a true and correct copy of the foregoing was mailed,
postage prepaid thereon, to: Ronald E. Bilke, R.R. 1, Box 204,
Wyandotte, Oklahoma 74370.


Assistant United States Attorney

51

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JUN 21 1984 *km*
D. SILVER, CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

TEDDY O. McWHIRT; SHARON K.)
McWHIRT; CITY FINANCE COMPANY)
OF OKLAHOMA, INC.; COUNTY)
TREASURER, Mayes County,)
Oklahoma; and BOARD OF COUNTY)
COMMISSIONERS, Mayes County,)
Oklahoma,)

Defendants.)

CIVIL ACTION NO. 84-C-277-C ✓

STIPULATION OF DISMISSAL

COMES NOW the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and Defendant, City Finance Company of Oklahoma, Inc., by its attorney, William Leiter, and hereby stipulate that Plaintiff's Complaint and the Cross-Complaint of Defendant, City Finance Company of Oklahoma, Inc., may be dismissed with prejudice pursuant to Rule 41(a)(1)(ii).

Plaintiff would advise the Court that the 1983 real property taxes on the real property, which is the subject of this foreclosure, have been paid.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney

[Signature]
PETER BERNHARDT
Assistant United States Attorney
460 U. S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

William Leiter

WILLIAM LEITER
Attorney for Defendant
City Finance Company of
Oklahoma, Inc.

CERTIFICATE OF SERVICE

This is to certify that on the 21st day of June, 1984,
a true and correct copy of the foregoing was mailed, postage
prepaid, to the following:

Teddy O. McWhirt
320 Southwest Graham
Pryor, OK 74361

Sharon K. McWhirt
320 Southwest Graham
Pryor, OK 74361

William Leiter, Esq.
Unruh & Leiter
Suite 525, 320 South Boston
Tulsa, Oklahoma 74103

County Treasurer
Mayes County Courthouse
Pryor, OK 74361

Board of County Commissioners
Mayes County Courthouse
Pryor, OK 74361

[Handwritten Signature]

Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JAMES R. MATE, MARY H. MATE,)
 COUNTY TREASURER, Ottawa)
 County, Oklahoma, and BOARD)
 OF COUNTY COMMISSIONERS,)
 Ottawa County, Oklahoma,)
)
 Defendants.)

JUN 20 1984

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

CIVIL ACTION NO. 83-C-674-E

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 17 day
of June, 1984. The Plaintiff appears by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney; the Defendants, County Treasurer and Board of County
Commissioners, Ottawa County, Oklahoma, appear by David L.
Thompson, Assistant District Attorney, Ottawa County, Oklahoma;
and the Defendants, James R. Mate and Mary H. Mate, appear not,
the Court having previously granted Summary Judgment in favor of
Plaintiff, United States of America, and against the Defendants,
James R. Mate and Mary H. Mate.

The Court being fully advised and having examined the
file herein finds that Defendant, County Treasurer, Ottawa
County, Oklahoma, was served with Summons and Complaint on
September 12, 1983; that the Defendant, Board of County
Commissioners, Ottawa County, Oklahoma, was served with Summons

and Complaint on August 8, 1983; that the Defendant, James R. Mate, was served with Alias Summons and Complaint on September 26, 1983; and that the Defendant, Mary H. Mate, was served with Alias Summons and Complaint on February 14, 1984.

It appears that the Defendants, County Treasurer and Board of County Commissioners, Ottawa County, Oklahoma, have filed their Answer on January 9, 1984; and that the Defendants, James R. Mate and Mary H. Mate, have filed their Answer on September 7, 1983.

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

Lot Three (3), in the Anderson, Buzzard, Fisher Addition to the Town of Quapaw, Ottawa County, Oklahoma, according to the recorded plat thereof.

THAT on May 7, 1981, James R. Mate and Mary H. Mate executed and delivered to the United States of America, acting through the Farmers Home Administration, their promissory note in the amount of \$26,300.00, payable in monthly installments with interest thereon at the rate of 12 percent per annum.

That as security for the payment of the above described note, James R. Mate and Mary H. Mate executed and delivered to the United States of America, acting through the Farmers Home Administration, a real estate mortgage dated May 7, 1981, covering the above described property. This mortgage was

recorded on May 7, 1981, in Book 375, Page 629, in the records of Ottawa County, Oklahoma.

The Court further finds that Defendants, James R. Mate and Mary H. Mate, made default under the terms of the aforesaid promissory note and mortgage by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the Defendants, James R. Mate and Mary H. Mate, are indebted to the Plaintiff in the sum of \$28,343.38, plus accrued interest of \$403.45 as of May 13, 1983, plus interest thereafter at the rate of 12 percent per annum or \$2.3295 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that on February 7, 1982, the Defendants, James R. Mate and Mary H. Mate, entered into an Interest Credit Agreement with the Farmers Home Administration, United States Department of Agriculture, whereby the interest rate on the said notes herein being sued upon would be lowered, thereby reducing the total monthly payment by \$119.00; that said mortgages secured the recapture of the interest credit and subsidy granted to the said Defendants under said Interest Credit Agreement; and that under the authority of 42 U.S.C. § 1490(a) and 7 C.F.R. 1951, Subpart I, Plaintiff is entitled to recapture the subsidy granted said Defendants under the Interest Credit Agreement in the amount of \$2,012.97.

The Court further finds that the Defendant, County Treasurer, Ottawa County, Oklahoma, has a lien on the property

which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$170.64. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, County Treasurer, Ottawa County, Oklahoma, has liens on the property which is the subject matter of this action by virtue of personal property taxes in the amounts of \$26.06 for the tax year 1982 and \$24.00 for the tax year 1983. Said liens are subject and inferior to the interest of the Plaintiff, United States of America.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendants, James R. Mate and Mary H. Mate, in the principal amount of \$28,343.38, plus accrued interest of \$403.45 as of May 13, 1983, plus interest thereafter at the rate of 12 percent per annum, or \$2.3295 per day, until judgment, plus interest thereafter at the current legal rate of 12.08 percent per annum until paid, plus interest credit subsidy in the amount of \$2,012.97, 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 upon the failure of said Defendants, James R. Mate and Mary H. Mate, 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 real property involved herein and apply the proceeds of the sale as follows:

First:

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

Second:

In payment of the Defendant, County Treasurer, Ottawa County, Oklahoma, in the amount of \$170.64, ad valorem taxes which are presently due and owing on said real property;

Third:

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

Fourth:

In payment of the Defendant, County Treasurer, Ottawa County, Oklahoma, in the amount of \$50.06, personal property taxes which are currently due and owing on said real property.

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

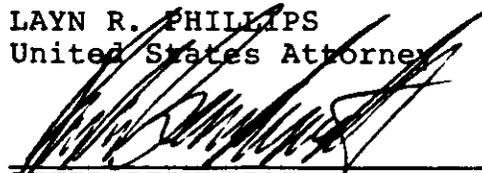
and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

LAYN R. PHILLIPS
United States Attorney



PETER BERNHARDT
Assistant United States Attorney



DAVID L. THOMPSON
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Ottawa County, Oklahoma

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

RECEIVED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 MALVIN C. JUDKINS,)
)
 Defendant.)

JUN 20 1984

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

CIVIL ACTION NO. 83-C-667-E

ORDER OF DISMISSAL

Now on this 19th day of June, 1984, it appears that the Defendant in the 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, Malvin C. Judkins, be and is dismissed without prejudice.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

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

FILED

JERRY D. ERWIN,)
)
Plaintiff,)
)
vs.)
)
VANGUARD INSURANCE COMPANY,)
)
A Texas Corporation licensed)
to do business in the State of)
Oklahoma,)
)
Defendant.)

JUN 20 1984

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

No. 83-C-461-E

ORDER OF DISMISSAL
WITH PREJUDICE

Now on this 17 day of June, 1984, the above styled matter coming on to be heard upon Plaintiff's Motion to Dismiss his cause of action with prejudice, and the Court finding that the parties have reached a settlement and that the case is now moot, and that the Defendant has no objection thereto;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff's cause of action is hereby dismissed with prejudice to the filing of another cause.

S/ JAMES O. ELLISON

U. S. District Judge

APPROVAL AS TO FORM AND SUBSTANCE:

Jerry D. Erwin
By James W. Thompson
James W. Thompson
Attorney for Plaintiff

Vanguard Insurance Company
By Robert S. Gee
Robert S. Gee
Attorney for Defendant

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

FILED

JUN 20 1984

THE WILLIAMS COMPANIES and)
CONSOLIDATED SUBSIDIARIES,)
)
Plaintiff)
)
v.)
)
UNITED STATES,)
)
Defendant)

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

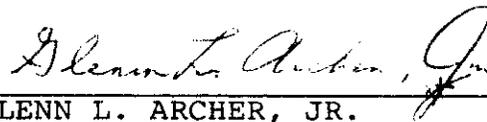
CIVIL NO. 83-C-342-E

STIPULATION FOR ENTRY OF JUDGMENT

It is hereby stipulated and agreed that judgment may be entered in favor of the plaintiff, The Williams Companies and Consolidated Subsidiaries, and against the defendant, the United States of America, in the amount of \$263,632.00 in tax, \$108,200.64 in deficiency interest, and \$12,021.76 in penalty paid, plus interest thereon according to law. Execution of this stipulation does not preclude the plaintiff from claiming costs, fees, or other expenses under 28 U.S.C., Section 2412.


FRED S. NELSON

Counsel for Plaintiff


GLENN L. ARCHER, JR.
Assistant Attorney General
Tax Division

Counsel for Defendant

ORDER

IT IS SO ORDERED, this 19 day of June, 19 84.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Entered

FILED

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

JUN 20 1984

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

HARVEY J. FOREMAN,)
)
Plaintiff,)
)
vs.)
)
DEWEY F. MILLAY,)
)
Defendant.)

No. 82-C-1124E

ORDER

Upon consideration of the Application of the parties to dismiss this action with prejudice, the Court finds the same should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that this action is dismissed with prejudice with costs assessed to the plaintiff.

S/ JAMES O. ELISON

JUDGE OF THE UNITED STATES
DISTRICT COURT

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

TOMMY H. FARGUSON,

Plaintiff,

vs.

J. D. THOMSON,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

No. 84-C-362-C

FILED

JUN 19 1984

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

ORDER

On the 15th day of June, 1984, the above-styled action came on for hearing on a status and scheduling conference before the undersigned United States District Judge. The pro se Plaintiff Tommy H. Farguson did not appear in person or by counsel. The Defendant, J. D. Thomson, appeared by Frederic N. Schneider, III. Based upon the willful failure of the Plaintiff to appear at the status and scheduling conference, although duly notified of the same, the Court finds that the above-styled action and Complaint should be dismissed for failure to prosecute pursuant to Rule 41(b), F.R.Civ.P.

IT IS THEREFORE ORDERED that the above-styled action and Complaint be, and the same are, hereby DISMISSED for failure to prosecute pursuant to Rule 41(b), F.R.Civ.P.

DATED this 19 day of June, 1984.

s/H. DALE COOK

Chief Judge, United States
District Court

Entered

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

RECEIVED

JUN 20 1984

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

JAMES R. BLAKEMORE, an)
individual,)
)
Plaintiff,)
)
vs.)
)
ROBERT L. SCHWARTZ, individually)
and NATIONAL VENTURES TULSA ASSO-)
CIATES, an Oklahoma limited part-)
nership,)
)
Defendants.)

Case No. 84-C-293-D *LE*

O R D E R

THIS matter coming before the undersigned on this 5th day of June, 1984, pursuant to the Motion to Dismiss of the Defendants, National Ventures Tulsa Associates, an Oklahoma limited partnership and Robert L. Schwartz, with the Defendants appearing by and through their attorney of record, Robinson, Boese, Davidson & Sublett, by Kenneth M. Smith, and the Plaintiff, James R. Blakemore, appearing by and through his attorney of record, Jon Wallis.

The Court, after reviewing the briefs filed by the respective parties hereto, hearing argument of counsel, and being otherwise fully advised in the premises;

Finds that the Motion to Dismiss of Robert L. Schwartz be, and the same is overruled, and it is so ordered;

The Court further finds that the Motion to Dismiss of the Defendant, National Ventures Tulsa Associates, an Oklahoma limited partnership, should be sustained as to all Three Causes of Action brought by the Plaintiff, and said claims, as contained in Causes of Action One through Three are hereby ordered dismissed as to the Defendant National Ventures Tulsa Associates, an Oklahoma limited partnership;

The Court further finds that the Plaintiff should amend the Third Cause of Action of his Complaint alleging violation of the Securities Laws of the State of Oklahoma by Robert L. Schwartz so that said Cause of Action contains sufficient facts to put the above-named Defendant on notice of the acts complained of, and it is therefore ordered that the Plaintiff shall amend the Third Cause of Action of his Complaint on or prior to June 25, 1984;

It is further ordered that the Defendant, Robert L. Schwartz, shall file an answer in response to the First and Second Causes of Action prior to June 25, 1984.

S/ JAMES O. ELLISON

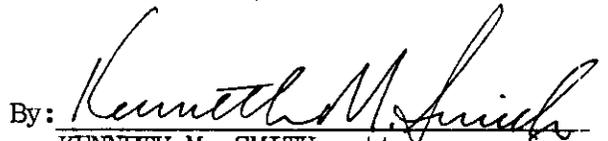
UNITED STATES DISTRICT JUDGE

APPROVED:



JON WALLIS, attorney of record for
JAMES R. BLAKEMORE, Plaintiff

ROBINSON, BOESE, DAVIDSON & SUBLETT

By: 

KENNETH M. SMITH, attorneys of
record for ROBERT L. SCHWARTZ
and NATIONAL VENTURES TULSA
ASSOCIATES, an Oklahoma limited
partnership, Defendants

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA **FILED**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 MICHAEL C. HAMILTON,)
)
 Defendant.) CIVIL ACTION NO. 84-C-195-C

JUN 20 1984
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

In accordance with the Court's Order Granting Judgment on the Pleadings filed herein on June 8, 1984, Plaintiff, United States of America, is awarded Judgment against Defendant, Michael C. Hamilton, in the principal amount of \$252.80 (less the amount of \$20.00 which has been paid), plus interest at the rate of 15.05 percent per annum, and administrative costs of \$.61 per month from August 11, 1983, until Judgment, plus interest at the rate of 12.08 percent per annum from the date of this Judgment until paid and costs of this action.

IT IS SO ORDERED this 20th day of June, 1984.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 19 1984

JACK S. SILVER, CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
DON A BAKER,)	
)	
Defendant.	)	CIVIL ACTION NO. 84-C-323-B

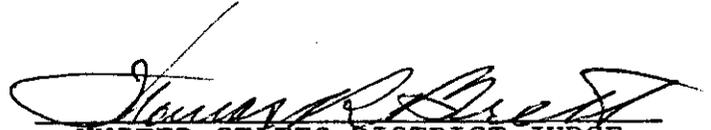
ORDER GRANTING JUDGMENT ON THE PLEADINGS

This case comes on before the Court on this 18th day of June, 1984, upon the Motion of the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, for a judgment on the pleadings in favor of the United States of America and against the Defendant, Don A. Baker.

Upon examination of the pleadings contained in the Court file, the Motion and Brief submitted by the United States of America, and being fully advised in the premises, the Court finds that the Defendant, Don A. Baker, filed his Answer to the Complaint on April 17, 1984, wherein he does not deny any of the allegations contained in the Complaint and admits that he owes the debt sued upon. The United States of America is therefore entitled to a judgment on the pleadings against the Defendant, Don A. Baker, for the amounts alleged in the Complaint.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, United States of America, shall have judgment on the

pleadings in its favor and against the Defendant, Don A. Baker,
for the amounts alleged in the Complaint.


UNITED STATES DISTRICT JUDGE

FILED

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

JUN 19 1984

JACK C. ... CLERK
USDS ... COURT

GORDON SECURITIES, LTD.,)
)
 Plaintiff,)
)
 vs.)
)
 WILLIAM HOLLENSWORTH,)
)
 Defendant,)
 and)
)
 McCALLISTER & MAPLES, a)
 Partnership,)
)
 Defendant,)
 Cross Complainant, and)
 Third-Party Plaintiff,)
)
 and)
)
 VICTORY NATIONAL BANK)
 OF NOWATA,)
)
 Additional Party)
 Defendant,)
)
 vs.)
)
 RICHARD J. DENT,)
)
 Third-Party Defendant.)

No. 81-C-39-C

J U D G M E N T

This action came on for trial before the Court and the issues having been duly tried and a decision having been duly rendered,

It is Ordered and Adjudged that the defendant, cross-complainant and third-party plaintiff McCallister & Maples,

a partnership, recover of the defendant William Hollensworth the sum of \$2,050,000.00 with interest thereon at the rate of 6 percent per annum from July 20, 1980 until the date of this Judgment, plus the sum of \$30,000.00, all with interest thereafter at the rate of 12.08 percent as provided by law, and its costs of action.

It is so Ordered this 19 day of June, 1984.


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

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

FILED
1981

CLERK
DISTRICT COURT

GORDON SECURITIES, LTD.,)
)
Plaintiff,)
)
vs.) No. 81-C-39-C
)
WILLIAM HOLLENSWORTH,)
)
Defendant,)
)
and)
)
McCALLISTER & MAPLES, a)
Partnership,)
)
Defendant,)
Cross Complainant, and)
Third-Party Plaintiff,)
)
and)
)
VICTORY NATIONAL BANK)
OF NOWATA,)
)
Additional Party)
Defendant,)
)
vs.)
)
RICHARD J. DENT,)
)
Third-Party Defendant.)

FINDINGS OF FACT
and
CONCLUSIONS OF LAW

This is an action by McCallister & Maples, a partnership, defendant, third-party plaintiff and cross-complainant against William Hollensworth herein to recover monetary damages for breach of contract and fraud associated with the sale of an oil

and gas leasehold.¹ The Court has previously ruled on the claims asserted by plaintiff, Gordon Securities, Ltd. against all defendants. The Court has also dismissed the third-party action by McCallister & Maples against the third-party defendant, Richard J. Dent. McCallister & Maples will hereafter be referred to as the partnership and William Hollensworth simply as Hollensworth.

After considering the pleadings, the testimony and exhibits admitted at trial, all of the briefs and arguments presented by counsel for the parties, and being fully advised in the premises, the Court enters the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Hollensworth was a citizen of the state of Texas at the time this action arose.
2. The partnership was a citizen of the State of Oklahoma at the time this action arose.
3. The matter in controversy herein exceeds the sum of \$10,000, exclusive of interest and costs.

¹ The cross-complaint and third-party complaint of McCallister & Maples against defendant, Hollensworth and third-party defendant, Richard J. Dent, respectively, was filed on March 9, 1981. In addition to seeking monetary damages the Third Cause of Action contained in the March 9th pleading also requested that the Court determine that Gordon Securities, Ltd., plaintiff herein, has no right, title or interest in the leasehold at issue in this case. The Court has previously ruled in this action against McCallister & Maples in this regard.

4. On or about June 20, 1980 the partnership and Hollensworth entered into a written agreement whereby Hollensworth was to purchase the assets of the partnership, including an oil and gas lease which will be referred to as the Logsdon Lease. The sales price was the sum of \$3,000,000.00, of which \$250,000.00 was to be paid at the time of execution of the agreement. The \$250,000.00 was not paid at the time of execution.

5. On or about July 7, 1980 the partnership and Hollensworth entered into an amendment to the June 20, 1980 agreement entitled "Amendment to Agreement for Sale of Assets". This amendment reduced the purchase price contained in the June 20, 1980 agreement to \$2,500,000.00 and recited that title to all of the partnership assets being sold was transferred by the partnership to Hollensworth. \$250,000.00 was paid to the partnership at the time of execution of the amendment. This money was used by the partnership to pay off liens, mortgages and other claims against the subject property.

6. Hollensworth, on the evidence presented to this Court, did not fraudulently induce the partnership to execute the agreement of June 20, 1980 or the amendment thereto of July 7, 1980.

7. Mr. Maples, acting on behalf of the partnership, knew that the subject property was going to be sold, at least partially, by Hollensworth to others. Mr. Maples knew that Hollensworth did not have sufficient funds of his own to purchase the assets of the partnership, including the Logsdon Lease and that

Hollensworth would purchase the property with someone else's money. Thus, Mr. Maples knew, as recited in the July 7th amendment, that Hollensworth needed some evidence of an ownership interest in the oil and gas property to effectuate a sale to third parties.

8. On or about September 19, 1980 the partnership executed an assignment of the Logsdon Lease to Hollensworth. The assignment was given to Richard J. Dent, an attorney involved in the transaction. Mr. Maples, one of the partners of the partnership, testified that he instructed Mr. Dent to hold the assignment in escrow. Mr. Maples knew that the assignment would have to be recorded, at some time, if such was needed to close a pending sale of the oil and gas properties to a Canadian company, which turned out to be Gordon Securities, Ltd.

9. The assignment referred to above was recorded in the office of the County Clerk of Rogers County, State of Oklahoma, on September 26, 1980. There was no fraudulent inducement by Hollensworth involved in the partnership's execution of this assignment.

10. On or about September 17, 1980 Hollensworth gave a mortgage, security agreement and financing statement to Gordon Securities, Ltd. Hollensworth also entered into a Memorandum Agreement with Gordon Securities, Ltd. concerning the sale of the subject property to Gordon Securities, Ltd. The mortgage was recorded with the County Clerk of Rogers County, State of Oklahoma, on September 22, 1980. The mortgage was for the face

amount of \$700,000.00. These documents were procured by Hollensworth in an effort to sell the subject property.

11. On October 23, 1980 a meeting was held in Oklahoma City between the partnership, Hollensworth, and their respective attorneys. This meeting was held primarily to work out any further problems with the sale of the property to Gordon Securities, Ltd. and to work out any remaining problems between Hollensworth and the partnership.

12. At this meeting Hollensworth and the partnership executed a new written agreement concerning their past dealings for the sale of the oil and gas properties and spelling out future duties and obligations of the parties thereto.

13. The October 23, 1980 agreement contained a clause whereby Hollensworth executed an assignment of the oil and gas lease back to the partnership with instructions that it be held by the partnership's counsel pending the closing with Gordon Securities, Ltd. or the default of Hollensworth under the June 20th, July 7th, or October 23rd agreements.

14. The sale with Gordon Securities, Ltd. was not accomplished and the assignment back was recorded in the Office of the County Clerk of Rogers County, State of Oklahoma.

15. Hollensworth paid \$200,000.00 to the partnership some time in September of 1980. This money was used by Ross McCallister, one of the partners, to pay off a debt owed to a bank in New Mexico.

16. The value of the property sold to Hollensworth by the various agreements entered into between the parties was

\$2,500,000.00. This was also the purchase price specified in the July 7, 1980 "Amendment to Agreement for Sale of Assets".

17. Hollensworth paid to the partnership \$450,000.00 of the purchase price. See Findings of Fact, para. 5 & 16. He has not paid the remainder of the purchase price to the partnership and the sale to Gordon Securities, Ltd. never closed because of apparent title deficiencies associated with the oil and gas properties.

18. Pursuant to the partnership's initial lease with the landowners, Leonard Logsdon and Nell L. Logsdon, any assignment of the partnership's oil and gas lease had to be approved by the landowners. To get this approval the partnership paid \$30,000.00 to the landowners. Hollensworth also paid \$30,000.00 to the landowners. In that the Logsdons had assigned one-half of their interest in the oil and gas properties to two daughters, it was the opinion of attorneys for Gordon Securities, Ltd. that said daughters also had to approve the assignment to Hollensworth. No such approval was ever executed by the daughters.

19. The Logsdon Lease is now subject to a valid first lien consisting of the mortgage of Gordon Securities, Ltd. in the amount of \$700,000.00.

CONCLUSIONS OF LAW

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1332.

2. Hollensworth breached his agreements with the partnership by failing to pay the agreed-to purchase price for the subject property on or before July 20, 1980, the date specified

for payment in the July 7, 1980 "Amendment to Agreement for Sale of Assets".

3. The partnership is entitled to recover the sum of \$2,050,000.00 from Hollensworth, such sum being the value of the subject oil and gas properties less the amount paid by Hollensworth to the partnership. OKLA.STAT.ANN. tit.23, Section 21.

4. The partnership is also entitled to recover the sum of \$30,000.00 from defendant Hollensworth, such sum representing the money paid by the partnership to the Logsdons for release of any restriction regarding the assignment of the oil and gas properties from the partnership to Hollensworth.

5. The partnership is not entitled to recover punitive damages in this case because the action is one arising solely in contract and Hollensworth has not been guilty of any fraud in his dealings with the partnership. OKLA.STAT.ANN. tit.23, Section 9.

6. The partnership is entitled to recover pre-judgment interest at the rate of 6% per annum on the sum of \$2,050,000.00 from the date of July 20, 1980, the date of initial breach by Hollensworth, until the date of judgment herein. OKLA.STAT.ANN. tit.23, Section 6 and OKLA.STAT.ANN. tit.15, Section 266.

It is so Ordered this 19th day of June, 1984.


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

UNITED STATES DISTRICT COURT FOR THE **FILED**
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DANNY C. JOHNSON,)
)
 Defendant.)

JUN 19 1984

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

CIVIL ACTION NO. 84-C-224-C

DEFAULT JUDGMENT

This matter comes on for consideration this 19 day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Danny C. Johnson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Danny C. Johnson, was served with Summons and Complaint on April 11, 1984. 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 the Defendant, Danny C. Johnson, in the amount of \$436.07, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 10, 1983, until judgment, plus interest

thereafter at the current legal rate of 12.08 percent from
the date of judgment until paid, plus the costs of this action.

Signed H. Dale Cook
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE

TULSA, OKLAHOMA 74103

JACK C. SILVER
CLERK

(918) 581-7796
(FTS) 736-7786

June 18, 1984

Mr. Tommy Farguson
Ms. Ellen Farguson
2409 S. 141st E. Ave.
Tulsa, OK 74134

RE: 84-C-319-C; TOMMY H. & ELLEN S. FARGUSON
vs
H.C. LONGLY

Dear Mr. & Ms. Farguson:

Please be advised that on this date Judge H. Dale Cook entered the following Minute Order in the above styled case:

"It is ordered that action is hereby dismissed for failure of Plaintiff to prosecute and comply with the Court's Order. Defendant was not served, Plaintiff was not present or represented per Court Order."

Very truly yours,

JACK C. SILVER, CLERK


By: A. Muncrief, Deputy Clerk

cc: U.S. Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JUN 19 1984
C. G. SIMON, CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
WILLIAM M. DENNEY,)
)
Defendant.) CIVIL ACTION NO. 84-C-514-C

AGREED JUDGMENT

This matter comes on for consideration this 18 day
of June, 1984, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney, and the Defendant, William M. Denney, appearing pro se.

The Court, being fully advised and having examined the
file herein, finds that the Defendant, William M. Denney, was
served with 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
\$1,054.10, plus interest at the rate of 15.05 percent per annum
and administrative costs of \$.61 per month from July 20, 1983,
and \$.68 per month from January 1, 1984, plus costs and interest
at the current legal rate of 12.08 percent from the date of
judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, William M. Denney, in the amount of \$1,054.10, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from July 20, 1983, and \$.68 per month from January 1, 1984, plus costs and interest at the current legal rate of 12.08 percent from the date of judgment until paid.

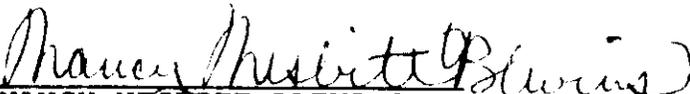
(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

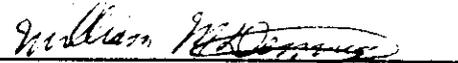
APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



NANCY NESBITT BLEVINS
Assistant U.S. Attorney



WILLIAM M. DENNEY

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

ECONO-THERM ENERGY SYSTEMS)
CORPORATION, a Minnesota)
corporation,)
)
Plaintiff,)
)
vs.) Case No. 84-C-368-C
)
JOHN J. FALLON, JR., d/b/a)
FALLON ENGINEERING COMPANY,)
a sole proprietorship,)
)
Defendant.)

JUDGMENT

NOW on the 15th day of June, 1984, this matter comes on for regularly scheduled status conference. Econo-Therm Energy Systems Corporation appears by and through its attorneys, James E. Green and Donald L. Kahl of Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Inc. Defendant has failed to appear. This Court, having examined the pleadings filed in this action, having heard presentation of counsel and being fully advised in the premises finds as follows:

1. This Court has jurisdiction over the person of Defendant and the subject matter of this action. Further, venue is proper in this District.

2. Plaintiff's Complaint was filed herein on April 23, 1984. Summons was duly issued from this Court and service of process was effected by personal service on Defendant on April 27, 1984.

3. The Defendant, having failed to plead to or answer the Plaintiff's Complaint is in default and the allegations of Plaintiff's Complaint should be and are hereby deemed admitted pursuant to Fed. R. Civ. P. 8(d).

4. Those admissions set forth in Plaintiff's First Request for Admissions filed herein and duly served on Defendant with Plaintiff's Complaint should be and hereby are deemed admitted pursuant to Fed. R. Civ. P. 36.

5. Plaintiff is entitled to judgment by default herein pursuant to Fed. R. Civ. P. 55.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff Econo-Therm Energy Systems Corporation be, and hereby is awarded judgment in its favor and against Defendant, John J. Fallon, Jr., d/b/a Fallon Engineering Company, in the amount of \$229,618.20 for breach of its contract for the sale of goods with Plaintiff, prejudgment interest on this amount at the rate of six (6) percent from thirty (30) days after the date of each invoice, interest on the above amounts at the statutory rate of 12.0% per annum from the date of this Judgment until paid, its costs expended herein and reasonable attorneys fees in an amount to be determined at subsequent hearing.

DATED this 18 day of June, 1984.

(Signed) H. Dale Cook

H. DALE COOK
UNITED STATES DISTRICT COURT JUDGE

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

5/15/84
1984
RECORDED, CLERK
U.S. DISTRICT COURT

FLORAFAX INTERNATIONAL, INC.,)
a corporation,)
Plaintiff,)
vs.)
KEN'S FASHIONS IN FLOWERS, INC.,)
d/b/a ALBERT'S FASHION IN FLOWERS,)
and ALBERT'S FLORIST, and KENNETH A.)
DWYER, Individually and Guarantor,)
Defendants.)

No. 84-C-348 C

JUDGMENT

NOW ON this 15th day of June, 1984, the above-entitled cause comes on for Status Hearing and Scheduling Conference, pursuant to Rule 16, FRCP, notice of which having been duly given to all parties. Plaintiff appears by and through its counsel, James R. Elder, and the Defendant, Kenneth A. Dwyer, although being personally served herein, appears not.

Pursuant to the Status Hearing, the Court was apprised of, and finds as follows:

1. The Defendant, Kenneth A. Dwyer, was personally served with process, including Summons, Complaint, Acknowledgment of Receipt of Summons and Complaint, and Plaintiff's Request for Admissions, on the 5th day of May, 1984, pursuant to Rule 4 FRCP, as attested by the sworn Return thereof, presented to and received by the Court.

2. This Court has jurisdiction and venue over the parties and subject matter of this action and all issues to be adjudicated herein,

and all exhibits attached to Plaintiff's Complaint are true and correct and valid in all particulars.

3. More than twenty (20) days have passed since perfection of service on the Defendant Dwyer, and said Defendant has failed and refused to file written Answer or other response to Plaintiff's Complaint, nor has the same been served on the Plaintiff or Plaintiff's counsel.

4. The Plaintiff has duly presented its Motion for Default Judgment pursuant to Rule 55 (b) (2) FRCP and the same has been received and accepted by the Court, and the same should be sustained.

5. The Plaintiff also has presented all necessary authorities and exhibits in support of its prayer for attorney's fees to be assessed against the Defendant Dwyer, which should be granted in the sum of \$3,800.00.

6. The Plaintiff is entitled to judgment on its Complaint, which stands confessed, in the sum of \$11,439.14, plus interest at the rate of 18% per annum, as set forth in the contract upon which this action is based, said interest to accrue from the date payment was due, October 31, 1982, until fully paid, plus all other costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff's Motion for Default Judgment be sustained and that all findings hereinabove be made the order and judgment of this Court. IT IS SO ORDERED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the foregoing, Plaintiff is herewith granted judgment against the Defendant, Kenneth A. Dwyer, individually, and as guarantor, of

Ken's Fashions in Flowers, Inc., d/b/a Albert's Fashion in Flowers, and Albert's Florist, in the sum of \$11,439.14 with interest thereon at the rate of 18% per annum from the 31st day of October, 1982, until all sums herein, excluding costs, have been paid in full.

Plaintiff is further granted judgment against said Defendant, as above set forth, as and for reasonable attorney's fees in the sum of \$3,800.00, to be taxed with all other costs of this action. For all of which let execution issue.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF MAILING

I, JAMES R. ELDER, hereby certify that on the date of filing the above and foregoing JUDGMENT, I deposited a true and correct copy of same into the United States Mail with proper postage thereon fully prepaid to: Mr. Kenneth A. Dwyer, c/o Tamarac Florist, 4209 W. Commercial Boulevard, Tamarac, Florida 33319 and 4580 Glenwood Drive, Pompano Beach, Florida 33066.

JAMES R. ELDER

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

FILED

JUN 18 1984

W. S. DUNN, CLERK
DISTRICT COURT

UNITED STATES OF AMERICA

Plaintiff(s),

vs.

BRYAN C. JACOBS

Defendant(s).

No. 84-C-312-C

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

and by defendant, pro se,
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 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., and to the defendant at last known address.

Dated this 18 day of June, 19 84.


UNITED STATES DISTRICT JUDGE

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

FILED
JUN 18 1984
CLERK OF COURT

DANNY L. MOORE,
PLAINTIFF,

v.

AETNA CASUALTY AND SURETY
COMPANY,

DEFENDANT.

)
)
)
)
)
)
)
)
)
)
)

84-C-1350 ✓

APPLICATION

COMES NOW THE PLAINTIFF, DANNY L. MOORE, AND MOVES THE
COURT TO ALLOW HIM TO DISMISS WITH PREJUDICE HIS CLAIM AGAINST
AETNA CASUALTY AND SURETY COMPANY FILED IN THIS CAUSE.

Paul F. Fernald

PAUL F. FERNALD OF
KELLER & FERNALD
2101 FIRST NATIONAL CENTER
OKLAHOMA CITY, OKLAHOMA
73102
405/235/6693

Danny Moore
DANNY L. MOORE

Bonnie Moore
BONNIE MOORE, WIFE OF DANNY L.
MOORE

Ed Chapman
ED CHAPMAN

FILED

JUN 20 1984

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

APPROVAL:

Clarence P. Green
CLARENCE P. GREEN
atty for Deft Aetna C+500

ORDER OF DISMISSAL

NOW ON THIS 19th DAY OF June, 1984, THE APPLICATION TO DISMISS WITH PREJUDICE OF DANNY L. MOORE COMES ON FOR CONSIDERATION BY THE COURT. THE COURT FINDS THE APPLICATION SHOULD BE SUSTAINED.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT THAT THIS CAUSE BE DISMISSED WITH PREJUDICE AGAINST THE DEFENDANT, AETNA CASUALTY AND SURETY COMPANY.

W. Salebrook
U. S. DISTRICT JUDGE

APPROVAL
Paul F. Fernald
PAUL F. FERNALD

Danny Moore
DANNY L. MOORE

Bonnie Moore
BONNIE MOORE, WIFE OF DANNY L. MOORE

Ed Chapman
ED CHAPMAN

Clarence P. Green
CLARENCE P. GREEN
atty for Deft Aetna C+500.

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

FILED
JUN 10 1984
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JAMES D. EDWARDS and)
JEANNE C. EDWARDS,)
)
Plaintiffs)
)
v.) CIVIL NO. 83-C-181-C
)
UNITED STATES OF AMERICA,)
)
Defendant)

JUDGMENT

This case having been tried to a jury on May 31, 1984 and the Court being of the opinion that Defendant United States of America is entitled to have its Motion for Directed Verdict granted, it is hereby

ORDERED, ADJUDGED and DECREED that the plaintiffs take nothing by virtue of their complaint and that plaintiffs' complaint be dismissed with prejudice and all costs be taxed against the plaintiffs.

Done this 18th day of June, 1984.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

Entered

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

JUN 15 1984

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 OIL COUNTRY MACHINE TOOLS, INC.,)
 an Oklahoma corporation, JEMCO OIL,)
 INC., an Oklahoma corporation, and)
 JIM ELLINGTON, d/b/a JEMCO,)
)
 Defendants.)

WICK C. SILVER, CLERK
 U.S. DISTRICT COURT
 No. 83-C-323-BT

O R D E R

On December 27, 1983, this Court was advised by the parties that the case had settled. Further, the parties advised they would file closing documents by January 9, 1984.

Upon this representation, IT IS THEREFORE ORDERED plaintiff's case is dismissed without prejudice.

ENTERED this 15th day of June, 1984.



THOMAS R. BRETT
 UNITED STATES DISTRICT JUDGE

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

FILED
JUN 15 1964

W. C. SILVER, CLERK
DISTRICT COURT

DORIS D. PALMER and)
SUZANNE C. PALMER,)
)
Plaintiffs,)
)
v.)
)
HEINOLD COMMODITIES, INC.,)
and LEO CROLEY,)
)
Defendants.)

No. 83-C-1073-B

O R D E R

Before the Court for consideration are defendants' alternative motions to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, or to transfer pursuant to 28 U.S.C. §1406(a). For the reasons set forth below, the Court hereby sustains defendants' motion to transfer this action to the United States District Court for the Northern District of Illinois.

This is an action for alleged violations of federal securities laws. Defendants Leo Croley and Heinold Commodities, Inc., are the broker and brokerage agency, respectively, which invested certain funds of plaintiffs pursuant to a written agreement. Plaintiffs have accused defendants of "churning" their account in violation of securities laws.

The written agreement between plaintiffs and defendants set forth the terms and conditions under which defendant would act as plaintiffs' broker. In addition, plaintiffs separately signed and dated a portion of the contract designated "Consent to Jurisdiction" which stated that any lawsuit arising out of or in

connection with their agreement would be litigated only in Illinois.

It is well-settled law that parties to a contract may agree in advance to submit to the jurisdiction of a given court. National Equipment Rental, Ltd. v. Szukhent, 375 U.S. 311 (1964). Further, forum selection clause will be enforced unless the resisting party can clearly show that enforcement would be unreasonable and unjust, or that the clause is invalid for fraud or overreaching. Bremem v. Zapata Off-Shore Co., 407 U.S. 1 (1973).

There is no evidence that the referenced agreement is unjust, unreasonable, or the result of overreaching. The Consent to Jurisdiction clause is set apart from the body of the agreement, captioned with bold-faced letters, and required plaintiffs' separate signatures. Indeed, plaintiffs had the option of requesting defendants' acceptance of their agreement without execution of the Consent to Jurisdiction clause, or selection of another broker altogether. The Consent to Jurisdiction clause is not the result of overreaching.

Plaintiffs contend that enforcement of their agreement to litigate in Illinois will work great hardship and inconvenience on them in that all of plaintiffs' witnesses reside in Oklahoma. However, it is reasonable to assume that plaintiffs contemplated their claimed inconvenience at the time of contracting with defendants. Further, mere inconvenience resulting from enforcement of a freely negotiated agreement "for all practical

purposes will not deprive plaintiffs of their day in court." Bremen v. Zapata Off-Shore Co., 407 U.S. 1 (1973). Requiring defendants to litigate this action in Oklahoma would be equally burdensome for them since numerous witnesses for the defense are located in Illinois. Thus, the Consent to Jurisdiction is not unjust or unreasonable.

Absent a strong showing that the agreement between plaintiffs and defendants should be set aside, the Court should give effect to the legitimate expectations of the parties by enforcing their agreement to litigate lawsuits only in Illinois. Id.

Defendants' motion to transfer is hereby sustained. The Court will not address the motion to dismiss.

IT IS SO ORDERED.

ENTERED this 15th day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

MLN:th
4/9/84

IN THE UNITED STATES DISTRICT COURT FOR THE **FILED**

NORTHERN DISTRICT OF OKLAHOMA JUN 15 1984

LANE A. MONTAGUE,)
)
 Plaintiff,)
)
 vs.)
)
 THE FIRESTONE TIRE & RUBBER)
 COMPANY, a corporation,)
)
 Defendant.)

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

NO. 83-C-333-E

ORDER OF DISMISSAL

The above matter coming on to be heard this 15th day of June, 1984, upon the written stipulation of the parties for a dismissal of said action with prejudice, and the Court, having examined said stipulation, finds that the parties have entered into a compromise settlement covering all claims involved in the action, and have requested the Court to dismiss said action with prejudice to further action, and the Court, being fully advised in the premises, finds that said action should be dismissed pursuant to said stipulation.

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

S/ JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered
JUN 15 1984
CLERK OF COURT

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

GREGORY LEWIS PLOEGER,)
Executor and Personal)
Representative of the Estate)
of Doris Ann Ploeger, Deceased,)
)
Plaintiff,)
)
vs.)
)
H.B. VAN PELT, III,)
)
Defendant.)

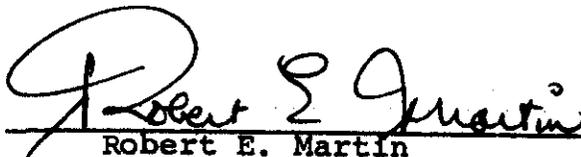
No. 83-C-920-B

ORDER OF DISMISSAL

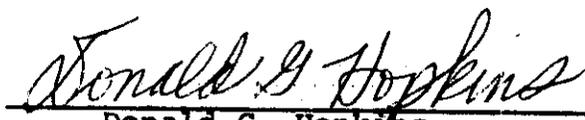
On this 15th day of June, 1984, the above matter comes on for hearing upon the written Application of the parties for a Dismissal With Prejudice of the Complaint and all causes of action.

The Court having examined said Application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint with prejudice to any future action, and the Court being fully advised in the premises finds that said Complaint should be dismissed pursuant to said Application.

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


Robert E. Martin
Attorney for the Plaintiff

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE


Donald G. Hopkins
Attorney for the Defendant

Entered

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

FILED

JUN 14 1984

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

RICHARD SLATER, and
RICHARD T. GARRISON,

Plaintiffs,

)
)
)
)
)
)
)
)
)
)
)

vs.

Case No. C-83-940-B

JOSEPH L. HULL, III,

Defendant.

ORDER OF DISMISSAL

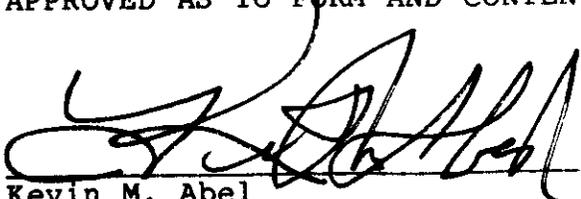
This 12/14 day of June, 1984, upon a Joint Application of the parties for a dismissal of Plaintiffs' Complaint and Defendant's Counterclaim, the Court finds that the parties have entered into a settlement covering all claims between them and have requested the Court to dismiss said Complaint and Counterclaim, subject only to the terms and conditions of said Application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Complaint and Counterclaim are hereby dismissed subject to the terms and conditions set forth in the aforementioned Application.

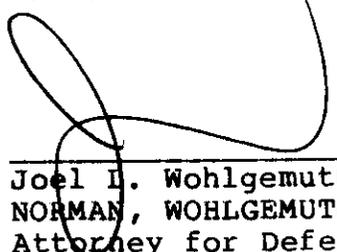
S/ THOMAS R. BRETT

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

APPROVED AS TO FORM AND CONTENT:



Kevin M. Abel
ABEL & BUSCH, INC.
Attorney for Plaintiffs
P.O. Box 52758
Tulsa, Oklahoma 74152
(918) 747-2675



Joel I. Wohlgemuth
NORMAN, WOHLGEMUTH & THOMPSON
Attorney for Defendant
909 Kennedy Building
Tulsa, Oklahoma 74103
(918) 583-7571

Entered
FILED

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

JUN 14 1984

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

MORREL, HERROLD & WEST, INC.,)
 an Oklahoma professional corporation,)
)
 Plaintiff,)
)
 v.)
)
 JERRY L. MIZE, CAROLE N. MIZE,)
 and PACER PHENIX CORPORATION,)
 a Kansas corporation,)
)
 Defendants.)

No. 83-C-305-BT

O R D E R

On June 2, 1983, default judgment was rendered herein against Jerry L. Mize and Carole N. Mize. On March 8, 1984, the matter was set for status conference wherein the Court was informed that plaintiff would either proceed with the case against defendant Pacer Phenix Corporation or dismiss the case by April 8, 1984. Plaintiff has neither proceeded ^{NOR} ~~OR~~ dismissed.

IT IS THEREFORE ORDERED the matter is dismissed for failure to prosecute against defendant Pacer Phenix Corporation.

ENTERED this 14 day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Entered

FILED

JUN 14 1984

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

DONALD D. STEBENS,)
)
 Plaintiff,)
)
 vs.)
)
 MARGARET M. HECKLER,)
 Secretary of Health and)
 Human Services of the)
 United States of America,)
)
 Defendant.)

CIVIL ACTION NO. 84-C-178-B

ORDER

For good cause shown, pursuant to 42 U.S.C. §405(g),
this cause is remanded for further administrative action.

Dated this 12/11/84 day of ^{June}~~May~~, 1984.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

Entered

FILED

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

JUN 14 1984

KEITH GRAYSON,)
)
 Plaintiff,)
)
 v.)
)
 AMERICAN AIRLINES, INC.,)
 a Delaware corporation,)
)
 Defendant.)

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

NO. 83-C-298-B

ORDER SUSTAINING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

This matter comes before the Court on defendant's motion for summary judgment, filed pursuant to F.R.Civ.P. 56. Defendant has objected to the motion, and a hearing has been held. For the reasons set forth below, defendant's motion for summary judgment is sustained.

SUMMARY OF FACTS

Plaintiff Keith Grayson was employed by defendant American Airlines, Inc. on May 24, 1966. At the time he was employed, Grayson signed an employment application containing a "Terms of Employment" section which provided in pertinent part:

- "1. My employment shall be in accordance with the terms of (A) this application; (B) Company rules and regulations and any amendments thereto and (C) any applicable labor agreement. The Company shall have the right to amend, modify or revoke its rules and regulations at any time. I will familiarize myself promptly with such rules and regulations and will abide and be bound by the rules and regulations now or hereafter in effect.
2. My employment may be terminated by the Company at any time without advance notice, its only obligations being to pay wages or salary earned by me to

date of termination. Without limitation, failure to abide by Company rules and regulations, failure to pass any Company physical examination and the falsification of any information given by me in this application will entitle the Company to terminate my employment.

The agreement was signed by Grayson. At the time he was employed, American provided to Grayson a rules and regulations handbook which stated a new employee's employment would be probationary for a period of time, but once the probationary period was completed, the employee would qualify for permanent assignment. Grayson successfully completed the probationary period. The same handbook provided, "No one is disciplined or discharged unreasonably." The rules and regulations handbook was subsequently amended to provide, "No one will be disciplined or discharged without good cause."

As of December 1979, Grayson was a project engineer and was one of three employees in the Research and Development Group of the Maintenance and Engineering Base at American's Tulsa facility.

In December 1979, Grayson attended a staff meeting at which William Hannan, the Assistant Vice President of Engineering, discussed shrinkage of the airline industry. Hannan asked directors of the engineering groups under him to poll employees to determine their plans for retirement. The purpose of the poll was to plan for future hiring and training of new employees and replacement of employees who intended to leave in the near future. In response to the request, Grayson delivered to his supervisor, Jack Graef, a signed notice dated December 12, 1979, which stated:

"Jack,

Presently I plan to take early retirement (55) on January 4th, 1984. I will keep you advised of any change of plan."

No response was ever made to Grayson concerning the note, either by Graef or anyone else in management. Except for acknowledging receipt of the note to Grayson, Hannan made no other statements, took no other actions, and had no other discussions concerning the note. No definite commitment to work was ever solicited or received by Grayson's superiors, and Grayson acknowledged in his deposition he could have quit his employment at any time, notwithstanding the notice. His job responsibilities remained unchanged.

During summer months, American Airlines customarily assigns maintenance representatives to critical stations. The assignments are of a temporary nature, typically lasting from June 1 to September 1. Due to anticipated problems in Toronto during the summer of 1981, American decided to place a maintenance representative there. In April 1981, Rocco J. Masiello, Senior Vice President-Operations for American, approached plaintiff about taking the summer assignment in Toronto. Masiello did not tell Grayson the assignment would be mandatory; however, Grayson indicated an interest in the job. Grayson asked if the assignment was permanent. Masiello told him there would be a job for him back in Tulsa if the Toronto position was eliminated.

During plaintiff's assignment in Toronto, he was paid out of the Maintenance and Engineering Department budget in Tulsa, and no official transfer ever took place. In August 1981, the air controllers went on strike, the President of the United States fired them, and as a result, a major reduction of flight schedules occurred. American was forced to make major layoffs of personnel. On September 24, 1981, while still in Toronto, Grayson was notified his position in Tulsa was being eliminated. Grayson returned to Tulsa and remained an employee of American until January 4, 1982, when he was terminated.

Grayson filed suit in Tulsa County District Court on March 8, 1983, alleging breach of employment contract and promissory fraud. The action was removed to this Court. Defendant, in its motion for summary judgment, contends no material issues of fact remain and it is entitled, as a matter of law, to judgment in its favor on both claims.

Summary judgment must be denied if a genuine issue of material fact is presented to the trial court. Exnicious v. United States, 563 F.2d 418 (10th Cir. 1977). In making this determination, the evidence must be viewed in the light most favorable to the party against whom judgment is sought. National Aviation Underwriters, Inc. v. Altus Flying Service, Inc., 555 F.2d 778, 784 (10th Cir. 1977). However, summary judgment is proper when no genuine issue of material fact remains and the moving party is entitled to judgment as a matter of law. Bruce v. Martin-Marietta, 544 F.2d 442, 445 (10th Cir. 1974); Ando v. Great Western Sugar Co., 475 F.2d 531, 535 (10th Cir. 1973).

PLAINTIFF'S EMPLOYMENT CONTRACT CLAIM

Defendant contends Grayson's first claim, for breach of employment contract, is invalid because an employment at will relationship existed between the parties which could be terminated at any time, for any reason, by either party. Plaintiff concedes an employment at will relationship originally existed between the parties; however, he contends the statements in the employee handbooks that "No one is disciplined or discharged unreasonably," and "No one will be disciplined or discharged without good cause," plus Grayson's written notice of December 12, 1979, concerning his retirement plans, converted the relationship to an employment contract for a definite term.

Oklahoma does not recognize a cause of action for breach of an employment contract which is terminable at will and for an indefinite term. Freeman v. Chicago, Rock Island and Pacific Railroad Company, 239 F.Supp. 661 (W.D.Okl. 1965); Singh v. Cities Service Oil Co.; 554 P.2d 1367 (Okla. 1976); Sooner Broadcasting Co. v. Grotkop, 280 P.2d 457 (Okla. 1955); Foster v. Atlas Life Insurance Company, 154 Okl. 30, 6 P.2d 805 (1932); Rogers v. White Sewing Machine Co., 59 Okl. 40, 157 P. 1044 (1916); Arkansas Valley Town & Land Co. v. Atchison, Topeka and Santa Fe Railroad Company, 49 Okl. 282, 151 P. 1028 (1915). However, plaintiff argues the existence of the "good cause" provisions in the employee's handbook and the written retirement notice signed by Grayson alter this rule.

Plaintiff cites Langdon v. Saga Corporation, 569 P.2d 524 (Okla.App. 1977), in support of his claim. Reliance on this case is misfounded. In Langdon, the existence of benefits contained in a personnel manual did not alter the nature of the employment contract, which was terminable at will by either party. Langdon simply stands for the proposition that upon termination, employees at will are entitled to additional compensation or benefits set forth in employer personnel manuals, due to the employee's detrimental reliance thereon.

Plaintiff also relies upon the Tenth Circuit Court of Appeals ruling in Vinyard v. King, 728 F.2d 428 (1984), in support of his proposition that an employment contract existed. Reliance upon this case, too, is unfounded. In Vinyard, the plaintiff filed a civil rights action under 42 U.S.C. §1983, against her former employer, a municipal hospital, alleging her termination amounted to deprivation of a property interest without due process of law. The Tenth Circuit addressed the question of whether the existence of an employee handbook created a property interest sufficient to trigger the protections of the Fourteenth Amendment. Here, plaintiff brought a common law breach of employment action against a private employer. There is no §1983 claim, no allegation plaintiff's constitutional rights were violated, and no intimation defendant acted under color of state law in terminating plaintiff. Thus, the Court finds Vinyard is inapplicable to the present fact situation.

The question before this Court is whether the provisions in the employee manual stating employees would not be terminated without good cause alter the terminable at will employment contract. In Freeman v. Chicago, Rock Island and Pacific Railroad Company, 239 F.Supp. 661 (W.D. Okla. 1965) the court found a "just cause" provision did not alter the nature of the contract. The court concluded any limitation imposed upon the employer's right to discharge, such as the "just cause" provision, is without legal actionability for breach of employment contract by wrongful discharge in Oklahoma because of lack of mutuality. The court stated:

"Although this Court recognizes that the law in other states may be different, it concludes that under Oklahoma law where an employee is free to terminate the contract at his will, any qualification of the employer's right to likewise terminate the contract at will would be unenforceable in an action under state law for wrongful discharge from employment for lack of mutuality. The employee, therefore, has no cause of action under Oklahoma law for damages for wrongful discharge in the absence of a contract containing mutually binding provisions as to both parties in respect of its termination."

Id. at 663.

Based upon Freeman, the Court concludes the "good cause"

provisions in the employee's handbook did not alter the parties' terminable at will contract.^{1/}

Plaintiff also contends, however, the note from plaintiff to his supervisor concerning his anticipated retirement date converted the employment contract to one for a definite term. This claim is not supported by the facts. The circumstances surrounding the note clearly indicate it was written in response to a poll concerning future staff changes. No definite commitment was required by the employee nor--based upon the language of the note--did plaintiff believe he was bound by the note. There simply is no "contract containing mutually binding provisions as to both parties in respect to its termination," as required by Freeman, supra. Rather, plaintiff gave his superior a unilateral, handwritten note indicating an anticipated retirement date, in which he also told them he would keep them advised of any change in his plans.

The Court concludes no material issues of fact remain concerning plaintiff's claim for breach of employment contract. Defendant is entitled to summary judgment on plaintiff's claim.

1 Even assuming the "good cause" provision was applicable to this fact situation, the evidence overwhelmingly supports American Airlines' contention it had good cause to lay plaintiff off work. Defendant submits numerous affidavits and depositions to the effect American Airlines was, during the time of plaintiff's layoff, suffering from an economic downturn caused largely by the air traffic controllers strike. Plaintiff agrees an economic downturn would be "good cause" for the layoff but contends economic downturn was not the actual reason for his termination. Plaintiff alludes in his deposition to an increase in the employment roster of American Airlines since he left the company. He offers, however, no proof of this allegation. No other evidence of any nature is offered to support plaintiff's contention he was laid off for any reason other than economic decline of the company.

PROMISSORY FRAUD

Plaintiff contends in April 1981, American offered him a temporary job assignment in Toronto, and induced him to accept it by making false representations that he would be returned to his old job in Tulsa or its equivalent when the Toronto assignment ended. The defendant contends the temporary job assignment was mandatory and plaintiff's claim of promissory fraud therefore lacks the element of reliance, since plaintiff would have been required to take the assignment regardless of whether alleged misrepresentations were made. Plaintiff concedes reliance is lacking if the job assignment was mandatory; however, he contends the assignment was entirely optional on his part.

Regulation 120-1(P) of the defendant's personnel policies specifically provides:

"A regular employee may be placed in a temporary assignment due to operating needs of the Company or when the employee requests the assignment."

Grayson had agreed in accepting employment that he would be subject to company rules and regulations. Moreover, under agency law:

"Unless otherwise agreed, an agent is subject to a duty to obey all reasonable directions in regard to the manner of performing a service that he has contracted to perform."

Restatement of Agency 2d, §385.

Thus, the fact Grayson was asked whether he would be interested in the Toronto assignment rather than ordered to take the assignment is irrelevant. He had a duty as an employee of

defendant to accept the assignment. Therefore, the Court finds the temporary assignment was mandatory. Since the assignment was mandatory, the element of reliance is lacking and plaintiff has failed to establish a cause of action for promissory fraud. Defendant is entitled to summary judgment on plaintiff's second claim.

CONCLUSION

Defendant's motion for summary judgment on plaintiff's claims of breach of employment contract and promissory fraud is sustained. Judgment shall be entered in favor of defendant and against plaintiff on both claims.

IT IS SO ORDERED.

ENTERED this 14th day of June, 1984.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE **FILED**
NORTHERN DISTRICT OF OKLAHOMA

JUN 14 1984

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

JAMES L. BERG,)

Defendant.)

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

CIVIL ACTION NO. 84-C-222-E

NOTICE OF DISMISSAL

COMES NOW the Plaintiff United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, 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 14th day of June, 1984.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney

Nancy Nesbitt Blevins

NANCY NESBITT BLEVINS
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 14th day of June, 1984, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Jim Berg, 3840 E. Tuxedo Blvd., Lot 10, Bartlesville, OK 74006.

Nancy Nesbitt Blevins
Assistant United States Attorney

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

SECURITIES AND EXCHANGE COMMISSION : Civil Action No.
84-C-78-E
Plaintiff, :
v. :
DONALD E. SMOLEN :
Defendant. :

FILED

JUN 14 1984

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

ORDER OF PERMANENT INJUNCTION

Plaintiff, Securities and Exchange Commission ("Commission") having filed its Complaint for Permanent Injunction herein, there having been no trial of this matter; defendant Donald E. Smolen ("Smolen"), having acknowledged in the attached Stipulation and Consent receipt of the Complaint and Summons filed in this matter; having admitted the in personam jurisdiction of this Court, and the jurisdiction of this Court over the subject matter of this action; having acknowledged that he is represented by counsel who has entered a general appearance on his behalf; having waived the entry of findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure with respect to the entry of this Order of Permanent Injunction ("Order"); having agreed, without admitting or denying any of the allegations of plaintiff Commission's Complaint, except as set forth herein, to the entry of this Order; it appearing that this Court has jurisdiction over the party and subject matter of this

action; it appearing that no further notice of hearing for the entry of this Order need be given; the Court being fully advised in the premises, and no just reason for delay appearing;

I.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant Smolen, his agents, servants, employees, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, and each of them, are permanently enjoined and restrained, in connection with the purchase or sale of securities in the form of options contracts, or any other security, by the use of any means or instrumentality of interstate commerce or by use of the mails, from, directly or indirectly, singly or in concert:

(a) employing any device, scheme or artifice to defraud;

(b) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any broker-dealer or any other person such as:

(1) by placing purchase orders for securities with intent not to make payment for such securities;

(2) by issuing and tendering checks, ostensibly in payment for securities, that he has reason to know will be dishonored for lack of sufficient funds or upon his instructions; or

(3) by placing orders for securities with intent not to make payment for such securities except from the proceeds from the sale of such securities;

(c) making any untrue statement of a material fact or omitting to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, concerning:

- (1) his financial condition;
- (2) his income;
- (3) his credit;
- (4) his expertise in options trading or any other securities trading;
- (5) his intent to pay for securities purchased through broker-dealers or any other persons;
- (6) the negotiability of checks tendered for payment of securities purchased through broker-dealers or any other persons; or
- (7) other misrepresentations or omissions of similar purport or object;

in violation of Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].

II.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Smolen, and his agents, servants, employees, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, and each of them, are permanently enjoined and restrained from, directly

or indirectly, singly or in concert, placing purchase orders for securities with any broker or dealer without providing to such broker or dealer at the same time or prior to such purchase a true copy of this Order or such other Orders as this Court may enter in this action.

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction of this action in order to implement and carry out the terms of all Orders and Decrees that may be entered herein or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

IV.

There being no just reason for delay, the Clerk of this Court is hereby directed to enter this Order of Permanent Injunction pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, each party to bear its own costs.

This Order may be served upon the defendant, in person or by mail, by the United States Marshal, by the Clerk of the Court, or by any employee of the Plaintiff.

ENTERED this 14 day of June, 1984.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

FILED

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

JUN 14 1984

RAYMOND HOLT GRACE AND)
BARBARA GRACE,)
)
Plaintiffs,)
)
vs.)
)
JOHNS-MANVILLE SALES CORP.,)
AND UNARCO INDUSTRIES INC.,)
)
Defendants.)

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

No. 82-C-672-E

ADMINISTRATIVE CLOSING ORDER

The Defendants Johns-Manville Sales Corp. and Unarco Industries Inc. having filed a petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If, within thirty (30) days of a final adjudication of the bankruptcy proceedings the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

It is so ORDERED this 14th day of June, 1984.



 JAMES O. ELLISON
 UNITED STATES DISTRICT JUDGE

Entered

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

RENNAE SEALS,

Plaintiff,

-v-

POLICE DEPARTMENT OF
THE CITY OF TULSA,

SHERIFF'S OFFICE OF
TULSA COUNTY,

DISTRICT ATTORNEY'S OFFICE
FOR TULSA COUNTY,

Defendant.

Case No. 84-C-407-B

RECEIVED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
TULSA, OKLAHOMA
JUN 19 1984

NOTICE OF DISMISSAL

THE PLAINTIFF, by her attorneys of record, Thomas E. Salisbury and Doris Fogelsong, hereby gives notice of the dismissal of this action pursuant to Rule 41 (a) of the Federal Rules of Civil Procedure. Plaintiff would state that Defendants have not yet filed an answer or motion for summary judgment. Plaintiff would also state that due to rulings and actions of the state court during the criminal action which was the subject of this litigation this action is moot. Therefore, in the interests of justice Plaintiff hereby dismisses this action as to all Defendants named herein.

THOMAS E. SALISBURY
24 WEST 41ST STREET
SUITE B
SAND SPRINGS,
OK 74063
(918) 599-9155

RESPECTFULLY SUBMITTED:

Thomas E. Salisbury
THOMAS E. SALISBURY
Attorney for Plaintiff
P. O. BOX 519
Sand Springs, Ok. 74063
{918} 599 9155

Doris Fogelson
DORIS FOGELSON
Attorney for Plaintiff
Suite 202, 202 W. 8th St.
Tulsa, Ok. 74119
{918} 585 3548

CERTIFICATE OF SERVICE

I, Thomas E. Salisbury, Attorney for Rennae Seals, above named, hereby certify that on the 13th day of June, 1984, a true copy of this Notice of Dismissal was served:

By mail, postage prepaid to:

Cary Clark
Tulsa District Attorney's Office

and

Imogene Harris
Tulsa City Attorney's Office

Doris Fogelson for TES.
THOMAS E. SALISBURY
Attorney for Plaintiff
P. O. Box 519
Sand Springs, Ok. 74063

THOMAS E. SALISBURY
24 WEST 41ST STREET
SUITE B
SAND SPRINGS,
OK 74063
(918) 599-9155

*Dis case
Guba*

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

FILED

JAN 27 1984

In re:

JESSE EUGENE PYEATTE,
a/k/a GENE PYEATTE,

Debtor,

JOELLA CAMPBELL, formerly JOELLA
C. PYEATTE; and, HUFFMAN,
ARRINGTON, SCHEURICH & KIHLE, now
HUFFMAN ARRINGTON KIHLE GABERINO
& DUNN,

Plaintiffs,

v.

JESSE EUGENE PYEATTE, a/k/a
GENE PYEATTE,

Defendant.

DOROTHY A. EVANS, CLERK
U. S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OKLAHOMA

Case No. 80-01069

Adversary No. 81-0641

83-C-460-B

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

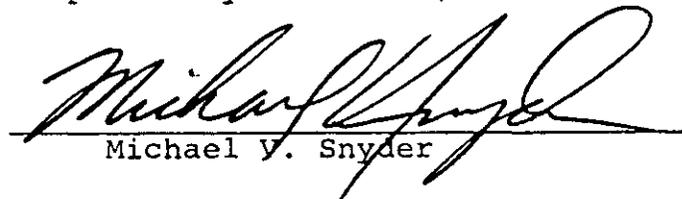
JAN 13 1984

FILED

DISMISSAL WITH PREJUDICE

COME NOW Joella Campbell, formerly Joella C. Pyeatte, and Huffman, Arrington, Scheurich & Kihle, now Huffman Arrington Kihle Gaberino & Dunn, Plaintiffs, and dismiss with prejudice the above-captioned adversary proceeding and the appeal, No. 83-C-460-B in the United States District Court for the Northern District of Oklahoma, of the decision rendered on May 17, 1983, said dismissal being pursuant to the terms of the settlement agreement in the principal case approved by the Court on November 18, 1983, each party to bear its own costs, expenses and attorneys' fees.

Respectfully submitted,


Michael V. Snyder

Anita M. Enz
Anita M. Enz

Fifth Floor, Oklahoma Natural Bldg.
Tulsa, Oklahoma 74119

(918) 585-8141

Attorneys for Joella Campbell and
Huffman Arrington Kihle Gaberino & Dunn

OF COUNSEL:

Huffman Arrington Kihle Gaberino & Dunn
Fifth Floor, Oklahoma Natural Bldg.
Tulsa, Oklahoma 74119

(918) 585-8141

Dismissal approved this 26 day of January, 1984.

Fred W. Woodson
Fred W. Woodson
Trustee of the Estate of
Jesse Eygene Pyeatte

Dismissal ordered this 27 day of January, 1984.

Meredith S. Wilson
United States Bankruptcy Judge

Entered

1982
JUN 14

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

OSAGE EXPLORATION COMPANY,)	
)	
Plaintiff,)	
)	
v.	)	Case No. 82-C-698-E
)	
DOW CHEMICAL COMPANY,)	
)	
Defendant.)	

STIPULATION OF DISMISSAL

COMES NOW the Plaintiff, Osage Exploration Company, by and through its Trustee in Bankruptcy, James R. Adelman, by his attorneys of record, Jones, Givens, Gotcher, Doyle & Bogan, Inc., by Mac D. Finlayson, and the Defendant, Dow Chemical Company, by its attorneys of record, Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, by Thomas M. Ladner, and state to the Court as follows:

1. Whereas, Plaintiff has agreed to the abandonment of the above-styled action as an asset in the case styled In re: Osage Exploration Company, Debtor, Case No. 83-00658, in the United States Bankruptcy Court for the Northern District of Oklahoma; and

2. Whereas, the Defendant has agreed to reduce its claim against the Plaintiff by 25% from \$52,348.88 to \$39,261.66 and to file a Proof of Claim in the reduced amount in the above-referenced Bankruptcy proceeding.

NOW, THEREFORE, in consideration of the foregoing agreement the parties hereby stipulate pursuant to Federal Rules of Civil Procedure Rule 41(a)(1) to the dismissal of the above-styled and numbered cause of action with prejudice to the refiling thereof.

The undersigned would stipulate, agree and state to the Court that the parties whose signatures appear hereon are all parties who have appeared in the action, and that no further Order of the Court is necessary pursuant to said rule.

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

By: Mac D. Finlayson
Mac D. Finlayson
201 West Fifth, Suite 400
Tulsa, Oklahoma 74103
(918) 581-8200

Attorneys for James R. Adelman,
Trustee of the bankruptcy estate
of Osage Exploration Company,
Plaintiff

HALL, ESTILL, HARDWICK, GABLE,
COLLINGSWORTH & NELSON, INC.

By: Thomas M. Ladner
Fred C. Cornish
Thomas M. Ladner
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-2678

Attorneys for Defendant,
Dow Chemical Company

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

FILED

JACK C. SILVER, CLERK
U. S. DISTRICT COURT
JUN 13 1984

WESTSIDE INVESTMENTS,
an Oklahoma partnership,

Plaintiff,

v.

C. W. CULPEPPER, JAMES C.
NILES, MEL BRAZELL, and
J. CARTER HINES, individuals,

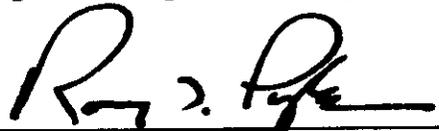
Defendants.

No. 83-C-963-C
No. 83-C-1063-C

(Consolidated for Trial)

STIPULATION ^{OF} TO DISMISSAL

Plaintiff, Westside Investments ("Westside"), and Defendants, James C. Niles, Mel Brazell, and J. Carter Hines, by their undersigned attorneys hereby stipulate and agree, in consideration of a settlement agreement of even date herewith, that the complaint filed herein by Westside against the Defendants, James C. Niles, Mel Brazell, and J. Carter Hines, and each count thereof, may be dismissed with prejudice, each party to bear its own costs. Westside specifically retains its rights to proceed against C. W. Culpepper in these cases.



Ronny D. Pyle
Pyle and Poarch
2500 S. McGee Drive
Norman, OK 73069
321-6003

Attorneys for Mel Brazell
and J. Carter Hines



John Estes
Stipe Law Firm
P. O. Box 53567
Oklahoma City, OK 73152
(405) 524-2268

Attorney for
James C. Niles

Ronda Davis
Frederic Dorwart
Ronda L. Davis

Ten East Third Street
Holarud Building, Suite 700
Tulsa, Oklahoma 74103
(918) 584-1471

Attorneys for
Westside Investments

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

FILED

JUN 18 1984

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

DELBERT PANTEL,)	
)	
Plaintiff,)	
)	
vs.	)	No. 82-C-989-C
)	
WALT DIETZEL,)	
)	
Defendant.)	

J U D G M E N T

This action came on for trial before the Court and a jury and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged,

that the plaintiff, Delbert Pantel, recover of the defendant, Walt Dietzel, the sum of \$50,000.00, with interest thereon at the rate of ~~11.75~~^{12.08}% as provided by law.

It is so Ordered this 12th day of June, 1984.


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

Entered

FILED

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

JUN 11 1984

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

BJ-HUGHES SERVICES, a division)
of Hughes Tool Company,)
successor of BJ-Hughes, Inc.,)
a Delaware corporation,)
)
Plaintiff,)
)
vs.)
)
INTER-TRIBAL INDUSTRIES, INC.,)
an Oklahoma corporation,)
)
Defendant.)

No. 84-C-22-E ✓

O R D E R

NOW on this 11th day of June, 1984 upon stipulation of counsel, judgment is hereby rendered, pursuant to said stipulation of counsel in favor of the Plaintiff, BJ-Hughes Services, a division of Hughes Tool Company, successor of BJ-Hughes, Inc., against the Defendant Inter-Tribal Industries, Inc. in the amount of \$17,663.76 with interest thereon from August 22, 1982 at the rate of 18% per annum until paid, \$60.00 for court costs, and for attorney's fees to be assessed upon submission of the appropriate papers to the Court in support thereof.

IT IS SO ORDERED.

James O. Ellison

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

1984 JUN 11 10 53 AM

1984 JUN 11 10 53 AM

DAVID L. BLAKE, CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DAVID L. BLAKE,)
)
 Defendant.)

CIVIL ACTION NO. 84-C-371-B

ORDER GRANTING JUDGMENT ON THE PLEADINGS

This case comes on before the Court on this 8th day of June, 1984, upon the Motion of the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, for a judgment on the pleadings in favor of the United States of America and against the Defendant, David L. Blake.

Upon examination of the pleadings contained in the Court file, the Motion and Brief submitted by the United States of America, and being fully advised in the premises, the Court finds that the Defendant, David L. Blake, filed his Answer to the Complaint on May 3, 1984, wherein he does not deny any of the allegations contained in the Complaint and admits that he owes the debt sued upon. The United States of America is therefore entitled to a judgment on the pleadings against the Defendant, David L. Blake, for the amounts alleged in the Complaint.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, United States of America, shall have judgment on the

pleadings in its favor and against the Defendant, David L. Blake,
for the amounts alleged in the Complaint.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

Entered

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

JUN 11 1984
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

DRESSER INDUSTRIES, INC., a)	
Delaware corporation,)	
)	
Plaintiff,)	
)	
vs.	)	No. 84-C-417-B
)	
EDGE ENERGIES, INC., an)	
Oklahoma corporation,)	
)	
Defendant.)	

JUDGMENT OF DEFAULT

Defendant, Edge Energies, Inc., has been served with process. It has failed to appear and answer the plaintiff's Complaint filed herein. The default of defendant, Edge Energies, Inc., has been entered. It appears from the Affidavit in Support of Entry of Judgment of Default that the plaintiff is entitled to judgment.

IT IS ORDERED AND ADJUDGED that plaintiff recover from defendant, Edge Energies, Inc., the sum of \$16,351.59, plus accrued interest of \$757.65, plus interest accruing after May 1, 1984 at the rate of 18% until paid, a reasonable attorneys' fee to be set upon application, and the costs of this action.

Dated this 8th day of June, 1984.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

4170

JUN 11 1984

CLERK OF DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
RUDY M. REYNOLDS,)	
)	
Defendant.	)	CIVIL ACTION NO. 83-C-957-B

AGREED JUDGMENT

This matter comes on for consideration this 8th day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Rudy M. Reynolds, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Rudy M. Reynolds, was served with Summons and Complaint on December 12, 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 \$609.40, plus interest at the legal rate from the date of judgment until paid, plus the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Rudy M. Reynolds, in the amount of \$609.40, plus interest at the

current legal rate of 12.8 percent from the date of judgment until paid, plus the costs of this action.

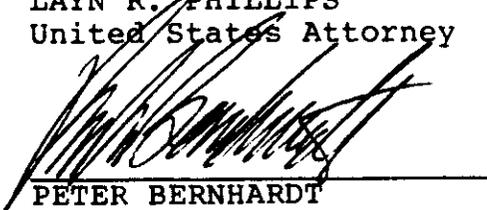
S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



PETER BERNHARDT
Assistant U.S. Attorney



RUDY M. REYNOLDS

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 11 1984

CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 BUSTER S. BAYOUTH;)
 KENNETH DON WIGINTON;)
 HARRY H. BAYOUTH;)
 FRED J. McDONALD; and)
 JON H. BAYOUTH,)
)
 Defendants.)

CIVIL ACTION NO. 83-C-773-B

DEFAULT JUDGMENT

This matter comes on for consideration this 10th day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendants, Kenneth Don Wiginton, Harry H. Bayouth and Fred J. McDonald, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Kenneth Don Wiginton, acknowledged receipt of Summons and Amended Complaint on March 12, 1984; Defendant Harry H. Bayouth acknowledged receipt of Summons and Amended Complaint on March 9, 1984; and Defendant Fred J. McDonald acknowledged receipt of Summons and Amended Complaint on March 20, 1984. The time within which the Defendants, Kenneth Don Wiginton, Harry H. Bayouth and Fred J. McDonald, could have answered or otherwise moved as to the Amended Complaint has expired and has not been extended and their 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 the Defendants, Buster S. Bayouth, Kenneth Don Wiginton, Harry H. Bayouth, Fred J. McDonald and John H. Bayouth, under its First Cause of Action in the amount of \$357,303.03, together with interest accrued thereon through January 12, 1984, in the sum of \$30,365.67, and interest accruing thereafter at the rate of \$124.06 per day; and under its Second Cause of Action in the amount of \$98,832.32, together with interest accrued thereon to January 13, 1984, of \$36,050.94, and interest accruing thereafter at the rate of \$44.61 per day, until judgment, plus interest thereafter at the current legal rate of 12.8 percent from the date of judgment until paid, plus the costs of this action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

THE FIRST NATIONAL BANK AND)
TRUST COMPANY OF MUSKOGEE,)
)
Plaintiff,)
)
v.)
)
OKLAHOMA-KANSAS GRAIN CORP.,)
an Oklahoma corporation; and)
CONAGRA, INC., d/b/a)
OK GRAIN,)
)
Defendant.)

NO. 84-C-177-B

ORDER

This matter comes before the Court on plaintiff's motion to remand this case back to the District Court for Tulsa County. Defendant ConAgra, Inc., has objected to the motion. For the reasons set forth below, the motion to remand is sustained.

This is an action for damages for alleged conversion of assets. Plaintiff filed suit in the District Court for Tulsa County against Oklahoma-Kansas Grain Corporation, an Oklahoma corporation, alleging it wrongfully converted wheat to which plaintiff was entitled as part of a loan security agreement. ConAgra, Inc., a Delaware corporation, was added as a defendant after the Oklahoma-Kansas Grain Corporation filed a demurrer and affidavit contending ConAgra was the proper party defendant. ConAgra removed the case to this Court on February 28, 1984, alleging in the petition for removal that Oklahoma-Kansas Grain Corporation had been fraudulently joined in the action to defeat diversity of citizenship. Subsequently, plaintiff filed the motion to remand, contending the case was wrongfully removed from state court.

In support of its argument that Oklahoma-Kansas Grain Corporation was fraudulently joined, ConAgra offers the affidavit of an officer that in 1980, ConAgra purchased the assets of Oklahoma-Kansas Grain Corporation which were located at the Port of Catoosa, Oklahoma, and that since June 11, 1980, Oklahoma-Kansas Grain Corporation has done no business at the Port of Catoosa. However, customer grain settlement sheets relating to the alleged conversion bore the name "Oklahoma-Kansas Grain Corporation".¹ Before removal of this action to federal court, plaintiff had agreed it would dismiss Oklahoma-Kansas Grain Corporation should discovery prove the corporation had no connection with the alleged conversion. However, until such time, plaintiff takes the position Oklahoma-Kansas Grain Corporation is a proper party defendant.

The Court agrees with plaintiff's analysis. There is no evidence in the record Oklahoma-Kansas Grain Corporation has been fraudulently joined to defeat diversity. Since Oklahoma-Kansas Grain Corporation is a proper party defendant at this time, diversity of citizenship is lacking and the case should be remanded to the state court.

Plaintiff's motion to remand is sustained. This case is hereby remanded back to the District Court for Tulsa County.

ENTERED this 7th day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT COURT

1. The affidavit submitted by defendant ConAgra makes no attempt to explain the presence on the customer grain settlement sheets of the name "Oklahoma-Kansas Grain Corporation".

- Entered

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 11 1984

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 HENRY A. BRYAN,)
)
 Defendant.)

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

CIVIL ACTION NO. 84-C-244-E

DEFAULT JUDGMENT

This matter comes on for consideration this 11 day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Henry A. Bryan, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Henry A. Bryan, acknowledged receipt of Summons and Complaint on March 23, 1984. 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 the Defendant, Henry A. Bryan, in the amount of \$337.60, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from September 12, 1983, until judgment, plus interest

thereafter at the current legal rate of 12.08 percent from
the date of judgment until paid, plus the costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

FILED

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

JUN 11 1984

FOOTHILL CAPITAL CORPORATION,)
a California corporation,)
)
Plaintiff,)
)
vs.)
)
GERALD K. WINTER d/b/a WINTER)
DRILLING AND EXPLORATION CO.,)
LOIS J. WINTER and UNITED STATES)
OF AMERICA,)
)
Defendants.)

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

Case No. 84-C-345 E

JOURNAL ENTRY OF JUDGMENT

On this 11 day of June, 1984, this matter comes on for hearing before the undersigned United States District Judge. Plaintiff Foothill Capital Corporation ("Foothill") appears by its attorneys Gary R. McSpadden and Dominic Sokolosky of Baker, Hoster, McSpadden, Clark & Rasure, and Defendant United States of America appears by its attorney Nancy Nesbitt Blevins, Assistant United States Attorney for Layn R. Phillips, United States Attorney. The Court, having examined the pleadings and return of service herein, finds that the Defendants Gerald K. Winter d/b/a Winter Drilling and Exploration Co. and Lois J. Winter have been duly served with summons, but have not answered or otherwise pleaded and make no appearance and are in default.

The defaulting Defendants, having failed to plead or answer, are hereby adjudged by the Court to be in default. The Court further finds that:

1. Foothill should be granted judgment in its favor against Gerald K. Winter d/b/a Winter Drilling and Exploration Co. and Lois J. Winter, and each of them, in the principal sum of \$444,604.43, with interest thereon at the highest lawful rate, Foothill's reasonable attorneys' fees, and the costs of this civil action.

2. Foothill holds a valid first and prior perfected security interest in and to the Collateral (as described in the Complaint and Amended Complaint filed herein) which is a prior and superior lien in, to and against the Collateral.

3. The United States of America has a valid second lien in and to the Collateral pursuant to the Notice of Federal Tax Liens attached as exhibits to the Answer of the United States of America, and such lien is junior and inferior to the lien of Foothill.

4. The United States of America should be granted an in rem judgment in the amount of \$254,990.40 plus interest and penalty from and after the date of each Notice of Federal Tax Lien.

5. The Collateral should be immediately turned over to Foothill to be sold by Foothill with the proceeds from such sale

or sales to be applied first, to the judgment awarded Foothill including costs and attorneys' fees, second, to the in rem judgment awarded the United States of America, and third, that the balance, if any remains, be retained by the Court Clerk, pending further order of this Court.

6. Defendants Gerald K. Winter and Lois J. Winter and all persons claiming by, through or under either of them since the filing of the Complaint should be barred, restrained and enjoined from ever having or asserting any claim, right, title, lien or interest in and to the Collateral.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that a judgment be entered in favor of Foothill and against Gerald K. Winter d/b/a Winter Drilling and Exploration Co. and Lois J. Winter, and each of them, in the aggregate principal amount of \$444,604.43 together with interest from and after the date hereof at 12.08 percent, court costs in the amount of \$95.00, and a reasonable attorneys' fee.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Foothill holds a valid first and prior perfected security interest in and lien on the Collateral prior and superior to the right, title, interest, lien or right of redemption of all Defendants herein, and each of them, and of all persons claiming by, through or under any of the Defendants since the filing of the Complaint in this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the United States of America holds a valid second lien in the amount of \$254,990.40 plus interest and penalty in and to the Collateral prior and superior to the right, title, interest, lien or right of redemption of Gerald K. Winter and Lois J. Winter, and each of them, and of all persons claiming by, through or under either of them since the filing of the Complaint in this cause, subject only to the first lien of Foothill herein described, and the United States of America is granted judgment in rem for such amount.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Gerald K. Winter and Lois J. Winter immediately turn over possession of the Collateral to Foothill.

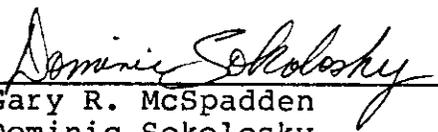
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Foothill may sell the Collateral in one or more sales in any commercially reasonable manner free and clear of any and all claims, rights, titles or interests of any Defendant herein or any person claiming by, through or under any Defendant since the filing of the Complaint, and that the proceeds from such sale or sales shall be applied first, to the judgment awarded Foothill herein, including costs and attorneys' fees, second, to the in rem judgment awarded the United States of America herein, third, the balance, if any remains, be paid into the Court Clerk to abide further order of this Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that Gerald K. Winter and Lois J. Winter and each of them, and all persons claiming by, through or under them since the filing of this Complaint, are hereby barred, restrained and enjoined from having or asserting any right, title, interest, claim or lien in and to or against the Collateral or any part thereof.

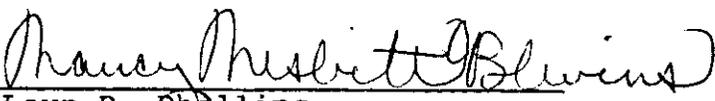
S/ JAMES O. ELLISON

United States District Judge

APPROVED:



Gary R. McSpadden
Dominic Sokolosky
Baker, Hoster, McSpadden,
Clark & Rasure
13th Floor, One Boston Plaza
(918) 592-5555
Tulsa, Oklahoma 74103
Attorneys for Plaintiff
Foothill Capital Corporation



Layn R. Phillips
United States Attorney
Nancy Nesbitt Blevins
Assistant United States Attorney
460 United States Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463
Attorneys for Defendant
United States of America

Entered

FILED

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

JUN 11 1984

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

ERVIN MELVIN WALKER,)
)
 Petitioner,)
)
 vs.)
)
 JOHN H. BROWN, et al.,)
)
 Respondents.)

No. 83-C-648-E

O R D E R

Petitioner, Ervin Melvin Walker, was convicted in the District Court of Tulsa County, State of Oklahoma, in Case No. CRF-76-3128 of the crime of rape in the first degree, after former conviction of a felony. The case was tried to a jury and the Petitioner received a sentence of fifty (50) years imprisonment.

A direct appeal was taken to the Oklahoma Court of Criminal Appeals, Case No. F-77-591. Petitioner asserted as assignments of error, that he was prejudiced by improper cross-examination, that the evidence was insufficient to support the verdict of the jury, and that the prosecuting attorney made improper remarks during closing arguments that denied him a fair trial. Judgment and sentence were affirmed. Walker v. The State, 578 P.2d 1209 (Okla.Cr. 1978). Thereafter the Petitioner filed an application for post-conviction relief in the District Court of Tulsa County pursuant to the Oklahoma Post-Conviction Procedures Act, 22 O.S. §§ 1080 et seq. In his application Petitioner alleged that it was reversible error for the Assistant District Attorney to read

that portion of the information in opening statement which referred to his prior offenses. Petitioner also asserted that he was denied the effective assistance of counsel at trial. The district court denied his application on May 1, 1979. He subsequently appealed the district court's order denying application for post-conviction relief to the Oklahoma Court of Criminal Appeals, Case No. PC-79-288. In an opinion dated September 18, 1979 the Court of Criminal Appeals affirmed the denial of the District Court.

On October 26, 1979 Petitioner instituted litigation in this Court by petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition was denied on the 28th of January, 1980. Case No. 79-C-656-E.

Petitioner filed a second application for post-conviction relief in the District Court of Tulsa County. In this second application Petitioner asserted that the trial court erred "by not suppressing the evidence of a letter written by petitioner, which was secured illegally without warrant or consent from the defendant's mail, contrary to the fourth and fifth amendments of the United States Constitution." Petitioner also raised other issues which are not applicable here. Petitioner's application was denied on February 15, 1983. The Court ruled that the doctrine of res judicata barred the raising of allegations by Petitioner which had been raised and litigated or which could have and should have been raised and litigated in previous proceedings under the Post-Conviction Procedure Act. This denial was affirmed by the Court of Criminal Appeals on May 11, 1983.

Thereafter the instant action was filed.

Petitioner raises as grounds for relief the following: "The Court erred by not suppressing the evidence of a letter written by Petitioner which was illegally secured without warrant or consent from the Defendant's mail contrary to the United States Constitution Fourth and Fifth Amendments." In view of the presentation of this issue to the state courts in his second application for post-conviction relief this Court finds that Petitioner has exhausted his available state court remedies with regard to this issue.

In view of the discussion below, the Court finds that there is no question of material fact herein which could require an evidentiary hearing pursuant to Townsend v. Sain, 372 U.S. 293, 83 S.Ct. 745 (1963).

The Respondents argue that Petitioner is barred from asserting his Fourth and Fifth Amendment claims in this federal habeas action in that the issue was not raised on Petitioner's direct appeal or in his first post-conviction application. When the issue was raised in the second application the Court of Criminal Appeals did not reach the merits of the claim because of a procedural default by Petitioner pursuant to 22 O.S. 1981 § 1086. Section 1086 provides in pertinent part as follows:

All grounds for relief available to an applicant under this Act [the Oklahoma Post-Conviction Procedure Act] must be raised in his original, supplemental or amended application. Any ground not so raised, or knowingly, voluntarily and intelligently

waived in the proceeding that resulted in the conviction ... may not be the basis for a subsequent application, unless the Court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the prior application.

The Supreme Court in Wainwright v. Sykes, 97 S.Ct. 2497 (1977) ruled that, when a procedural default bars state litigation of a constitutional claim, a state prisoner may not obtain federal habeas relief absent a showing of "cause for the non-compliance and some showing of actual prejudice resulting from the alleged constitutional violation." Wainwright, supra 97 S.Ct. at 2505.

The record shows that Petitioner raised the argument in his appellate brief before the Court of Criminal Appeals that he had only recently discovered, through a television program, that the use of the letter to his wife during trial could constitute a violation of his fourth and fifth amendment rights. The trial transcript at page 67 reveals the Petitioner's counsel objected to the introduction of the letter into evidence on the grounds that it was not probative of any issue in the case. The objection was overruled and the letter was admitted. Petitioner fails to allege any newly discovered evidence or any rights not existing at the time of his first application for post-conviction relief. He was aware of the existence of the letter at the time of trial and identified the letter as his own. It cannot be said that Petitioner and counsel were unaware at that time of any constitutional arguments that may have been available to them. As stated by the Supreme Court in Engle v. Isaac, 102 S.Ct. 1558, 1574 (1982):

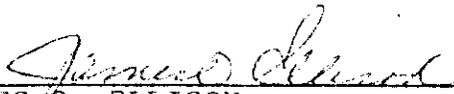
Where the basis of a constitutional claim is available, and other defense counsel have perceived and litigated that claim, the demands of comity and finality counsel against labeling alleged unawareness of the objection as cause for a procedural default.

A review of the record reveals that other evidence of guilt presented at the trial was sufficient to negate any possibility of actual prejudice resulting to the Petitioner from the admission of his letter.

The Court upon consideration of the record and the arguments and authorities therein finds that Petitioner is barred from asserting Fourth and Fifth Amendment claims in regard to the admission of the letter in a federal habeas action.

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

ORDERED this 11th day of June, 1984.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 11 1984

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 BERTRAM H. DEAN, JR.,)
)
 Defendant.)

CIVIL ACTION NO. 83-C-670-C

ORDER GRANTING JUDGMENT ON THE PLEADINGS

This case comes on before the Court on this 8 day of June, 1984, upon the Motion of the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, for a judgment on the pleadings in favor of the United States of America and against the Defendant, Bertram H. Dean, Jr.

Upon examination of the pleadings contained in the Court file, the Motion and Brief submitted by the United States of America, and being fully advised in the premises, the Court finds that the Defendant, Bertram H. Dean, Jr., filed his Answer to the Complaint on September 9, 1983, wherein he does not deny any of the allegations contained in the Complaint. The United States of America is therefore entitled to a judgment on the pleadings against the Defendant, Bertram H. Dean, Jr., for the amount alleged in the Complaint.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, United States of America, shall have judgment on the

pleadings in its favor and against the Defendant, Bertram H. Dean, Jr., for the amount alleged in the Complaint.

s/H. DALE COOK

H. DALE COOK, CHIEF
UNITED STATES DISTRICT JUDGE

Entered

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

JUN 10 1984

CLINT McMULLIN,

Plaintiff,

v.

UNITED STATES OF AMERICA
and COMMISSIONER OF INTERNAL
REVENUE,

Defendants.

DAVID D. SILVER, CLERK
U.S. DISTRICT COURT
No. 84-C-20-BT

J U D G M E N T

In accordance with the Court's order dated June 6, 1984, affirming the Findings and Recommendations of the Magistrate which sustained defendants' alternative motion for summary judgment, judgment is hereby entered in favor of defendants, United States of America and Commissioner of Internal Revenue, and against plaintiff Clint McMullin.

IT IS SO ORDERED this 8th day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

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

FILED
JUN-8 1984

JOHN WORDEN AND RUBY WORDEN,)
)
 Plaintiffs,)
)
 vs.)
)
 CHEMICAL EXPRESS CARRIERS,)
 INC., a foreign corporation,)
 and TRANSIT CASUALTY COMPANY,)
 a foreign corporation,)
)
 Defendants.)

MARK D. GUNTER, CLERK
DISTRICT COURT

No. 82-C-1183-B

ORDER OF DISMISSAL

This matter came on for consideration on this 5th
day of June, 1984 upon the Joint Application For Dismissal With
Prejudice filed herein. The court being duly advised in the
premises, finds that said Application for Dismissal is in the
best interest of justice and should be approved, and the above
styled and numbered cause of action dismissed with prejudice to
a refiling.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the
court that the Joint Application For Dismissal With Prejudice
by the parties be and the same is hereby approved and the above
styled and numbered cause of action and Complaint is dismissed
with prejudice to a refiling.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:

Attorney for Plaintiffs

Donald P. Lorch

Attorney for Defendants

FILED

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

JUN - 8 1984

UNITED STATES OF AMERICA, and)
TAMMY HARRIS, Special Agent)
for Internal Revenue Service,)
))
Plaintiffs,)
))
vs.)
))
COMMUNITY BANK AND TRUST)
COMPANY, and NETTIE ROBINSON,)
Vice-President and Cashier,)
))
Defendants.)

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

No. 82-C-1153-E ✓

ORDER

NOW on this 8TH day of June, 1984 comes on for hearing Defendant's Application for Attorney Fee and the Court, being fully advised in the premises finds as follows:

Defendant contends it is entitled to an award of attorney fee based upon 28 U.S.C. § 2412(b) in conjunction with 12 O.S. § 936. Plaintiff asserts 28 U.S.C. § 2412(b) allows an award of fees only in conjunction with federal statutory law. The Court agrees. The Court adopts the rationale set forth in Mark v. Kanawha Banking & Trust Co., N.A., 575 F.Supp. 844 (D. Oregon 1983) and finds Defendant's Application may not prevail under the above-cited statute.

The Court must then ascertain if there exists federal statutory law which allows recovery of an attorney fee. Plaintiff states if Defendant is to recover, it must be under 28 U.S.C. § 2412(d) which allows an award of attorney fees against the United States in a civil suit unless the Court finds "that

the position of the United States was substantially justified..."

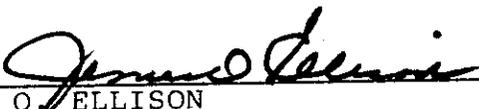
The Court has reviewed the file in the instant action and in an earlier action brought by Defendant as Plaintiff in this district which suit was dismissed as moot. See In re Summons v. Community Bank & Trust Co., M-1021 and finds the issues raised to be virtually identical. The United States did not prevail in the case before this Court and the Court finds that the position of the United States was not "substantially justified."

The Findings of Fact and Conclusions of Law entered by the Court's Order on February 29, 1984 reflect that the instant action was brought to enforce a second summons issued by the United States on October 15, 1983 which did not meet the objections raised by Defendant as to the summons issued September 15, 1982, but which in fact lengthened the period of the search. The September 15, 1982 summons was the basis of the action brought by Defendant against Plaintiff in the form of a motion to quash (M-1021). Ten months after the original summons was issued the Plaintiff effectively withdrew the summons, stating it no longer needed the information sought.

The Court finds under these facts that the position of the Plaintiff was not substantially justified and finds an attorney fee should be awarded to Defendant under 28 U.S.C. § 2412(d), under which the amount recoverable is limited to \$75.00 per hour unless the Court finds a special factor exists to justify a higher fee. This Court finds no special factor exists in this case but does find the attorneys for Defendant should be compensated for all time spent litigating the issues involved.

The Court finds Mr. McKinney spent 73 3/4 hours on this litigation and Mr. Bishop spent 33 1/4 hours. The total fee to be awarded is therefore based upon 107 hours at \$75.00 an hour or \$8,025.00.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant's Application for Attorney Fee be and is hereby granted in the amount of \$8,025.00.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA **FILED**

UNITED STATES OF AMERICA,	)	JUN - 8 1984
)	
Plaintiff,	)	Jack C. Silver, Clerk
	)	U. S. DISTRICT COURT
vs.)	
)	
NEIL H. FISHER,)	
)	
Defendant.	)	CIVIL ACTION NO. 84-C-253-E

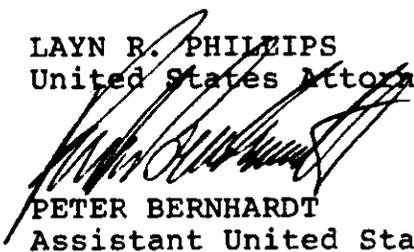
NOTICE OF DISMISSAL

COMES NOW the United States of America by Layn R. Phillips, 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 8th day of June, 1984.

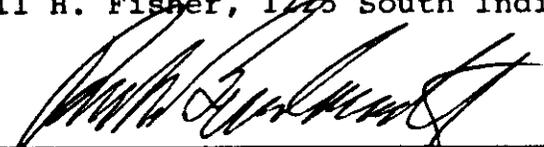
UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


PETER BERNHARDT
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 8th day of June, 1984, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Neil H. Fisher, 1225 South Indian, Tulsa, Oklahoma 74127.


Assistant United States Attorney

FILED

JUN - 8 1984

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

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

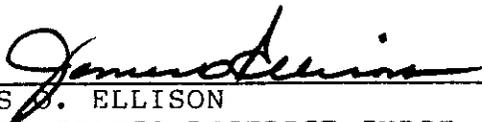
UNARCO RUBBER PRODUCTS,)	
)	
Plaintiff,)	
)	
vs.	)	No. 84-C-43-E
)	
THE INTERNATIONAL UNION,)	
et al.,)	
)	
Defendants.)	

JUDGMENT
ORDER

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 THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff recover judgment of the Defendant, that the arbitration award be vacated as reflected in the Order Granting Summary Judgment previously entered by this Court, and that Plaintiff recover its costs of the Defendant.

DATED at Tulsa, Oklahoma this 8th day of June, 1984.



 JAMES O. ELLISON
 UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN - 8 1984

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 GLENDA J. CURRY,)
)
 Defendant.)

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

CIVIL ACTION NO. 84-C-167-E

DEFAULT JUDGMENT

This matter comes on for consideration this 8th day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Glenda J. Curry, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Glenda J. Curry, acknowledged receipt of Summons and Complaint on April 11, 1984. 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 the Defendant, Glenda J. Curry, in the amount of \$980.40, plus accrued interest of \$12.70 as of October 21, 1983, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.63 per month from

October 21, 1983, until judgment, plus interest thereafter at the current legal rate of 12.08 percent from the date of judgment until paid, plus the costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 MORRIS H. SHELTON,)
)
 Defendant.)

JUN - 8 1984

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

CIVIL ACTION NO. 84-C-166-E

DEFAULT JUDGMENT

This matter comes on for consideration this 8th day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Morris H. Shelton, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Morris H. Shelton, was served with Summons and Complaint on May 1, 1984. 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 the Defendant, Morris H. Shelton, in the amount of \$371.06, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 11, 1983, until judgment, plus interest

thereafter at the current legal rate of 12.08 percent from
the date of judgment until paid, plus the costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Entered
FILED

JUN - 8 1984

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ROBERT E. THURSTON,)
)
 Defendant.)

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

CIVIL ACTION NO. 84-C-325-E ✓

ORDER GRANTING JUDGMENT ON THE PLEADINGS

This case comes on before the Court on this 8th day of June, 1984, upon the motion of the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, for a judgment on the pleading in favor of the United States of America and against the Defendant, Robert E. Thurston.

Upon examination of the pleadings contained in the Court file, the Motion and Brief submitted by the United States of America, and being fully advised in the premises, the Court finds that the Defendant, Robert E. Thurston, filed his Answer to the Complaint on May 18, 1984, wherein he does not deny any of the allegations contained in the Complaint and acknowledges the existence of the debt sued upon. The United States of America is therefore entitled to a judgment on the pleadings against the Defendant, Robert E. Thurston, for the amounts alleged in the Complaint less any sums which have been paid by the Defendant, Robert E. Thurston.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, United States of America, shall have judgment on the pleadings in its favor and against the Defendant, Robert E. Thurston, for the amounts alleged in the Complaint, less any sums paid by the Defendant, Robert E. Thurston.


UNITED STATES DISTRICT JUDGE

Entered
FILED

JUN - 8 1984

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

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

JAMES DAVID MALONE,

Plaintiff,

vs.

BYRON JACKSON PUMP DIVISION,
et al.,

Defendants.

No. 83-C-598-E

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 James David Malone take nothing from the Defendants Byron Jackson Pump Division, Borg-Warner Corporation, Oil, Chemical and Atomic Workers International Union, and Local 5-959 of the O.C.A.W., that the action be dismissed on the merits, and that the Defendants Byron Jackson Pump Division, Borg-Warner Corporation, Oil, Chemical and Atomic Workers International Union, and Local 5-959 of the O.C.A.W. recover of the Plaintiff James David Malone their costs of action.

DATED at Tulsa, Oklahoma this 8th day of June, 1984.

James O. Ellison

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

43

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

FILED

JUN - 8 1984

RANDY EPPS,)
)
 Plaintiff,)
)
 vs.)
)
 HENRY F. LANE, MIDWESTERN)
 DISTRIBUTION, INC., and)
 EXCALIBUR INSURANCE COMPANY,)
)
 Defendants.)

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

NO. 83-C-437-E

ORDER OF DISMISSAL

ON this 8th day of June, 1984, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action. The Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

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

S/ JAMES O. ELLISON

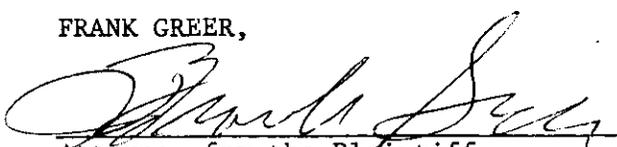
JUDGE, DISTRICT COURT OF THE UNITED STATES,
NORTHERN DISTRICT OF OKLAHOMA

APPROVAL:

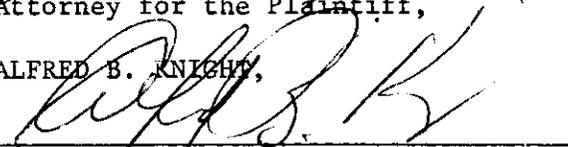
DALE WARNER,


Attorney for the Plaintiff,

FRANK GREER,


Attorney for the Plaintiff,

ALFRED B. KNIGHT,


Attorney for the Defendants.

FILED

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

JUN - 8 1984

LANE A. MONTAGUE,)
)
 Plaintiff,)
)
 vs.)
)
 THE FIRESTONE TIRE & RUBBER)
 COMPANY, a corporation,)
)
 Defendant.)

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

No. 83-C-333-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 8th day of June, 1984.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

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

JUN - 8 1984

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

KEY OIL COMPANY OF TULSA,)
INC., an Oklahoma corporation,)
)
Plaintiff,)
)
vs.)
)
DRESSER INDUSTRIES, INC.,)
a Delaware corporation,)
)
Defendant.)

No. 83-C-229-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 8th day of June, 1984.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA JUN - 8 1984

TRAILMOBILE, INC., a Delaware)
corporation,)
)
Plaintiff,)
)
vs.)
)
JOHN LONG TRUCKING, INC.,)
an Oklahoma corporation,)
)
Defendant.)

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

No. 82-C-1072-E

ADMINISTRATIVE CLOSING ORDER

The Defendant having filed a petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If, within thirty (30) days of a final adjudication of the bankruptcy proceedings the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

It is so ORDERED this 8th day of June, 1984.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

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

JUN - 8 1984 ✓

C.I.T. FINANCIAL SERVICES)
CORP.,)
)
Plaintiff,)
)
vs.)
)
WARREN H. ADAMS,)
)
Defendant.)

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

No. 82-C-1057-E ✓

ADMINISTRATIVE CLOSING ORDER

The Defendant having filed a petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If, within thirty (30) days of a final adjudication of the bankruptcy proceedings the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

It is so ORDERED this 8th day of June, 1984.



JAMES D. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN - 8 1984

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

THE GREAT WESTERN SUGAR)
COMPANY, a Delaware)
corporation,)
)
Plaintiff,)
)
vs.)
)
BAMA PIE, INC., a Texas)
corporation,)
)
Defendant.)

No. 82-C-103-E

ORDER

This matter comes on for hearing on Defendant's Motion To Assess Attorneys' Fees and Plaintiff's Objections thereto. The parties having stipulated thereto, this Court having reviewed the files and being fully advised in the premises, finds that the amount of Thirteen Thousand One Hundred and One and 16/100 Dollars (\$13,101.16) is full, fair and reasonable attorneys' fees to be awarded to Defendant as the prevailing party herein. It is therefore

ORDERED that Defendant be, and hereby is, awarded the amount of Thirteen Thousand One Hundred and One and 16/100 Dollars (\$13,101.16) as reasonable attorneys' fees as the prevailing party in this action.

DATED this 8th day of June, 1984.

S/ JAMES O. ELLISON

James O. Ellison
United States District Judge

APPROVED AS TO FORM
AND CONTENT

THE GREAT WESTERN SUGAR COMPANY

By Donald L. Kahl
Donald L. Kahl
HALL, ESTILL, HARDWICK, GABLE,
COLLINGSWORTH & NELSON, INC.
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-2700

BAMA PIE, INC.

By Michael J. Masterson
Michael J. Masterson
WILBURN, KNOWLES & KING
2504-B E. 71st Street
Tulsa, Oklahoma 74136
(918) 494-0414

FILED

JUN - 8 1984

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

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

HARRY F. COWART,)
)
Plaintiff,)
)
v.)
)
DREIS AND KRUMP MANUFACTURING)
COMPANY, a foreign corporation,))
Defendant,)
)
and)
)
LIBERTY MUTUAL INSURANCE)
COMPANY, a foreign corporation,))
Involuntary Plaintiff.)

Case No. 81-C-853

ORDER OF DISMISSAL WITH PREJUDICE

This matter comes on for hearing on the joint application of plaintiff, Harry F. Cowart, involuntary plaintiff, Liberty Mutual Insurance Company, and defendant Dreis and Krump Manufacturing Company, for a Dismissal With Prejudice of the above-entitled cause. The Court, being fully advised, finds that the parties herein have entered into a settlement agreement, which this Court hereby approves, and that the above-entitled cause should be dismissed with prejudice to the filing of future actions.

IT IS THEREFORE ORDERED, ADJUSTED AND DECREED that the above-entitled cause be and the same is hereby dismissed with prejudice to

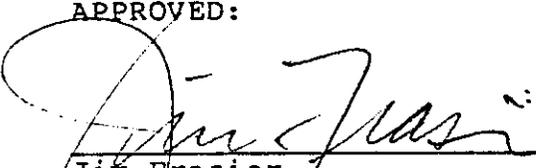
the filing of future actions, the parties to bear their own respective costs.

DATED THIS 8 day of June, 1984.

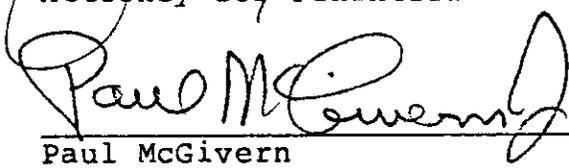
S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

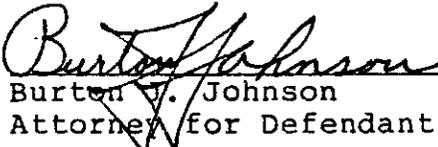
APPROVED:



Jim Frasier
Attorney for Plaintiff



Paul McGivern
Attorney for Involuntary Plaintiff



Burton V. Johnson
Attorney for Defendant

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

FILED

JUN - 8 1984

BOARD OF TRUSTEES OF THE)
PLUMBERS AND PIPEFITTERS)
NATIONAL PENSION FUND, et al.,)
)
Plaintiffs,)
)
vs.)
)
HOWE MECHANICAL CONTRACTORS,)
INC.,)
)
Defendant.)

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

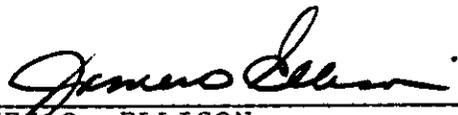
No. 81-C-866-E

ADMINISTRATIVE CLOSING ORDER

The Defendant having filed a petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If, within thirty (30) days of a final adjudication of the bankruptcy proceedings the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

It is so ORDERED this 8th day of June, 1984.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

MICHAEL C. HAMILTON,)

Defendant.)

JUN - 8 1984

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

CIVIL ACTION NO. 84-C-195-C

ORDER GRANTING JUDGMENT ON THE PLEADINGS

This case comes on before the Court on this 7 day of June, 1984, upon the Motion of the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, for a judgment on the pleading in favor of the United States of America and against the Defendant, Michael C. Hamilton.

Upon examination of the pleadings contained in the Court file, the Motion and Brief submitted by the United States of America, and being fully advised in the premises, the Court finds that the Defendant, Michael C. Hamilton, filed his Answer to the Complaint on May 1, 1984, wherein he does not deny any of the allegations contained in the Complaint and acknowledges the existence of the debt sued upon. The United States of America is therefore entitled to a judgment on the pleadings against the Defendant, Michael C. Hamilton, for the amounts alleged in the Complaint less any sums which have been paid by the Defendant, Michael C. Hamilton.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, United States of America, shall have judgment on the pleadings in its favor and against the Defendant, Michael C. Hamilton, for the amounts alleged in the Complaint, less any sums paid by the Defendant, Michael C. Hamilton.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 7 1984

CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
DWIGHT L. WHORTON, <u>et al.</u> ,)	
)	
Defendants.	)	CIVIL ACTION NO. 84-C-442-B

NOTICE OF DISMISSAL

COMES NOW the Plaintiff United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, 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 7th day of June, 1984.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney

Nancy Nesbitt Blevins

NANCY NESBITT BLEVINS
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 7th day of June, 1984, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Dwight L. Whorton and Beth E. Whorton, Star Route 1, Box 119P, Pryor, OK.

Nancy Nesbitt Blevins
Assistant United States Attorney

Entered

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

JUN - 7 1984

CLERK
U.S. DISTRICT COURT

PETROGAS, INC.,)
)
 Plaintiff,)
)
 v.)
)
 N-REN, INC., a foreign)
 corporation,)
)
 Defendant.)

No. 82-C-1117-BT ✓

J U D G M E N T

In accordance with the Court's Order dated June 7th,
1984, which sustained the motion for summary judgment of the
defendant, N-Ren, Inc., a foreign corporation, Judgment is
hereby entered in favor of N-Ren, Inc., and against plaintiff,
Petrogas, Inc.

IT IS SO ORDERED this 7th day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

Entered

ERMA M. BOHANON,)
)
 Plaintiff,)
)
 v.)
)
 MARGARET M. HECKLER,)
 Secretary of Health and)
 Human Services of the)
 United States of America,)
)
 Defendant.)

NO. 83-C-518-B

FILED
JUN -7 1984
LARRY C. SILVER, CLERK
U.S. DISTRICT COURT

JUDGMENT

In accordance with the Court's order entered this date,
judgment affirming the decision of the defendant, Margaret M. Heckler,
Secretary of Health and Human Services of the United States of America,
is hereby entered.

ENTERED this 7th day of June, 1984.



THOMAS R. BRETT
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RODNEY J. SALLEE,)
)
 Defendant.)

JUN - 7 1984

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

CIVIL ACTION NO. 84-C-329-C

DEFAULT JUDGMENT

This matter comes on for consideration this 7 day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Rodney J. Sallee, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Rodney J. Sallee, acknowledged receipt of Summons and Complaint on April 12, 1984. 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 the Defendant, Rodney J. Sallee, in the amount of \$228.07 (less the amount of \$144.07 which has been paid), plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 24, 1983, and \$.68 per month effective January 1, 1984,

until judgment, plus interest thereafter at the current legal rate of 11.74 percent from the date of judgment until paid, plus the costs of this action.

s/H. DALE COOK
UNITED STATES DISTRICT JUDGE

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

Entered

JUN -6 1984 *lv*

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

No. 83-C-550-BT ✓

SOUTHPORT EXPLORATION, INC.,)
a New Jersey corporation,)
)
Plaintiff,)
)
v.)
)
PRODUCER'S GAS COMPANY,)
a Texas corporation,)
)
Defendant.)

J U D G M E N T

In accordance with the Findings of Fact and Conclusions of Law entered herein by this Court on June 6, 1984, judgment is hereby rendered in favor of plaintiff, Southport Exploration, Inc., and against defendant, Producer's Gas Company, in the principal amount of \$652,785.05. Of that amount plaintiff is entitled to prejudgment interest on the amount of \$413,724.00 from February 1, 1983 to June 6, 1984 at the rate of 6 percent per annum; and to prejudgment interest on the amount of \$239,061.05 from February 1, 1984 to June 6, 1984 at the rate of 6 percent per annum. Plaintiff is further entitled to post-judgment interest on the amount of \$652,785.05 in the amount of 11.74 percent per annum from June 6, 1984, plus attorney's fees and costs of the action.

ENTERED this 6th day of June, 1984.

Thomas R. Brett

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

Entered

FILED

JUN - 6 1984

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

SULLAIR CORPORATION, an)
 Indiana corporation,)
)
 Plaintiff,)
)
 v.)
)
 DOWNS DRILLING COMPANY, an)
 Oklahoma general partnership,)
 GARY DOWNS, JERRY DOWNS and)
 WILLIAM E. DOWNS,)
)
 Defendants.)

No. 83-C-119-BT

JUDGMENT

This cause came on to be heard and it being expressly determined that there is no just reason for delay and that final judgment should be entered, it is

ORDERED, ADJUDGED AND DECREED that Sullair Corporation, an Indiana corporation, have and recover judgment against Downs Drilling Company, an Oklahoma general partnership composed of Gary Downs, Jerry Downs and William E. Downs, for the sum of \$97,300.12, with interest thereon at the rate of 11.74 percent as provided by law, its costs of action and an attorneys' fee is timely applied for pursuant to Local Rule 6(f).

FURTHER ORDERED, ADJUDGED AND DECREED that Sullair Corporation, an Indiana corporation, have and recover judgment against William E. Downs for the sum of \$64,800.00, with interest thereon at the rate of 11.74 percent as provided by law, its costs of the action and an attorneys' fee is timely applied for pursuant to Local Rule 6(f).

FUTHER ORDERED, ADJUDGED AND DECREED that plaintiff's complaint is hereby dismissed without prejudice for failure to prosecute as the the defendants Gary Downs and Jerry Downs and the second and third causes of action of the Complaint are hereby dismissed without prejudice.

ENTERED this 6th day of June, 1984.

A handwritten signature in cursive script, reading "Thomas R. Brett", is written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

Entered

FILED

JUN - 6 1984

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

AGATHA JUNE ASHER,)
)
 Plaintiff,)
)
 v.)
)
 UNIT RIG & EQUIPMENT)
 COMPANY, a corporation,)
)
 Defendant.)

No. 82-C-988-B

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered in favor of the defendant, Unit Rig & Equipment Company, a corporation, and against the plaintiff, Agatha June Asher, with costs assessed against the plaintiff. The parties are to pay their own respective attorney's fees.

ENTERED this 6th day of June, 1984.

Thomas R. Brett

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

LEROY MITCHELL and JOHN BECKER,)
)
 Plaintiffs,)
)
 vs.)
)
 JOPLIN FIRE PROTECTION COMPANY,)
 INC., a Corporation,)
)
 Defendant.) NO. 83-C-474-C

FILED
JUN 5 1984
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

On May 29, the above captioned case came on regularly for jury trial before the Honorable H. Dale Cook Chief Judge for the United States District Court for the Northern District of Oklahoma. Plaintiffs LeRoy Mitchell, John Becker, Hartford Insurance Company, and Western Insurance Company appeared personally and through their attorney Coy Morrow. The defendant Joplin Fire Protection Company, Inc. appeared through its corporate representatives Mickey Teeter and Charles Teeter and through their attorney Michael J. Masterson of Wilburn, Knowles and King.

The issues, were submitted to the jury after both plaintiffs and defendant had presented all their evidence and had rested.

The jury verdict was unanimous and the jury verdict form No. 2 was signed by the foreman of the jury Rebecca L. Flippin.

The jury verdict was as follows:

"We the jury impaneled and sworn in the above entitled cause, do upon our oaths, find the issues in favor of each defendant, Joplin Fire Protection Company, Inc. and against all plaintiffs."

IT IS THEREFORE ORDERED, AJUDGED AND DECREED that judgment be entered on behalf of the defendant Joplin Fire Protection Company, Inc. and against all plaintiffs LeRoy Mitchell, John Becker, Hartford Insurance Company and the Western Insurance Company.

s/H. DALE COOK

H. DALE COOK - Chief Judge

Entered

UNITED STATES DISTRICT COURT FOR THE **FILED**
NORTHERN DISTRICT OF OKLAHOMA

JUN - 5 1984

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 SAMUEL ALVERSON,)
)
 Defendant.)

CIVIL ACTION NO. 84-C-296-E

DEFAULT JUDGMENT

This matter comes on for consideration this 4th day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Samuel Alverson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Samuel Alverson, was served with Summons and Complaint on May 4, 1984. 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 the Defendant, Samuel Alverson, in the amount of \$600.00, plus accrued interest of

\$326.92 as of November 30, 1983, plus interest thereafter at the rate of 8 percent per annum, until judgment, plus interest thereafter at the current legal rate of 11.74 percent from the date of judgment until paid, plus the costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -5 1984.

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
TED R. COVINGTON,)
)
Defendant.)

CIVIL ACTION NO. 84-C-299-E

DEFAULT JUDGMENT

This matter comes on for consideration this 4th day
of April, 1984, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney, and the Defendant, Ted R. Covington, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Ted R. Covington, acknowledged
receipt of Summons and Complaint on April 11, 1984. 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 the Defendant, Ted R.
Covington, in the amount of \$224.00 (less the sum of \$50.00 which
has been paid), plus interest at the rate of 15.05 percent per
annum and administrative costs of \$.61 per month from August 10,
1983, and \$.68 per month from January 1, 1984, until judgment,

plus interest thereafter at the current legal rate of 11.74
percent from the date of judgment until paid, plus the costs of
this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE **FILED**
NORTHERN DISTRICT OF OKLAHOMA

JUN - 5 1984

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 IRWIN N. CARTHY,)
)
 Defendant.)

CIVIL ACTION NO. 84-C-301-E

DEFAULT JUDGMENT

This matter comes on for consideration this 4th day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Irwin N. Carthy, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Irwin N. Carthy, was served with Summons and Complaint on May 4, 1984. 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 the Defendant, Irwin N. Carthy, in the amount of \$200.00, plus accrued interest of \$15.28 as of November 30, 1983, plus interest thereafter at

the rate of 9 percent per annum, until judgment, plus interest thereafter at the current legal rate of 11.74 percent from the date of judgment until paid, plus the costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Entered

FILED

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

JUN - 5 1984

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

RICHARD G. CRAMER,)
)
 Plaintiff,)
)
 vs.)
)
 LT. DAN CHERRY, et al.,)
)
 Defendants.)

No. 84-C-137-E

ORDER

There being no response to the Defendants' Motion to Dismiss and more than ten (10) days having passed since the filing of the same and no extension of time having been sought by Plaintiff the Court, pursuant to Local Rule 14(a), as amended effective March 1, 1981, concludes that Plaintiff has therefore waived any objection or opposition to the motion. See Woods Constr. Co. v. Atlas Chemical Indus., Inc., 337 F.2d 888, 890 (10th Cir. 1964).

The Defendants' Motion to Dismiss is therefore granted.

DATED this 4th day of June, 1984.

James O. Ellison

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entitled

FILED

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

JUN -5 1984

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

HYDROCARBON LEASING CORPORATION,
a Delaware Corporation,

Plaintiff,

vs.

JERRY L. PUTMAN, an individual,

Defendant.

No. 83-C-702-E

ORDER DISMISSING CAUSE

Now on this 4 day of June, 1984 defendant's Motion to Dismiss came on regularly to be heard; plaintiff being represented by its Attorney, Steven Harris; defendant being represented by his Attorney, Wesley R. Thompson and the Court being fully advised in the premises makes the following findings and orders, to wit:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that defendant's Motion to Dismiss be and the same is hereby sustained and plaintiff's action herein is dismissed without prejudice.

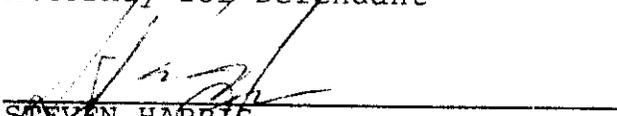
S/ JAMES O. ELLISON

JUDGE OF THE DISTRICT COURT

APPROVED:


WESLEY R. THOMPSON

Attorney for Defendant


STEVEN HARRIS

Attorney for Plaintiff

Entered

FILED

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

JUN - 5 1984

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

ROBERT MORRISON, an Individual,)
)
Plaintiff,)
)
vs.)
)
MERRILL LYNCH, PIERCE,)
FENNER AND SMITH, INC., a)
corporation and ROBERT)
McCORMICK, an Individual,)
)
Defendants.)

No. 84-C-226-E

ORDER

NOW on this 4th day of June, 1984 comes on for hearing Defendants' Motion to Dismiss and the Court, being fully advised in the premises finds as follows:

Plaintiff has filed two causes of action based on federal securities law. The first claim is pursuant to 15 U.S.C. § 78, and SEC Rule 10b-5 promulgated thereunder. In support of this claim Plaintiff alleges that he entered into an agreement with Defendant Merrill Lynch whereby Merrill Lynch, through its agent Robert McCormick, agreed to act as securities broker for Plaintiff. He further alleges that Defendant knowingly made untrue statements regarding maintenance of Plaintiff's account, purchased and sold stock against the Plaintiff's wishes and "churned" Plaintiff's account so as to increase brokerage commissions.

Plaintiff's second federal claim is brought pursuant to 15 U.S.C. § 77 q (a) and seeks damages resulting from Defendants'

8

allegedly fraudulent conduct in connection with the sale of securities through use of interstate transactions.

Plaintiff has also filed three pendent state claims. The first arises under 71 O.S. 1981 § 408 (a)(2) which imposes liability for false representations or omissions in connection with an offer or sale of a security. The second is for fraud and the third for negligence.

Defendants have filed a combined motion to dismiss the federal claim for failure to allege the purchase or sale of a security and failure to adequately allege scienter, causation and fraud. Defendants further petition the court to dismiss Plaintiff's state law claims as against the policy of pendent jurisdiction and to dismiss the negligence claim for failure to allege a duty owed by Defendant and for want of diversity.

When pleading fraud in connection with securities transaction Plaintiff must specifically allege acts or omissions upon which his claim rests. Plaintiff cannot merely base his complaint on the exact phraseology of Rule 10b-5. Ross v. A. H. Robins Co., Inc., 607 F.2d 545 (C.A.N.Y. 1979).

The Plaintiff in Ross alleged a violation of § 10 (b) of Securities Exchange Act of 1934 claiming failure to reveal full information concerning a product known as the "Dalkon Shield". The district court granted Defendant's motion to dismiss because it failed to comply with the pleading requirements of FRCP 9(b). Because Plaintiff had previously been given a chance to replead, the district court dismissed the complaint without leave to amend the pleadings. The Court of Appeals for the Second

Circuit reversed and remanded holding that notwithstanding the deficiencies in the complaint, plaintiff should be given chance to replead and supply factual basis for the allegations made in the complaint.

The District Court for the Southern District of New York dismissed a complaint because it stated nothing more than conclusory allegations of churning, violation of SEC Rule 10b-6 and failure to properly supervise representative. The Court stated:

In order to support a cause of action against stockbroker for purchasing securities unsuitable to client's investment objective, a plaintiff must identify transactions in question and securities involved and at least give some indication why he or she considers such securities to have been unsuitable.

Vetter v. Shearson Hayden Stone Inc., 481 F.Supp. 64 (S.D.N.Y. 1979).

In reviewing the Plaintiff's complaint this Court finds that Plaintiff has failed to plead more than conclusory allegations of churning and fraud. Consequently Defendants' Motion to Dismiss is granted with leave granted Plaintiff to file an amended complaint within fifteen (15) days setting forth with more specificity the factual basis upon which his complaint rests.

It is so ORDERED.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

HOUSTON GENERAL INSURANCE)
COMPANY, a foreign corporation,)
)
Plaintiff,)
)
-vs-)
)
SOUTHLAND MOTOR INNS CORPORATION)
OF OKLAHOMA, d/b/a SHERATON INN)
SKYLINE EAST HOTEL, et al,)
)
Defendants.)

No. 81-C-101-C

FILED

JUN 5 1984

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

ORDER OF PARTIAL DISMISSAL

Upon stipulation of the Plaintiff and Defendant, SOUTHLAND MOTOR INNS CORPORATION OF OKLAHOMA, d/b/a SHERATON INN-SKYLINE EAST HOTEL, and by virtue of there now remaining no genuine controversy between said parties as reflected in the stipulation, it is hereby ordered that Plaintiff's Complaint be dismissed as to Defendant, SOUTHLAND MOTOR INNS CORPORATION OF OKLAHOMA, d/b/a/ SHERATON INN-SKYLINE EAST HOTEL, only and that the Counterclaim of said Defendant against Plaintiff is likewise dismissed. Each party shall bear their respective costs.

Said action shall otherwise proceed as between Plaintiff and Defendant, SHERATON INNS, INC.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED:



JAMES E. POE, Attorney for Plaintiff



ROY BREEDLOVE, Attorney for Defendant,
Southland Motor Inns Corporation of
Oklahoma, d/b/a Sheraton Inn Skyline
East Hotel

Entered

FILED

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

JUN - 5 1984

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

DONALD RODNEY GRAHAM,)
)
 Plaintiff,)
)
 vs.)
)
 GERALD ISAACS,)
 CHARLIE E. BARNHART, JR.,)
 ROGER ALLEN LONG,)
 HAROLD R. WELLS,)
 SAMUEL J. McCULLOUGH, JR., and)
 ROBERT M. KUROWSKI,)
)
 Defendants.)

No. 83-C-636-E

DISMISSAL WITH PREJUDICE

NOW on this 4 day of ~~May~~ ^{June}, 1984, there comes on before me, the undersigned Judge, the Joint Application of the parties for a dismissal of the above entitled cause with prejudice, and the Court, being fully advised in the premises finds that said Joint Application should be sustained and that this cause be dismissed, with prejudice, and that the parties be discharged with their respective costs and attorney fees.

IT IS SO ORDERED.

S/ JAMES O. ELLISON
 JAMES O. ELLISON
 United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ROBERT W. HINSHAW,)
)
 Defendant.)

JUN 5 1984

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

CIVIL ACTION NO. 84-C-304-C

DEFAULT JUDGMENT

This matter comes on for consideration this 4 day
of June, 1984, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney, and the Defendant, Robert W. Hinshaw, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Robert W. Hinshaw, acknowledged
receipt of Summons and Complaint on April 23, 1984. 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 the Defendant,
Robert W. Hinshaw, in the amount of \$1,133.93, plus accrued
interest of \$207.24 as of November 30, 1983, plus interest

thereafter at the rate of 7 percent per annum, until judgment,
plus interest thereafter at the current legal rate of 11.74
percent from the date of judgment until paid, plus the costs of
this action.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

Entered

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

TONY P. MOORE,)
)
 Plaintiff,)
)
 vs.)
)
 SIGNODE CORPORATION, a Dela-)
 ware corporation, and)
 WELDOTRON CORPORATION, a)
 New Jersey corporation,)
)
 Defendants,)
)
 WELDOTRON CORPORATION,)
)
 Third-Party Plaintiff,)
)
 vs.)
)
 KERR GLASS MANUFACTURING)
 CORPORATION,)
)
 Third-Party Defendant.)

Case No. 82-C-336-E

FILED

JUN - 5 1984

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

ORDER DISMISSING KERR GLASS
MANUFACTURING CORPORATION AS PARTY DEFENDANT

Having considered the Motion To Dismiss Kerr Glass Manufacturing Corporation ("Kerr Glass") as Party Defendant and Brief In Support thereof, filed herein on May 8, 1984, by Kerr Glass, and being fully advised in the premises, the Court finds that this action insofar as it pertains to Kerr Glass has been rendered moot by reason of the entry of the Protective Order in this matter by the Court on the 24th day of April, 1984, and accordingly, the Court finds that the Third-Party action by Weldotron Corporation against Kerr Glass should be dismissed.

IT IS THEREFORE ORDERED that the Third-Party action against Kerr Glass Manufacturing Corporation be and the same hereby is, dismissed, and Kerr Glass Manufacturing Corporation be and hereby is dismissed as a Party Defendant herein.

IT IS SO ORDERED this 4 day of ^{June}~~May~~, 1984.

S/ JAMES O. ELLISON

JAMES O. ELLISON, United States
District Judge

APPROVED:


C. Michael Lewis
Leonard I. Pataki

Attorneys for Kerr Glass
Manufacturing Corporation


Donald Church

Attorney for Weldotron
Corporation

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -4 1984

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ARTHUR G. KROUSE,)
)
 Defendant.)

CIVIL ACTION NO. 84-C-339-B ✓

DEFAULT JUDGMENT

This matter comes on for consideration this 4th day
of June, 1984, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney, and the Defendant, Arthur G. Krouse, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Arthur G. Krouse, acknowledged
receipt of Summons and Complaint on April 24, 1984. 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 the Defendant,
Arthur G. Krouse, in the amount of \$630.00, plus interest at the
rate of 15.05 percent per annum and administrative costs of \$.61
per month from August 2, 1983, and \$.68 per month from January 1,
1984, until judgment, plus interest thereafter at the current

legal rate of 11.74 percent from the date of judgment until
paid, plus the costs of this action.


UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -4 1984

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JOSEPH V. COSTA,)
)
 Defendant.)

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

CIVIL ACTION NO. 84-C-303-B

DEFAULT JUDGMENT

This matter comes on for consideration this 4th day
of June, 1984, the Plaintiff appearing by Layn R. Phillips,
United States Attorney for the Northern District of Oklahoma,
through Nancy Nesbitt Blevins, Assistant United States Attorney,
and the Defendant, Joseph V. Costa, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Joseph V. Costa, acknowledged
receipt of Summons and Complaint on April 22, 1984. 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 the Defendant, Joseph
V. Costa, in the amount of \$633.19, plus accrued interest of
\$52.94 as of November 30, 1983, plus interest thereafter at the
rate of 7 percent per annum, until judgment, plus interest

thereafter at the current legal rate of 11.74 percent from
the date of judgment until paid, plus the costs of this action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JUN 14 1984

FOR DEPOSIT ONLY
COURT CLERK
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
and ROBERT J. GREENWOOD,)
Revenue Officer, Internal)
Revenue Service,)
)
Plaintiffs,)
)
vs.)
)
LARRY WILLIAMS,)
)
Defendant.)

CIVIL ACTION NO. 84-C-377-B

NOTICE OF DISMISSAL

COME NOW the Plaintiffs United States of America and Robert J. Greenwood, Revenue Officer, Internal Revenue Service, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and hereby give notice of their dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 4th day of June, 1984.

UNITED STATES OF AMERICA

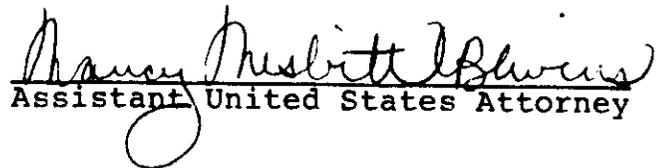
LAYN R. PHILLIPS
United States Attorney

Nancy Nesbitt Blevins

NANCY NESBITT BLEVINS
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 4th day of June, 1984, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Larry Williams, P. O. Box 26, Sapulpa, Oklahoma 74066.


Nancy Melbitt Blowers
Assistant United States Attorney

Entered
JUN -4 1984
RICK D. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 CHARLES F. STEWART,)
)
 Defendant.) CIVIL ACTION NO. 84-C-170-E ✓

AGREED JUDGMENT

This matter comes on for consideration this 4th day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Charles F. Stewart, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Charles F. Stewart, was served with 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 \$363.40, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from July 25, 1983, and \$.68 from January 1, 1984, until judgment, plus interest thereafter at the legal rate from the date of judgment until paid, plus the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Charles F. Stewart, in the amount of \$363.40, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from July 25, 1983, and \$.68 from January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 11.74 percent from the date of judgment until paid, plus the costs of this action.

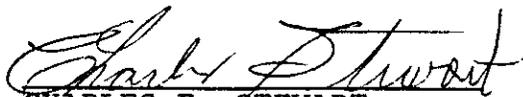

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


NANCY NESBITT BLEVINS
Assistant U.S. Attorney


CHARLES F. STEWART

Entered

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

ROBERT LEE FRAZIER,)
)
 Petitioner,)
)
 vs.)
)
 JOHN N. BROWN, Warden and)
 THE ATTORNEY GENERAL OF THE)
 STATE OF OKLAHOMA,)
)
 Respondents.)

No. 84-C-17-E ✓

FILED

JUN 2 1984

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

ORDER

NOW on this 1 day of June, 1984 comes on for hearing Respondents' Motion to Dismiss and the Court, being fully advised in the premises finds as follows:

This is an action for federal habeas corpus relief pursuant to 28 U.S.C. § 2254.

Petitioner Frazier was convicted of Murder in the First Degree in the District for Tulsa County and was sentenced to life imprisonment.

The Petitioner's appeal in Oklahoma State Court of Criminal Appeals was based on three separate grounds. First, he asserted that the trial court erred in failing to have defendant examined to determine his sanity at the time of trial. Next he asserted that the prosecutor committed reversible error when he misstated the law in the closing argument. His final basis of appeal was that the trial court erred in allowing the state to introduce rebuttal evidence contradicting defendant's testimony on collateral issues. Denying the first two arguments the appellate

court held that the allowance of rebuttal testimony to contradict defendant's testimony on a collateral matter may have been error but in light of the overwhelming evidence of defendant's guilt and insignificant prejudicial impact of the rebuttal testimony such error was harmless and not grounds for reversal. Petition for rehearing was denied.

On September 16, 1983 Petitioner filed motion for transcript at public expense which was denied in District Court for Tulsa County for the following reasons:

1. It raised no substantial issues of fact.
2. It raised no substantial questions of law or triable issues requiring appointment of counsel.
3. Petitioner did not meet the requirements and conditions imposed by Oklahoma statutes upon such a claimed entitlement to transcript at public expense.
4. Since Petitioner did not make a timely appeal he should not be allowed to pursue remedy under the Post-Conviction Relief Act.
5. Petitioner does not have a constitutional right to free transcript since his claim is frivolous and without merit.
6. As Petitioner has not properly filed an Application for Post-Conviction relief, the motion for transcript is premature.

The Court of Criminal Appeals on November 21, 1983 determined that Petitioner had in fact made and perfected an appeal to that court and had declared his indigency in an

affidavit on September 7, 1983.

The current habeas petition alleges eight grounds for relief:

1. Denial of transcript at public expense.
2. Ineffective counsel.
3. Jury not sequestered at all times.
4. Jury not instructed as to lesser included offense.
5. Evidence does not support verdict.
6. Unqualified witness allowed to testify.
7. Selection of jurors without presence of defendant's counsel.
8. Testimony of brother-in-law meant to inflame jury.

To maintain a federal habeas corpus action the state prisoner must have exhausted his state remedies as to each ground supporting his petition. Rose v. Lundy, 455 U.S. 509, 102 S.Ct. 1198 (1982). Where a petition contains some claims that have been exhausted in state courts and some claims that have not the district court must dismiss the entire claim because of the rule requiring exhaustion of state remedies as to all claims. 28 U.S.C. § 2254(b, c).

An analysis of the record shows that the Petitioner has exhausted his remedies as to the first ground (denial of transcript at public expense). Comparing the other grounds to the defendant's appeal in Court of Criminal Appeals, it could be argued that the eighth ground asserted by habeas petition is substantially similar to the third basis of appeal (allowance of rebuttal evidence on collateral issue). Therefore the Petitioner

has also exhausted his state remedies as to this ground.

The other six grounds, however, have not been asserted in any state claim for relief. On page 9 of the Petition, Frazier states that all grounds have not been presented to the highest state court having jurisdiction. Under the total exhaustion doctrine (Rose, supra) this Court must dismiss the Petitioner's claim for habeas relief.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Respondents' Motion to Dismiss be and is hereby granted. Respondent Attorney General's motion to dismiss is therefore rendered moot.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered
FILED
JUN 3 1984
Jack C. Silver, Clerk
U. S. DISTRICT COURT

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

INTERSTATE COMMERCE COMMISSION,)
))
) Plaintiff) Case No. 84-C-49-E
))
vs.))
))
ARROW TRUCKING COMPANY,))
))
) Defendant))
))

ORDER OF DISMISSAL WITHOUT PREJUDICE

This cause having come to the Court upon the Stipulation for Dismissal Without Prejudice filed herein by the attorneys for the plaintiff and defendant,

IT IS HEREBY ORDERED that this cause is dismissed without prejudice.

S/H. Dale Cook for James O. Ellison
JAMES O. ELLISON
United States District Judge

APPROVED:

by *Oliver H. Miles*
OLIVER H. MILES
Interstate Commerce Commission
411 West 7th Street
Ft. Worth, Tx 76102
(817) 334-3857
Attorney for Plaintiff

by *G. Michael Lewis*
G. MICHAEL LEWIS
Doerner, Stuart, Saunders,
Daniel & Anderson
1000 Atlas Life Bldg.
Tulsa, OK 74103
(918) 582-1211
Attorneys for Defendant

Entered

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

FILED

JUN 2 1984

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

THE BOARD OF TRUSTEES OF THE PLUMBERS)
& PIPEFITTERS NATIONAL PENSION FUND;)
THE BOARD OF TRUSTEES OF PIPE FITTERS)
LOCAL 205 HEALTH AND WELFARE FUND;)
THE BOARD OF TRUSTEES OF PLUMBERS &)
PIPE FITTERS LOCAL 205 APPRENTICESHIP)
FUND; THE BOARD OF TRUSTEES OF)
PLUMBERS & PIPE FITTERS LOCAL 205)
ANNUITY FUND; and THE BOARD OF)
TRUSTEES OF PLUMBERS & PIPE FITTERS)
LOCAL 205 VACATION FUND,)

Plaintiffs,)

vs.)

ED STONE, d/b/a GREENWOOD)
MECHANICAL,)

Defendant.)

No. 84-C-361-EV ✓

JUDGMENT BY DEFAULT

This matter comes on before me, the undersigned Judge, for hearing this 1 day of June, 1984, upon plaintiffs' Motion for Default Judgment filed herein, upon the grounds that the defendant has failed to answer or otherwise plead to the Complaint filed herein, as required by law.

The Court finds that the defendant was duly served with Summons in this case on the 23rd day of April, 1984, and is wholly in default herein, and that the plaintiff should have judgment as prayed for in its Complaint filed herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiffs be, and are hereby, awarded a judgment of and from said defendant

in the principal sum of \$11,454.84, together with interest thereon at the rate of 11.74 percent per annum from the date of judgment until paid in full, plus an attorney's fee to be fixed upon filing of affidavit setting forth actual billings, legal basis for recovery and statement of reasonableness of charges, and costs of this action, to be filed with the Clerk of the Court within ten (10) days of this date.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 1 1984

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

LEONARD SPRINGER,)
)
 Plaintiff,)
)
 vs.)
)
 TIM WEST, Warden, et al.,)
)
 Defendants.)

No. 84-C-60-E

ORDER

NOW on this 1st day of June, 1984 comes on for hearing the above-styled case and the Court, being fully advised in the premises finds as follows:

Defendants filed a Motion to Dismiss on April 26, 1984 to which no response has been made.

Under local rule 14, the motion is deemed confessed. However, the Court has reviewed the merits of the motion as this is a suit by an incarcerated indigent and finds the issues raised to be meritorious. This is primarily an action for the return of a radio and the Court finds the radio was returned prior to the bringing of this action. The case is therefore deemed frivolous.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendants' Motion to Dismiss be and is hereby granted.

[Handwritten Signature]
- JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

1984 JUN 11 10:01 AM

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 VIRGIL H. RANDLE,)
)
 Defendant.)

CLERK OF DISTRICT COURT

CIVIL ACTION NO. 84-C-336-C

DEFAULT JUDGMENT

This matter comes on for consideration this 1 day of June, 1984, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Virgil H. Randle, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Virgil H. Randle, was served with Summons and Complaint on May 9, 1984. 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 the Defendant, Virgil H. Randle, in the amount of \$312.00, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61

per month from September 9, 1983, until judgment, plus interest thereafter at the current legal rate of 11.74 percent from the date of judgment until paid, plus the costs of this action.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE