

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

ELISHA SMITH,)

Defendant.)

JUN 10 1988

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

CIVIL ACTION NO. 86-C-888-E

NOTICE OF DISMISSAL

COMES NOW the United States of America by Tony M. Graham, 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 10 day of June, 1988.

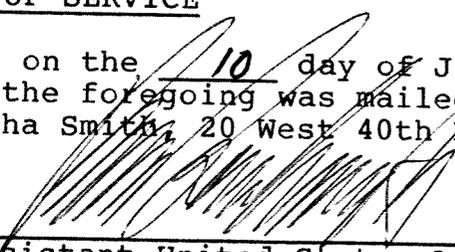
UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney

PETER BERNHARDT
Assistant United States Attorney
3600 United States Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 10 day of June, 1988, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Elisha Smith, 20 West 40th Place North, Tulsa, Oklahoma 74126.


Assistant United States Attorney

RECEIVED

JUN 06 1988

RBC

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

TRES HOMBRES,

Plaintiff,

v.

NO. M 1415-C

CONTINENTAL CRUDE CORPORATION,
JOHN L. FRITZ, and EUGENE L.
FRITZ,

Defendants.

and

PHILLIPS 66 NATURAL GAS COMPANY,
BARTLESVILLE, OKLAHOMA 74006,

Garnishee.

FILED

JUN 9 1988

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

ORDER OF DISMISSAL

THIS MATTER having come before the Court upon agreement of the parties hereto to dismissal with prejudice of the Writ of Garnishment served upon Phillips 66 Natural Gas Company, the Court, being fully advised in the premises,

FINDS:

That the parties hereto agree that this Writ of Garnishment should be dismissed with prejudice.

IT IS, THEREFORE, ORDERED that the Writ of Garnishment served upon Phillips 66 Natural Gas Company is hereby dismissed with prejudice.


UNITED STATES DISTRICT COURT JUDGE

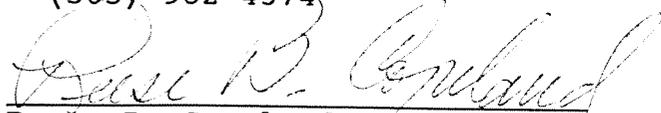
Approved By:

KANTER & EVERAGE, P.A.

By 
Bruce R. Clark
Attorneys for Plaintiff
P.O. Box 25483
Albuquerque, New Mexico 87125
(505) 247-1541

WHITE, KOCH, KELLY & MCCARTHY

By Telephonically Approved 5/31/88
Bruce R. Kohl
Attorneys for Defendants
P.O. Box 787
Santa Fe, New Mexico 87504-0787
(505) 982-4374


Reese B. Copeland
Attorney for Garnishee
1297 Adams Bldg.
Bartlesville, Oklahoma 74004
(918) 661-3758

FILED

JUN 9 1988

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

PETER J. McMAHON,)
)
 Petitioner,)
)
 vs.)
)
 JERRY JOHNSON and THE ATTORNEY)
 GENERAL OF THE STATE OF)
 OKLAHOMA,)
)
 Respondents.)

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

No. 87-C-491-E

ORDER

The Court has for consideration the Findings and Recommendations of the Magistrate filed March 9, 1988. After careful consideration of the record and the issues, including the briefs and memoranda filed herein by the parties, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed and adopted by the Court.

IT IS THEREFORE ORDERED that Petitioner's petition for writ of habeas corpus be dismissed.

It is so Ordered this 8th day of June, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 9 1988

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

AUDRY MORRISON,
Plaintiff,

vs .

BOB HUGHES, Sheriff of Delaware
County, Oklahoma; CHARLIE DAVIS,
Deputy Sheriff, Delaware County,
Oklahoma; TOM PARKER, Deputy
Sheriff, Delaware County, Oklahoma
H.W. "CHIEF" JORDAN, Sheriff
Mayes County, Oklahoma,
Defendants.

No. 86-C-858-E

ORDER OF DISMISSAL

NOW on this 8th day of June, 1988, upon the written application of the Plaintiff, Audrey Morrison, and the Defendants, Bob Hughes, Charlie Davis, Tom Parker and H.W. "Chief" Jordan, for a Dismissal With Prejudice of the Complaint of Morrison v. Hughes, et al., and all causes of action therein, 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. The court being fully advised in the premises finds that said settlement is in the best interest of the Plaintiff, and 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, Audrey Morrison, against the Defendants, Bob Hughes, Charlie Davis, Tom Parker and H.W. "Chief" Jordan, be and the same hereby are dismissed with prejudice to any future action.

S/ JAMES O. ELLISON

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

APPROVALS:

PAUL WILLIAM SLONIOWSKI

P. Sloniowski

Attorney for Plaintiff

JOHN HOWARD LIEBER

John Lieber

Attorney for Defendants
Hughes, Davis and Parker

TERRY McBRIDE

Terry McBride

Attorney for Defendant
Jordan

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

FILED

JUN 9 1988

ROOSEVELT FEDERAL SAVINGS AND
LOAN ASSOCIATION,

Plaintiff,

v.

HERITAGE POINT ASSOCIATES,
et al.,

Defendants.

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

Case No. 87-C-83-E

ORDER OF DISMISSAL

Upon stipulation of the parties, the Court finds that plaintiff's claims against Thomas M. Preston and Sherry L. Preston, individually, and as guarantors, and those defendants' counterclaims, if any, against plaintiff should be and it is hereby dismissed with prejudice to the filing of any future action. Each party shall bear its own costs and this Order shall not affect plaintiff's claims as to any other defendant named in this action.

It is so ordered this 9th day of ~~May~~ ^{June}, 1988.

S/ JAMES O. ELLISON

United States District Judge

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

~~FILED~~
JUN 7 1988
Jack C. Silver, Clerk
U.S. DISTRICT COURT

FEDERAL DEPOSIT INSURANCE)
CORPORATION, in its corporate)
capacity,)
)
Plaintiff,)
)
vs.)
)
JIM L. TREAT and MAKO, INC.,)
)
Defendants.)

No. 88-C-171-E

FILED
JUN 9 1988
Jack C. Silver, Clerk
U.S. DISTRICT COURT

DEFAULT JUDGMENT

In this action Defendant Jim L. Treat was duly served with summons, but has failed to answer or otherwise defend. The legal time for answering or otherwise defending has expired, and the default of Jim L. Treat in the premises has been duly entered, according to law. Therefore, upon the application of the Plaintiff Federal Deposit Insurance Corporation, in its corporate capacity, judgment is hereby entered against the Defendant Jim L. Treat in pursuance of the prayer of the Complaint.

WHEREFORE, by virtue of the law and by reason of the premises aforesaid,

IT IS ORDERED ADJUDGED AND DECREED that the Plaintiff have and recover from the Defendant \$305,087.24, plus interest, accrued and accruing, plus reasonable attorney's fees and costs incurred in the prosecution of this action.

Dated this 8th day of June, 1988

S/ JAMES O. ELLISON

Judge of the District Court

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

FILED

MAY 9 1988

DONALD E. HAWKES,

Plaintiff,

v.

TOM WHITE, Warden, LARRY
MEACHUM, D.O.C. Director,
BRAD PAYAS, Medical Director,
and MICHAEL BREWER, Medical
Director,

Defendants.

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

87-C-438-E

ORDER

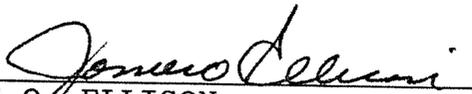
The court has for consideration the Findings and Recommendations of the Magistrate filed May 11, 1988, in which the Magistrate recommended that plaintiff's Motion for Default Judgement [sic] be denied, that defendants' Motion to Dismiss be granted as to defendant Meachum and denied as to the remaining defendants, and that defendants submit the special report requested by this court on August 18, 1987 within thirty (30) days of the date of the Order affirming the Findings and Recommendations. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

It is therefore Ordered that plaintiff's Motion for Default Judgement [sic] is denied, that defendants' Motion to Dismiss is granted as to defendant Meachum and denied as to the remaining

defendants, and that defendants submit the special report requested by this court on August 18, 1987 within thirty (30) days of the date of this Order.

Dated this 8th day of June, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED
JUN 9 1988

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

ROY E. EAST and PAMELA S.)
EAST, husband and wife,)
)
Plaintiffs,)
)
v.)
)
STATE FARM FIRE AND CASUALTY)
COMPANY; CLYDE E. HARRISON)
and MARILYN HARRISON, husband)
and wife; MERLE D. McGUIRE)
and JANET R. McGUIRE, husband)
and wife,)
)
Defendants.)

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

87-C-6-E

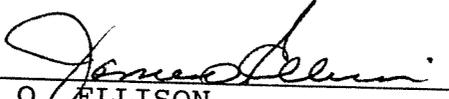
ORDER

The court has for consideration the Findings and Recommendations of the Magistrate filed May 9, 1988, in which the Magistrate recommended that defendant State Farm's Motion for Partial Summary Judgment as to plaintiffs' second cause of action be granted both as to consequential damages and as to punitive damages. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

It is therefore Ordered that defendant State Farm's Motion for Partial Summary Judgment as to plaintiffs' second cause of action is granted both as to consequential damages and as to punitive damages.

Dated this 8th day of June, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

WILLIAM L. SPENCER,)
)
 Plaintiff,)
)
 vs.)
)
 CHEMLINK PETROLEUM, INC.,)
 and OIL, CHEMICAL AND)
 ATOMIC WORKERS INTL. UNION,)
)
 Defendants.)

Case No. 87-C-1003-B

FILED

JUN 8 1988

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

ORDER GRANTING SUMMARY JUDGMENT
TO DEFENDANT CHEMLINK PETROLEUM, INC.

The parties agree that if the Union is entitled to summary judgment on the grounds that the statute of limitations has run, then Chemlink is entitled to summary judgment for the same reason. As the result of this Court's Order of May 13, 1988 granting the Union summary judgment on the statute of limitations issue, the Court hereby grants summary judgment to the Defendant Chemlink as well. Chemlink and Spencer are to bear their own costs and attorneys' fees.


UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:


D. Kevin Ikenberry,
Attorney for Plaintiff
McCORMICK, ANDREW & CLARK
A Professional Corporation
Suite 100, Tulsa Union Depot
111 East First Street
Tulsa, Oklahoma 74103
(918) 583-1111

-and-

Mary S. Matthies

Mary Constance T. Matthies,
Attorney for Defendant,
Chemlink Petroleum, Inc.
MATTHIES LAW FIRM
A Professional Corporation
Suite 300, Reunion Center
9 East Fourth Street
Tulsa, Oklahoma 74103
(918) 582-4400

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CATHERINE L. BOETTCHER; COUNTY)
TREASURER, Tulsa County,)
Oklahoma; and BOARD OF COUNTY)
COMMISSIONERS, Tulsa County,)
Oklahoma,)
)
Defendants.)

F I L E D

JUN 8 1988

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

CIVIL ACTION NO. 87-C-854-C

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 7th day
of June, 1988. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney; the Defendants, County Treasurer, Tulsa County,
Oklahoma, and Board of County Commissioners, Tulsa County,
Oklahoma, appear by Doris L. Fransein, Assistant District
Attorney, Tulsa County, Oklahoma; and the Defendant, Catherine L.
Boettcher, appears not, but makes default.

The Court being fully advised and having examined the
file herein finds that the Defendant, Catherine L. Boettcher,
was served with Summons and Complaint on April 12, 1988; that
Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged
receipt of Summons and Complaint on October 22, 1987; and that
Defendant, Board of County Commissioners, Tulsa County, Oklahoma,
acknowledged receipt of Summons and Complaint on October 23,
1987.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on November 12, 1987; and that the Defendant, Catherine L. Boettcher, has failed to answer and her default has therefore been entered by the Clerk of this Court.

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

Lot Twenty-one (21), Block Eight (8), LAKE-VIEW HEIGHTS AMENDED, a resubdivision of Lots 4, 5 & 6, Block 1 and Lots 4, 5 & 6, Block 2, and Blocks 3, 4, 5 & 6 of Lake-View Heights Addition to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on May 12, 1986, the Defendant, Catherine L. Boettcher, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, her mortgage note in the amount of \$25,000.00, payable in monthly installments, with interest thereon at the rate of ten percent (10%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Catherine L. Boettcher, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated May 12, 1986, covering the above-described property. Said mortgage was recorded on May 12, 1986, in Book 4941, Page 2469, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Catherine L. Boettcher, made default under the terms of the aforesaid note and mortgage by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Catherine L. Boettcher, is indebted to the Plaintiff in the principal sum of \$24,993.30, plus interest at the rate of 10 percent per annum from July 1, 1986 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 the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Catherine L. Boettcher, in the principal sum of \$24,993.30, plus interest at the rate of 10 percent per annum from July 1, 1986 until judgment, plus interest thereafter at the current legal rate of 7.59 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 the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Catherine L. Boettcher, 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 the costs of 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.

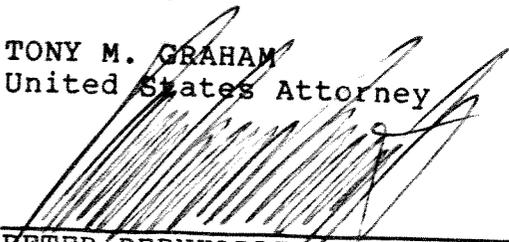
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of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

(Signed) H. Dale Cook

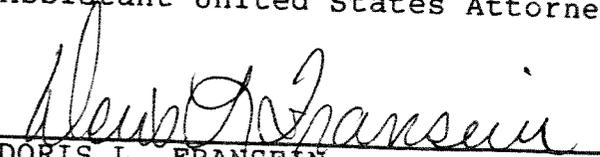
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PETER BERNHARDT
Assistant United States Attorney



DORIS L. FRANSEIN
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

PB/css

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

FILED

JUN 8 1988

CHRYSLER CAPITAL CORPORATION,)
a corporation,)
)
Plaintiff,)
)
vs.)
)
MARK S. ROBERTS, an individual,)
)
Defendant.)

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

Case No. 87-C1078-B

ORDER FOR DISMISSAL

On June 8th, 1988 the Court received the Stipulation of the parties to dismiss this action between the plaintiff, Chrysler Credit Corporation, and the defendant, Mark S. Roberts, without prejudice and, it appearing to the Court that the claims of the plaintiff having been fully compromised and settled. . .

IT IS ORDERED that the above-entitled action is dismissed without prejudice, with each party to pay their own costs.

IT IS FURTHER ORDERED that the Clerk of this Court enter this Dismissal in the record of this Court.

DATED June 8th, 1988.

S/ THOMAS R. BRETT

JUDGE OF THE DISTRICT COURT

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

FILED

JUN 8 1988

PHYLLIS LOWE,)
)
 Plaintiff,)
)
 vs.)
)
 DALE THOMAS SHOWS, INC.)
)
 Defendant.)

Case No. 87-C-169-C.S. DISTRICT COURT
Jack C. Silver, Clerk

ORDER OF DISMISSAL

Pursuant to the stipulation for dismissal prepared and signed by all parties, it is hereby ordered that this case is dismissed by the Plaintiff with prejudice.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

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

MARK ANTHONY THORNTON,)
)
 Petitioner,)
)
 v.)
)
 THE STATE OF OKLAHOMA,)
)
 Respondent.)

88-C-404-B

FILED
JUN 7 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now before the court is the application of petitioner, Mark Anthony Thornton, for Writ of Mandamus ordering the respondent, State of Oklahoma, to grant him access to records compiled in a criminal investigation so that he may perfect an application for post-conviction relief. Having examined petitioner's application, the court finds as follows.

The petitioner pled guilty to a charge of Grand Larceny in Tulsa County District Court, Case No. CRF-84-4085. Petitioner's application does not indicate the dates of his plea and sentencing, or the length of his sentence. He is serving a sentence under that case in the Oklahoma State Penitentiary.

Petitioner states that his appellate remedy is limited to post-conviction relief because the deadline for filing a direct appeal has passed. He does not explain why he believes his conviction was unconstitutional.

In a motion filed in Tulsa County District Court on December 3, 1987, petitioner requested a transcript of his sentencing, to be provided at state expense, and other court

records of his case so that he could prepare an application for post-conviction relief. Petitioner's application does not show the Tulsa County District Court ruling on the motion.

On February 17, 1988 petitioner applied to the Oklahoma Court of Criminal Appeals for a writ of mandamus ordering the respondent to grant to him access to investigative records for Case No. CRF-84-4085. The investigative records sought in the application for the writ were not requested in petitioner's earlier motion to the Tulsa County District Court. The Oklahoma Court of Criminal Appeals treated petitioner's application as a request for a transcript at public expense. The Oklahoma Court of Criminal Appeals found that petitioner had not made a showing of necessity because he had no action pending before the court, and denied the application on March 14, 1988.

In this application petitioner is asking the court to allow him to purchase copies of the records and reports pertaining to Case No. CRF-84-4085, including a booking slip, complaint and arrest reports, and an incident report. Petitioner seeks access to these records pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). Brady frequently is cited for the holding that suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material to guilt or punishment. Id. at 87. Petitioner does not explain why he believes he is entitled to the materials under Brady, and the court finds that Brady is inapplicable to this case.

Federal district courts are empowered by the All Writs Act, 28 U.S.C. §1651(a) (1982), to issue a writ of mandamus when "necessary and appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

The writ of mandamus is a drastic remedy which rarely is authorized. Kerr v. United States Dist. Court for the Northern Dist. of Cal., 426 U.S. 394, 402, 96 S.Ct. 2119, 48 L.Ed.2d 725 (1976). As a means of ensuring that the writ will be used only in extraordinary circumstances, the United States Supreme Court requires that a party seeking a writ of mandamus demonstrate that no other adequate remedy is available, and that the right to the writ is "clear and indisputable." John E. Burns Drilling v. Central Bank of Denver, 739 F.2d 1489, 1493 (10th Cir. 1984); Allied Chemical Corp. v. Daiflon, Inc., 449 U.S. 33, 35, 101 S.Ct. 188, 190, 66 L.Ed.2d 193 (1980) (per curiam). Generally, mandamus may not be used as a substitute for appeals. Burns, 739 F.2d at 1493, citing Will v. United States, 389 U.S. 90, 97, 88 S.Ct. 269, 19 L.Ed.2d 305 (1967).

The court finds that petitioner has not satisfied the requirement that he show that he has exhausted available state remedies which would provide him with relief. He may avail himself of the Oklahoma Post-Conviction Procedure Act, 22 O.S. §1080 et seq., which provides:

Any person who has been convicted of, or sentenced for, a crime and who claims:

(a) that the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this state;

(b) that the court was without jurisdiction to impose sentence;

(c) that the sentence exceeds the maximum authorized by law;

(d) that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(e) that the sentence has expired, his suspended sentence, probation, parole, or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

(f) that the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy;

may institute a proceeding under this act in the court in which the judgment and sentence on conviction was imposed to secure the appropriate relief. Excluding a timely appeal, this act encompasses and replaces all common law and statutory methods of challenging a conviction or sentence.

The court may appoint counsel to represent petitioner under the Act if his claim has merit:

If the applicant is unable to pay court costs and expenses of representation, he shall include an affidavit to that effect with the application, which shall then be filed without costs. Counsel necessary in representation shall be made available to the applicant after filing the application on a finding by the court that such assistance is necessary to provide a fair determination of meritorious claims. If an attorney is appointed to represent such an applicant then the fees and expenses of such attorney shall be paid from the court fund.

22 O.S. §1082.

The court finds that petitioner has not shown that he has no adequate means to obtain the requested relief except the writ of mandamus. By merely showing that he unsuccessfully attempted to procure court records and documents in order to explore the possibility of an appeal by following improper procedures, petitioner has not demonstrated a clear and indisputable right to the writ.

The court therefore concludes that petitioner's application for writ of mandamus should be and is hereby denied.

Dated this 9 day of June, 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

EDWARD V. QUATRINI,)

Plaintiff,)

v.)

No. 86-C-819-B ✓

OTIS R. BOWEN, M.D.,)
Secretary of Health and)
Human Services,)

Defendant.)

FILED

JUN 7 1988

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

O R D E R

This matter comes before the court on Plaintiff's and Defendant's Stipulation and Joint Application for Final Order, affirming the decision of the Secretary. Upon review of the Stipulation and Application, the Court finds that it is proper to issue a Final Order, in the captioned cause, so that Application for Attorney Fees can be filed.

THEREFORE, the Order of April 27, 1988, is vacated and the Joint Application for Final Order Affirming the Secretary's Decision is proper and the Court therefore orders that the decision of the Secretary be confirmed and that this is the Final Order affirming said decision of March 15, 1988 in this case.

IT IS SO ORDERED THIS 7th DAY OF June, 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

CUTLERY WORLD CORPORATION,)
an Illinois corporation,)
)
Plaintiff,)
)
vs.)
)
BRYAN PATZKOWSKI and SOONER)
CUTLERY, INC., an Oklahoma)
corporation,)
)
Defendants.)

No. 87-C-293-B

FILED

JUN 7 1988

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

ORDER OF DISMISSAL

Now on this 7th day of June, 1988, the Court has for its consideration the Stipulation for Dismissal With Prejudice jointly filed in the above-styled and numbered cause by Plaintiff and Defendants. Based upon the representations and requests of the parties as set forth in the foregoing stipulation, it is

ORDERED that Plaintiff's Amended Complaint and claims for relief against Defendants be and the same are hereby dismissed with prejudice.

IT IS FURTHER ORDERED that each party shall bear its own costs and attorneys' fees.

S/ 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 -7 1988

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

JERRY L. HAYDEN,
Plaintiff,
vs.
PILOT LIFE INSURANCE COMPANY,
Defendant,

PILOT LIFE INSURANCE COMPANY,
Plaintiff,
vs.
JERRY L. HAYDEN, et al.,
Defendants.

No. 85-C-1029-C

No. 86-C-687-*R*

JUDGMENT

For the reasons and upon the basis set forth in the Order Granting Motion for Summary Judgment, the Court hereby enters judgment in favor of Pilot Life Insurance Company and against Christopher Romine on all claims set forth in Romine's Answer and Counterclaim, and dismisses Romine's counterclaim with prejudice.

DATED this 3rd day of June, 1988.

H. DALE COOK

UNITED STATES DISTRICT JUDGE

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

JERRY L. HAYDEN,)
)
 Plaintiff,)
)
 vs.)
)
 PILOT LIFE INSURANCE COMPANY,)
)
 Defendant,)
)
 _____)
)
 PILOT LIFE INSURANCE COMPANY,)
)
 Plaintiff,)
)
 vs.)
)
 JERRY L. HAYDEN, et al.,)
)
 Defendants.)

No. 85-C-1029-C

No. 86-C-687-~~C~~

FILED

JUN -7 1988

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

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

COMES before the Court the application by Pilot Life Insurance Company ("Pilot") for entry of an order granting its motion for summary judgment filed on January 8, 1988, for the failure of Defendant-Counter Claimant, Christopher Romine ("Romine"), to comply with Rule 15 of the United States District Court for the Northern District of Oklahoma. The Court finds that Romine has not complied with said Rule, has waived any objection to the motion for summary judgment by Pilot, has confessed all facts set forth in the brief in support of the motion for summary judgment by Pilot, and that based upon said confessed facts Pilot is entitled to judgment as a matter of law on the counterclaim set forth in Romine's Answer and Counterclaim.

IT IS SO ORDERED this 2nd day of June, 1988.

~~W. DALE COOK~~

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -7 1988

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

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

PAMELA I. ARNOLD,)

Defendant.)

CIVIL ACTION NO. 87-C-898-C

ORDER OF DISMISSAL

Now on this 3rd day of June, 1988, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve Pamela I. Arnold have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Pamela I. Arnold, be and is dismissed without prejudice.

H. DALE COOK

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -7 1988

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

JERRY L. WHITE,)
)
Plaintiff,)
)
vs.)
)
OTIS R. BOWEN, M.D.,)
Secretary of Health and)
Human Services,)
)
Defendant.)

CIVIL ACTION NO. 87-C-778-C

O R D E R

Upon Motion of the Defendant, Secretary of Health and Human Services, by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and for good cause shown, it is hereby ORDERED that this case be remanded to the Secretary for the purpose of evaluating the credibility of Plaintiff's subjective symptoms pursuant to Luna v. Secretary of Health and Human Services, 834 F.2d 161 (10th Cir. 1987).

Dated this 3rd day of June, 1988.

H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney


NANCY NESBITT BLEVINS
Assistant United States Attorney

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

FILED

pm JUN -7 1988

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

TULSA EDUCATIONAL SUPPORT)
ASSOCIATION, et al,)
)
Plaintiffs,)
)
v.)
)
INDEPENDENT SCHOOL DISTRICT)
NO. 1 OF TULSA COUNTY,)
OKLAHOMA, d/b/a the Tulsa)
Public Schools,)
)
Defendant.)

86-C-1138-C ✓

ORDER

The court has for consideration the Findings and Recommendations of the Magistrate filed May 16, 1988, in which the Magistrate recommended that plaintiffs' Application for Order of Dismissal Without Prejudice be granted conditionally. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

It is therefore Ordered that plaintiffs' federal and state claims are dismissed without prejudice to their subsequent refiling.

It is further Ordered, however, that the following is made as a specific condition of the dismissal without prejudice of the plaintiffs' federal claims: no federal claims arising out of the facts alleged in the plaintiffs' complaint may be brought before this court in any subsequent litigation between the plaintiffs,

or any of them, and the defendant, without payment by the re-litigating plaintiff or plaintiffs to the defendant of all costs incurred by the defendant in this action including a reasonable attorney's fee, such fees and costs to be determined by this court at the time that this court's jurisdiction is invoked.

Dated this 3rd day of June, 1988.


H. DALE COOK, CHIEF
UNITED STATES DISTRICT JUDGE

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

GREEN COUNTRY FEDERAL SAVINGS)
AND LOAN ASSOCIATION,)

Plaintiff,)

v.)

UNITED GUARANTY RESIDENTIAL)
INSURANCE COMPANY OF IOWA,)

Defendant.)

No. 87-C-804-B

FILED

JUN 7 1988

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

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 United Guaranty Residential Insurance Company of Iowa and against Green Country Federal Savings and Loan Association, with costs to be assessed against the Plaintiff. Any claim for attorney fees by the prevailing party should be made in keeping with Local Rule 6(G). Further, the attorney fee and expense claim concerning the issue of sanctions and the settlement conference of March 21, 1988, will likewise be considered subsequently.

DATED this 7th day of June, 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

JUN - 7 1988

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

NTC OF AMERICA, INC.,

Plaintiff,

vs.

RIVER OAKS INDUSTRIES, INC.;
GENERAL ELECTRIC CREDIT
CORPORATION; SECURITY PACIFIC
HOUSING SERVICES, INC.,

Defendants.

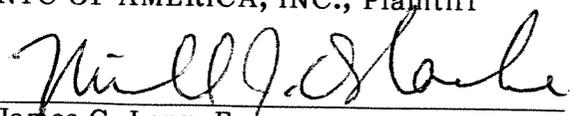
Case No. 87-C-655-C

**STIPULATION OF DISMISSAL WITH PREJUDICE
OF GECC AND SECURITY PACIFIC HOUSING SERVICES, INC.**

Plaintiff, NTC of America, Inc. and Defendants, General Electric Credit Corporation and Security Pacific Housing Services, Inc., by their respective attorneys, hereby stipulate for dismissal with prejudice of all claims and causes of action raised by and between the parties hereto in the above-captioned lawsuit. Each party is to bear its own attorneys' fees and costs.

NTC OF AMERICA, INC., Plaintiff

By:


James C. Lang, Esq.
SNEED, LANG, ADAMS, HAMILTON,
DOWNIE & BARNETT
114 East 8th Street
Tulsa, Oklahoma 74103
(918) 583-3145

Michael J. O'Rourke, Esq.
WINSTON & STRAWN
One First National Plaza, Suite 5000
Chicago, Illinois 60603
(312) 558-5600

GENERAL ELECTRIC CREDIT
CORPORATION

and

SECURITY PACIFIC HOUSING
SERVICES, INC.

Defendants

Dan Morgan

By: J. Daniel Morgan, OBA No. 10550
GABLE & GOTWALS
2000 Fourth National Bank Building
Tulsa, Oklahoma 74119
(918) 582-9201

Certificate of Mailing

This is to certify that on this 7th day of ~~May~~ ^{June}, 1988, a true and correct copy of
the within and foregoing Stipulation of Dismissal was mailed to:

Lawrance S. Burnat, Esq.
SCHREEDER, WHEELER & FLINT
1600 Candler Building
127 Peachtree Street, N.E.
Atlanta, Georgia 30043-7501

C. S. Lewis, III, Esq.
ROBINSON, BOESE, ORBISON & LEWIS
P. O. Box 1046
Tulsa, Oklahoma 74101

Dan Morgan

FILED

JUN 6 1988

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

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

COMMONWEALTH INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.)
)
CHARLES S. KOPP d/b/a)
CHARLES S. KOPP INSURANCE)
AGENCY,)
)
Defendant.)

No. 87-C-1075-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 6th day of June, 1988.



JAMES C. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN -6 1988

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

KLEIER ADVERTISING, INC.)
and KLEIER MARKETING, INC.,)
)
Plaintiffs,)
vs.)
)
PREMIER PONTIAC, INC. d/b/a)
LISTER PONTIAC, CHARLES)
LISTER, STOKELY OUTDOOR)
ADVERTISING, INC. and)
BILL STOKELY,)
)
Defendants.)

No. 86-C-1015-C

J U D G M E N T

This action came before the Court for trial by jury. The jury having entered its verdict,

IT IS ORDERED AND ADJUDGED that plaintiffs Kleier Advertising, Inc. and Kleier Marketing, Inc. recover over and against the defendants Premier Pontiac, Inc. d/b/a Lister Pontiac, Charles Lister, Stokely Outdoor Advertising, Inc. and Bill Stokely, the sum of \$17,120.05 plus costs and post judgment interest at a rate of 7.59% from date of this judgment until paid in full.

IT IS SO ORDERED this 3rd day of June, 1988.


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

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

FILED

MAY 11 1988

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

FIRST FEDERAL SAVINGS & LOAN)
ASSOCIATION, DAVENPORT, IOWA,)
et. al.,)

Plaintiffs,)

vs.)

J. W. HOYT & ASSOCIATES,)
et. al.,)

Defendants.)

No. CIV-86-C-1013-E

JUDGMENT

Pursuant to the Order sustaining Home Savings & Loan Association's Motion for Summary Judgment entered May 31, 1988, the Court hereby enters JUDGMENT for Home Savings & Loan Association and against the Plaintiffs, and dismisses with prejudice all of Plaintiffs' claims against Home.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

Entered
FILED

JUN - 6 1988

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

KLEIER ADVERTISING, INC.)
and KLEIER MARKETING, INC.,)
)
Plaintiffs,)
)
vs.)
)
PREMIER PONTIAC, INC. d/b/a)
LISTER PONTIAC, CHARLES)
LISTER, STOKELY OUTDOOR)
ADVERTISING, INC. and)
BILL STOKELY,)
)
Defendants.)

No. 86-C-1015-C

ORDER

Before the Court for its consideration is plaintiffs' proposed journal entry of judgment and defendants' objections to the proposed judgment.

After careful consideration of the record and applicable law, the Court finds as follows.

17 U.S.C. §504(b) provides:

(b) Actual Damages and Profits.--The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

Section 504(b) explicitly states that the copyright owner is permitted to recover actual damages and any profits of the

infringer that are not taken into account in computing the actual damages. This latter underscored clause cannot be ignored. The statute expressly prohibits the possibility of double recovery. See e.g., Taylor v. Meirick, 712 F.2d 1112, 1120 (7th Cir. 1983).

The jury entered "\$17,120.05" on each of the Verdict Forms 2 through 5, representing the requested initial license fee of the plaintiffs for one year and for a one-year renewal. Plaintiffs assert that the Court should view this award as \$17,120.05 as against defendant Premier Pontiac and an equivalent amount against defendant Stokely for loss profits i.e. "revenues attributable to the infringement." Plaintiffs argue that the "loss revenues" amount to a sum of \$16,500.00 which is close enough to the amount indicated. Moreover, plaintiffs graciously agree to a remittitur of the Stokely verdict to the sum of \$16,500.00 if the Court will permit the award.

Although it is correct, as plaintiffs argue, that a jury could return a verdict for both actual damages and loss profits, the jury in this action chose not to do so. Rather the jury calculated what they considered to be the damages suffered by plaintiff and awarded the sum as against each defendant jointly and severally. The jury intended a single award of \$17,120.05 against the defendants. Further, since the sum entered on Verdict forms 2 through 5 was the same, awarding the amount separately against each defendant would result in double recovery.

Plaintiffs have also requested an award of prejudgment interest. An award of prejudgment interest is not expressly

authorized by the Copyright Act. The majority view is that prejudgment interest is not recoverable. See e.g., Baldwin Cooke Co. v. Keith Clark, Inc., 420 F.Supp. 404 (D.C.Ill. 1976), Aitken, Hazen, Hoffman v. Empire Constr. Co., 542 F.Supp. 252, 264 (D.C.Neb. 1982) and Blackman v. Hustler Magazine, Inc., 620 F.Supp. 792, 802 (D.C. D.C. 1985). Therefore, the Court declines to grant it in this case.

Defendants' application for attorney fees expended in defending plaintiffs' unfair competition, disparagement and deceptive trade practice claims is denied.

It is therefore Ordered that plaintiffs Kleier Advertising, Inc. and Kleier Marketing, Inc. are awarded judgment against defendants Premier Pontiac, Inc. d/b/a Lister Pontiac, Charles Lister, Stokely Outdoor Advertising, Inc. and Bill Stokely, jointly and severally in the sum of \$17,120.05, plus costs and post judgment interest at a rate of 7.59% from the date of this judgment until paid in full.

It is further Ordered that defendants are denied attorney fees.

IT IS SO ORDERED this 3 day of June, 1988.


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

FILED

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

JUN -3 1988

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

IN RE: VERN O. LAING,)
)
 Debtor.)
)
 VERN O. LAING,)
)
 Debtor/Appellant,)
)
 vs.) No. 87-C-1041-C
)
 LAWRENCE A. G. JOHNSON,)
)
 Defendant/Appellee.)

O R D E R

Now before the Court for its consideration is the appeal of the debtor from the bankruptcy proceedings below. Although the briefs of both parties are not models of clarity, it appears that the appellant seeks appeal from a decision rendered by the bankruptcy court during a December 9, 1987, hearing, declining to find the defendant in contempt. The decision was rendered orally by the bankruptcy judge; no written order has been presented to this Court.

Neither party has addressed the issue of finality. 28 U.S.C. §158(a) provides jurisdiction to district courts over final orders of the bankruptcy court. If the order in question is deemed a final order, the aggrieved party may appeal as of right. If the order is deemed an interlocutory order, the decision to grant appeal rests with this Court. See also Bankruptcy Rules 8001 and 8003.

A judge's refusal to hold a party in civil contempt is not an appealable final order when other parts of the litigation remain unresolved. Matter of Xonics, Inc., 813 F.2d 127, 130 (7th Cir. 1987). There is nothing before this Court to indicate that the adversary proceeding in question has been concluded. Therefore, the Court deems the order in question an interlocutory order. Finally, the Court does not believe that an order denying a finding of contempt satisfies the generally formulated grounds for a district court to grant leave to appeal pursuant to 28 U.S.C. §158(a). These grounds are "(1) that the order involves a controlling question of law (2) as to which there is substantial ground for difference of opinion and (3) that an immediate appeal from the order may materially advance the ultimate termination of the litigation." In re Chandler, 66 B.R. 334, 336 (N.D.Ga. 1986). Accordingly, leave to appeal from the order must be denied.

It is the Order of the Court that the appeal of the debtor from the order below is hereby DENIED.

It is the further Order of the Court that, treating the notice of appeal as a motion for leave to appeal, said motion is also hereby DENIED.

IT IS SO ORDERED this 3rd day of June, 1988.


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

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

FILED

JUN -3 1989

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

IN RE:)
)
VIRGIL EDWARD BULLOCK,)
)
Debtor.)
)
JAMES R. ADELMAN, TRUSTEE,)
)
Plaintiff,)
)
vs.) No. 87-C-701-C
)
HAROLD C. BULLOCK, ET AL.,)
)
Defendants.)

O R D E R

Now before the Court for its consideration is the appeal of the Trustee from the Order of the bankruptcy court entered on August 13, 1987, denying the trustee's motion to vacate an order of dismissal.

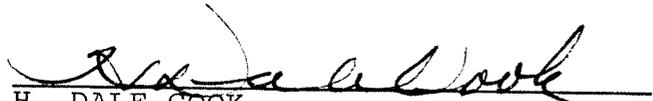
A pretrial conference was scheduled in this adversary proceeding on November 7, 1985. Counsel for the trustee did not appear at that hearing. On November 8, 1985, the bankruptcy court entered an order of dismissal. On November 25, 1985, the appellant filed a motion to vacate the order of dismissal. On August 13, 1987, the bankruptcy court denied said motion. From that order, the trustee appeals.

In its motion to vacate the order of dismissal, the appellant contends that it received no notice of the pretrial hearing.

However, the bankruptcy court based its order not merely upon non-appearance but upon the fact that there had been no substantive activity in the case for over two years prior to the pre-trial conference. Further, the bankruptcy court did not state that the dismissal was with prejudice. Under the circumstances, this Court is not persuaded that the bankruptcy court abused its discretion. Cf. Link v. Wabash R. Co., 370 U.S. 626 (1962).

It is the Order of the Court that the appeal of the trustee should be and hereby is DENIED.

IT IS SO ORDERED this 3rd day of May, 1988.


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

FILED

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

JUN -3 1988

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

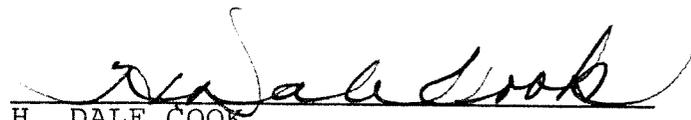
PAUL WILLIAM POLIN,)
)
 Plaintiff,)
)
 vs.) No. 87-C-38-C
)
 JEWS FOR JESUS a/k/a)
 HINENI MINISTRIES,)
)
 Defendant.)

J U D G M E N T

This matter came on for consideration on February 18, 1988. The issues having been duly considered and a decision having been duly rendered in accordance with the Order filed contemporaneously herewith,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment is hereby entered for defendant Jews for Jesus a/k/a Hineni Ministries, and against plaintiff Paul William Polin.

IT IS SO ORDERED this 3rd day of June, 1988.


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

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

AMERICAN SAVINGS BANK, F.S.B.,)
)
Plaintiff,)
)
vs.)
)
TRUSTEES OF SECOND WESTERN)
INCOME REALTY TRUST, et al.,)
)
Defendants.)

No. 86-C-475-E

FILED

JUN 3 1988

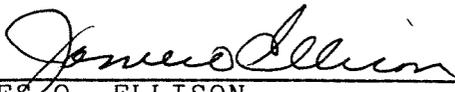
JUDGMENT

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

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 American Savings Bank, F.S.B., take nothing from the Defendants Trustees of Second Western Income Realty Trust, Gary K. Barr, J. Grayson Sanders, and Landsing Property Corporation, that the action be dismissed on the merits, and that the Defendants Trustees of Second Western Income Realty Trust, Gary K. Barr, J. Grayson Sanders, and Landsing Property Corporation, recover of the Plaintiff American Savings Bank, F.S.B., their costs of action.

DATED this 15th day of June, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

CLAIRE L. CHENNAULT,)
)
 Plaintiff,)
)
 vs.)
)
 LOFFLAND BROTHERS COMPANY and)
 MOBIL OIL CORPORATION,)
)
 Defendants.)

No. 85-C-612-E

FILED

JUN 3 1988

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

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 Claire L. Chennault take nothing from the Defendant Loffland Brothers Company, that the action be dismissed on the merits, and that the Defendant Loffland Brothers Company recover of the Plaintiff Claire L. Chennault its costs of action.

DATED at Tulsa, Oklahoma this 17 day of June, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

CHAD JASON BOMAR, a minor, born)
August 5, 1982, by and through)
JOHN OLEN BOMAR, JR., and)
GLORIA IRENE BOMAR, his father)
and mother as natural guardians)
and next friends, and in their)
individual capacities,)

Plaintiffs,)

vs.)

OSTEOPATHIC HOSPITAL FOUNDERS)
ASSOCIATION, an Oklahoma)
corporation, d/b/a OKLAHOMA)
OSTEOPATHIC HOSPITAL, BENIEN)
CLINIC, INC., an Oklahoma)
corporation, JOSEPH KEUCHEL,)
D.O., W. RICHARD LOERKE, D.O.,)
and ROBERT S. LAWSON, D.O.,)

Defendants.)

No. 87-C-409-E

FILED

JUN 3 1988

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

ORDER OF DISMISSAL

On this 2nd day of June, 1988, the above
matter comes on for hearing upon the Magistrate's written Order
Approving Settlement and Recommendation of Dismissal With
Prejudice as to all Defendants. The Court having examined said
Order, and being fully advised in the premises, finds that said
cause of action should be dismissed pursuant to said Order.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the
Court that the above-entitled cause of action be and the same
is hereby dismissed with prejudice.

S/ JAMES O. ELLISON

JAMES O. ELLISON, United States
District Judge

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
-vs-)
)
JAMES H. FLUSCHE,)
17030078)
)
Defendant,)

CIVIL NUMBER 88-C-467 E

FILED

JUN 3 1988

NOTICE OF DISMISSAL Jack C. Silver, Clerk
U.S. DISTRICT COURT

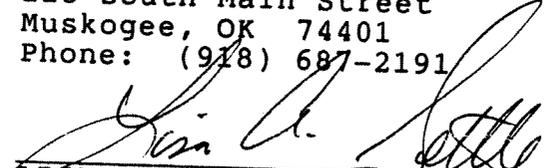
COMES NOW the Plaintiff, United States of America, by and through its attorney, Herbert N. Standeven, District Counsel, Veterans Administration, Muskogee, Oklahoma, and voluntarily dismisses said action without prejudice under the provisions of Rule 41(a)(1), Federal Rules of Civil Procedure.

Respectfully Submitted,

UNITED STATES OF AMERICA

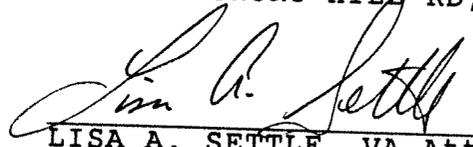
Herbert N. Standeven
District Counsel
Veterans Administration
125 South Main Street
Muskogee, OK 74401
Phone: (918) 687-2191

By:


LISA A. SETTLE, VA Attorney

CERTIFICATE OF MAILING

This is to certify that on the 1st day of June, 1988, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: JAMES H. FLUSCHE, at 301 HICKORY HILL RD, SAPULPA, OK 74066.


LISA A. SETTLE, VA Attorney

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

FILED

JUN 3 1988

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

B. H. WAYCHOFF, JR. and
MARLENE F. WAYCHOFF,
husband and wife,

Plaintiffs,

vs.

CENTENNIAL CAPITAL, INC.,
a California Corporation,
RONALD R. WHITE and
JOHN B. JOSEPH,
all General Partners of
Centennial Development
Fund VI, a California
Limited Partnership,

Defendants.

No. 88-C-268E

ORDER OF DISMISSAL

NOW on this 3rd day of June, 1988, upon consideration of the Plaintiffs' Application for Order of Dismissal, the Court finds that the Plaintiffs' action should be dismissed with prejudice by reason of the parties' settlement of all claims relative to the allegations set forth in the Complaint.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiffs' action shall be and is hereby dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall pay their own respective attorneys fees and costs.

§ JAMES O. ELISON

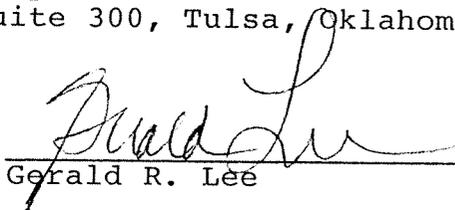
U. S. District Judge

Gerald R. Lee OBA #5335
ELLIOTT & LEE
P. O. Box 1165
Pryor, Oklahoma 74362
(918) 825-6711
ATTORNEY FOR PLAINTIFFS

Donald R. Bradford OBA #1041
BLACKSTOCK JOYCE POLLARD & MONTGOMERY
515 S. Main, Suite 300
Tulsa, Oklahoma 74103
(918) 585-2751
ATTORNEY FOR DEFENDANTS

CERTIFICATE OF MAILING

I, GERALD R. LEE, hereby state that on the ___ day of June, 1988, a true and correct copy of the above and foregoing Order of Dismissal was deposited in the United States mail, with sufficient postage thereon prepaid, to Donald R. Bradford, Attorney at Law, 515 S. Main, Suite 300, Tulsa, Oklahoma 74103.



Gerald R. Lee

DNMIS4/002

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

JUN 3 1988

M. ABLE AVIATION, INC. AND)
DUBBLE-0-4,)
)
Plaintiff,)
)
vs.)
)
AIR TULSA MAINTENANCE,)
INC., d/b/a BILL'S)
AIRCRAFT MAINTENANCE,)
)
Defendant.)

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

No. 87-C-241-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 thirty (30) 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 15th day of June, 1988.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

KEITH F. TAYLOR, G. MICHAEL)
WADE AND RODNEY G. BROOMHALL,)
)
Plaintiffs,)
)
vs.)
)
THE CITY OF SAND SPRINGS,)
OKLAHOMA,)
)
Defendant.)

No. 85-C-356-E

FILED

JUN 8 1988

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

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 Plaintiffs Keith F. Taylor, G. Michael Wade, and Rodney G. Broomhall take nothing from the Defendant The City of Sand Springs, Oklahoma, that the action be dismissed on the merits, and that the Defendant The City of Sand Springs, Oklahoma recover of the Plaintiffs Keith F. Taylor, G. Michael Wade, and Rodney G. Broomhall its costs of action.

DATED at Tulsa, Oklahoma this 3rd day of June, 1988.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 2 1988

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

DONALD KINZEY and PATTY KINZEY,)
et al.,)
)
Plaintiffs,)
)
-vs-)
)
VALLEY FEEDS, INC., et al.,)
)
Defendants.)

Case No. 86-C-1064-E

ORDER OF DISMISSAL WITH PREJUDICE

NOW, on this 1st day of ^{June}~~May~~, 1988, pursuant to the Joint Stipulation of the parties in accordance with Rule 41(a) of the Federal Rules of Civil Procedure,

IT IS ORDERED that the Complaint of the Plaintiffs, BOBBY WILLIAMS and MARIAN WILLIAMS and DAVE CHAMBERLAIN and DIANE CHAMBERLAIN, be, and the same is hereby, dismissed with prejudice to refiling.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

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

HILLCREST MEDICAL CENTER,)
a corporation,)
)
Plaintiff,)
)
vs.)
)
ANTONIO TORRES; ARKANSAS POULTRY)
FEDERATION INSURANCE TRUST, said)
TRUST consisting of MONTY HENDERSON,)
VIC EVANS, DONALD V. ALLEN, JOHN TYSON,)
and CHARLES ANDERSON, as Trustees;)
ARKANSAS POULTRY FEDERATION, INC., A)
Corporation; and FEWELL & ASSOCIATES,)
INC., A Corporation,)
)
Defendants.)

Case No. 88-C-0046-C

FILED

JUN 2 1988

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

ORDER OF DISMISSAL

NOW ON this 2 day of June, 1988, upon the written applica-
tion of the Plaintiff, HILLCREST MEDICAL CENTER, a corporation, and the Defen-
dant(s), ANTONIO TORRES; ARKANSAS POULTRY FEDERATION INSURANCE TRUST, said TRUST
consisting of MONTY HENDERSON, VIC EVANS, DONALD V. ALLEN, JOHN TYSON, and
CHARLES ANDERSON, as Trustees; ARKANSAS POULTRY FEDERATION, INC., A Corporation;
and FEWELL & ASSOCIATES, INC., A Corporation, for a Dismissal with Prejudice as
to the Complaint of HILLCREST MEDICAL CENTER, a corporation vs. ANTONIO TORRES;
ARKANSAS POULTRY FEDERATION INSURANCE TRUST, said TRUST consisting of MONTY
HENDERSON, VIC EVANS, DONALD V. ALLEN, JOHN TYSON, and CHARLES ANDERSON, as
Trustees; ARKANSAS POULTRY FEDERATION, INC., A Corporation; and FEWELL & ASSOCI-
ATES, INC., A Corporation, and all causes of action therein, and 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. The Court being fully advised in the premises finds said settlement is to the best interest of said Plaintiff.

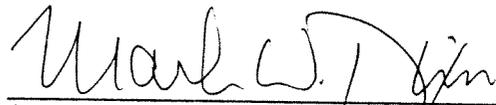
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff, HILLCREST MEDICAL CENTER, INC., a corporation, against the Defendants, ANTONIO TORRES; ARKANSAS POULTRY FEDERATION INSURANCE TRUST, said TRUST consisting of MONTY HENDERSON, VIC EVANS, DONALD V. ALLEN, JOHN TYSON, and CHARLES ANDERSON, as Trustees; ARKANSAS POULTRY FEDERATION, INC., A Corporation; and FEWELL & ASSOCIATES, INC., A Corporation, be and the same are hereby dismissed with prejudice to any future action.

(Signed) H. Dale Cook

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

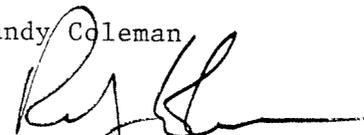
APPROVALS:

Mark W. Dixon



Attorney for the Plaintiff

Randy Coleman



Attorney for the Defendants

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

MARVIN DENARD GREEN,)
)
 Petitioner,)
)
 v.) 87-C-622-B
)
 THOMAS WHITE, et al,)
)
 Respondents.)

ORDER

Now before the Court is Marvin Denard Green's Petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254. On May 27, 1986, Green pled guilty to the crimes of Robbery with Firearms and Shooting with Intent to Kill. He was convicted and sentenced to forty-five (45) years imprisonment on the first count and life imprisonment on the second count, both to run concurrently. Green is now incarcerated in the custody of Respondent Thomas White, Warden, Conner Correctional Center.

Green did not appeal his convictions but sought Post-Conviction relief in the trial court. The trial court noted that Petitioner had waived his right to raise issues which could have been raised on appeal, but then considered the merits of two claims: (1) ineffective assistance of trial counsel, and (2) involuntary and unknowing plea of guilty. The trial court denied the application for post-conviction relief. On appeal, the Oklahoma Court of Criminal Appeals affirmed the order denying relief without addressing the merits. Green now seeks federal habeas relief.

To determine whether federal habeas corpus relief is barred

by Green's bypass of a direct appeal, the federal habeas court must examine whether there is a state procedural bar, but whether the state itself applied the bar. Brasier v. Douglas, 815 F.2d 64, 65 (10th Cir. 1987). Since the state trial court reviewed claims on the merits, Green's procedural default will not preclude this court from addressing the claims on the merits. Id.

Green thus raises two grounds for habeas corpus relief: (1) involuntary and unintelligent plea of guilty and (2) ineffective assistance of counsel.

In North Carolina v. Alford, 400 U.S. 25, 31, 27 L.Ed.2d 162 (1970), the United States Supreme Court held that the standard for determining the validity of a guilty plea "was and remains whether the pleas represents a voluntary and intelligent choice among the alternative courses of action open to the Defendant." In King v. State, 553 P.2d 529, 534-36 (Okla. Crim. App. 1976), the Oklahoma Court of Criminal Appeals set forth a three-step procedure for use by trial courts in accepting a guilty plea. Williams v. Meachum, 592 F.Supp. 2281, 22287 (N.D. Okla. 1984). Upon reviewing the transcript of Green's plea and sentencing, this Court finds both that the procedure used was adequate under King v. State, supra, and the standards set forth in Fed.R.Crim.P. 11(c) as applied to the states in Boykin v. Alabama, 395 U.S. 238, 23 L.Ed.2d 274 (1969); and that the substance of the statements made by Petitioner and the trial court judge reflect a voluntary and intelligent choice among the

alternatives open to Green. Petitioner's first ground for relief is thus without merit.

As to Green's allegation that his attorney's performance fell below a constitutional standard of effective assistance, the United States Supreme Court set out the applicable standard in Strickland v. Washington, 466 U.S. 668, 687, 80 L.Ed.2d 674 (1984). First, Petitioner must show that his lawyer made errors so serious that counsel was not functioning at the level guaranteed by the Sixth Amendment. Id. However, even if Petitioner can make this showing, counsel's errors must also be shown to have changed the result of the trial. Id.

Green alleges his counsel erroneously led him to believe that the death penalty could be imposed for the charges of Robbery With Firearms or Shooting with Intent to Kill. Even if true, counsel's error would not have changed the result of the hearing. At the plea hearing, the trial court clearly communicated the possible range of punishments.

"The Court: ... It's my understanding that the punishment for these charges under the law in this state, Robbery With Firearms, carries a minimum fine up to no maximum, up to a life sentence. Shooting With Intent to Kill just carries up to life, no maximum as far as years is concerned. Do you understand that's the range of punishment?"

Mr. Green: Yes. (Transcript of Proceedings and Sentencing, Case No. CRF 86-231, May 27, 1986, at page 6.)

Clearly, Petitioner has not shown how counsel's performance,

even if deficient, could have undermined the reliability of the result of the proceeding. Id., at 697. Therefore, Green's second ground for habeas relief is also without merit.

It is the Order of the Court that the Petition for Writ of Habeas Corpus is hereby, denied.

Dated this 2nd day of June, 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

307-210
JUL 2 1988
CLERK
DISTRICT COURT

TIMMY JOE CLABORN,)
)
) Petitioner,)
)
 v.) 88-C-276-B
)
) TED WALMAN, et al,)
)
) Respondents.)

ORDER

Petitioner Timmy Joe Claborn's application for a writ of habeas corpus pursuant to 28 U.S.C. §2254 is now before the court for determination. Petitioner was convicted in Tulsa County District Court, Case Nos. CRF-82-1239, CRF-82-1240, and CRF-82-1846, of two counts of Uttering a Forged Instrument and Larceny of an Automobile. Petitioner was sentenced to two years imprisonment on each count to run concurrently. The conviction was not appealed to the Oklahoma Court of Criminal Appeals.

Petitioner filed an application for relief under the Oklahoma Post-Conviction Procedure Act, 22 O.S. §1080 et seq. The petition was denied by the trial court on December 8, 1987, and such denial was affirmed by the Oklahoma Court of Criminal Appeals in Case No. PC-88-15 on January 28, 1988.

Petitioner fully discharged the sentences involved on October 9, 1983 and is presently in the custody of the Oklahoma Department of Corrections, serving two concurrent ten-year sentences which were affected by the former convictions. The courts have held that habeas corpus is appropriate even though the petitioner is not in custody pursuant to the judgment being challenged when there is a "positive demonstrable relationship"

between the prior conviction completely served and the sentence currently being served. Escobedo v. Estelle, 665 F.2d 613 (5th Cir. 1981); Thigpen v. Alford, 526 F.Supp. 689 (W.D.Okla. 1981). The court finds that petitioner meets the "in custody" requirement for consideration by the court of his habeas corpus petition.

Petitioner now seeks federal habeas relief on the following ground: "I was convicted in violation of Due Process and Equal Protection of Law. In violation of the Constitution of the United States." Petitioner alleges the court erred in failing to determine his competency at the time of his guilty plea, to inform him of his right against compulsory self-incrimination and that cases could later be used to enhance a conviction, to obtain a factual basis for its finding of guilt, and to advise him of his right to appeal and to have court-appointed counsel for appeal.

Having reviewed the Transcript of the Plea Hearing on June 18, 1982 ("Transcript"), the pleadings of the parties, and the applicable law, the court finds as follows.

A guilty plea is more than a confession of guilt; it is itself a conviction. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). The Supreme Court explained the ramifications of a guilty plea in McCarthy v. United States, 394 U.S. 459, 466, 89 S.Ct. 1166, 1170, 22 L.Ed.2d 418, 425 (1969).

... 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, 82 L.Ed. 1461, 1466, 58 S.Ct. 1019, 146 ALR 357 (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 criminal charge, it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts. (Footnotes omitted.)

The Supreme Court's standards for determining the validity of a guilty plea are embodied in Rule 11 of the Federal Rules of Criminal Procedure. In King v. State, 553 P.2d 530 (Okla. Crim. 1976), the Oklahoma Court of Criminal Appeals prescribed the procedure to be used by Oklahoma trial courts for acceptance of guilty pleas. This procedure is substantially similar to that set forth in Federal Rules of Criminal Procedure Rule 11(c).

Under the standards of Rule 11(c) and King v. State, supra, the court finds no basis for the petitioner's claim that the state court erred in failing to determine his competency at the time of his guilty plea. In King v. State, supra, the court stated: "'the trial court must first determine if the defendant is competent by interrogation of defense counsel and the defendant as to the defendant's past and present mental state as well as by observation of the defendant.'" Judge Jennings had the opportunity at the plea hearing to observe petitioner closely and to question him at length. Petitioner's answers were clear and responsive. The court asked "You understand what's going on here today?" and petitioner answered "Yes, sir." (Transcript,

page 10, line 5-7). The Judge therefore determined that petitioner was competent to enter his guilty plea.

The court finds that the petitioner was advised of his right against compulsory self-incrimination, when the court asked him if he understood that he had "a right to take the stand and testify in [his] own defense, although [he] could not legally be compelled to do that" [Transcript, page 4, lines 5-7] and he said he understood.

The court finds that the court obtained a clear factual basis for the guilty plea before accepting the plea. The Transcript reads at page 5, line 13 to page 7, line 18:

THE COURT: You are charged in case 82-1239 with Uttering a Forged Instrument, this is alleged to have occurred on April 6 concerning a check in the amount of \$220.20, in which the signature of Ralph Sanders is alleged to be forged or counterfeited, that was given to [C]onsumer IGA. You understand that's the nature of the charge pending against you?

MR. CLAYBORN [sic]: Yes, sir.

THE COURT: And are you guilty of this offense?

MR. CLAYBORN: Yes, sir.

THE COURT: What did you do to that check, yourself?

MR. CLAYBORN: Signed it.

THE COURT: Signed Ralph Sanders name?

MR. CLAYBORN: Yes.

THE COURT: At the time you committed that offense, did you know you were violating the law?

MR. CLAYBORN: Yes.

THE COURT: Are you satisfied that if you went to trial in that matter that the State has sufficient evidence to be able to prove you guilty?

MR. CLAYBORN: Yes, sir.

THE COURT: You are charged in 82-1240 with a similar offense occurring on the same day, check in the amount of \$534.20, it's alleged that the signature of J. E. Franks was forged or counterfeited, that was given to Guaranty National Bank. Do you understand that's the nature of the charge pending against you in that case?

MR. CLAYBORN: Yes, sir.

THE COURT: And are you guilty of that offense?

MR. CLAYBORN: Yes.

THE COURT: Did you forge the name of J. E. Franks?

MR. CLAYBORN: Yes, sir.

THE COURT: At the time you committed that offense did you know you were violating the law?

MR. CLAYBORN: Yes, sir.

THE COURT: Are you satisfied that if you went to trial in this matter that the State has sufficient evidence to be able to prove you guilty?

MR. CLAYBORN: Yes, sir.

THE COURT: You are charged in case 82-1846 with Larceny of an Automobile, this is alleged to have occurred on May 22 of this year, concerning a '72 Dodge Coronet belonging to Cheryl Pollack Putler, you understand that's the nature of the charge pending against you in this case?

MR. CLAYBORN: Yes, sir.

THE COURT: Are you guilty of that offense?

MR. CLAYBORN: Yes, sir.

THE COURT: Did you steal that automobile on that day?

MR. CLAYBORN: Yes, sir.

THE COURT: At the time you committed that offense did you know you were violating the law?

MR. CLAYBORN: Yes, sir.

THE COURT: Are you satisfied that if you went to trial in that matter that the State has sufficient evidence to be able to prove you guilty?

MR. CLAYBORN: Yes, sir.

Petitioner's allegation that "there is not one thread of evidence in the court records to show that the petitioner is guilty of any one of these charges" (Page 4 of petitioner's Brief in Support of Application for Post-Conviction Relief) is frivolous and totally without merit.

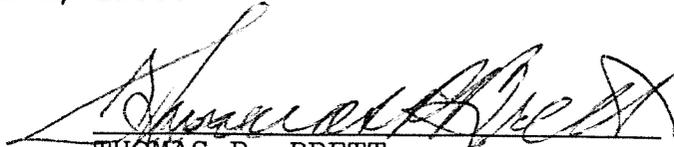
The court finds that the petitioner's claim that the court erred in failing to advise him of the effect his convictions

would have on subsequent convictions is without merit, as there is no burden on the court to advise defendant of every collateral consequence of his plea. Wall v. United States, 500 F.2d 38 (10th Cir. 1974), cert. denied, 419 U.S. 1025; Trujillo v. United States, 377 F.2d 266 (5th Cir. 1967).

The court finds that there is no merit to petitioner's claim that he was not advised of his right to appeal. Advice of appeal is not necessary on a plea of guilty. Barber v. United States, 427 F.2d. 70 (10th Cr. 1970). "The Supreme Court, in its rule making capacity, has not seen fit in F.R.Cr.P. to require district judges to advise defendants of a right to appeal after a plea of guilty, although the advice is required after a not guilty plea." Younger v. Cox, 323 F. Supp. 412, 416 (D.C. Vir. 1971).

Having concluded that petitioner's claims are without merit, his application for writ of habeas corpus pursuant to 28 U.S.C. Section 2254 is dismissed.

Dated this 2nd day of June, 1988.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

GRAIN DEALERS MUTUAL)
INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.)
)
JOHN SWAFFORD, et al.,)
)
Defendants.)

FILED

JUN 2 1988

No. 87-C-35-E

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

O R D E R

This matter comes before the Court upon the Plaintiff's Combined Motion for Default Judgment and Summary Judgment and on Defendant Arnold Classen's Application to File Amended Answer. Magistrate Wagner recommended that Plaintiff's Motion for Summary Judgment be granted and agreed to consider the information contained within Defendant Classen's Amended Answer in reaching such recommendation.

Upon review of the Defendant's Partial Objection to the Findings and Recommendations of the U. S. Magistrate, the Court finds that the arguments raised are insufficient to deny Plaintiff's Motion for Summary Judgment.

Defense's analogy to Warner v. Continental Casualty Co., 534 P.2d 695 (Okla.App. 1975), is inapposite to the instant case. In Warner, an independent agent and company field representative made a joint presentation of the current and proposed plans. The employees made their decision based upon the comparison and the assurances that the plans were essentially the same. 534 P.2d at

697. In the instant case, there is no evidence other than Defendant Swafford's assumption that Mr. Cook was going to compare various policies.

The policy written was plain on its face as to the coverage provided. In his deposition, Defendant Swafford stated that he had read neither the 1982 nor the 1984 policies prior to the bringing of this action. The Court of Appeals cited Warner when they held in Business Interiors, Inc. v. Aetna Cas. and Sur. Co., 751 F.2d 361 (10th Cir. 1984), "Under Oklahoma law, an insured had no duty to read his written policy and notice discrepancies between it and previous representations of a soliciting agent." In this case, it has not been shown that Mr. Cook ever represented the policy as providing roofing coverage. In addition, the policy would not cover the specific type of project where the injury occurred.

Although Defendant indicates he sometimes did roofing jobs for Mr. Cook, he also indicates that he obtained insurance on a job by job basis and sometimes worked without coverage. Therefore, it cannot be presumed, as urged by the defense, that Mr. Swafford would have taken steps to remedy the situation if he had known that roofing was not covered. Taken together, the facts indicate there was no meeting of the minds in either 1982 or 1984 as to what was to be specifically covered by the liability policy. Reformation is not appropriate in this case.

The consideration of Defendant Classen's Application to File an Amended Answer is a moot point. The arguments raised by the defense are insufficient to change the opinion of the Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff's Combined Motion for Summary Judgment and Declaratory judgment be granted.

ORDERED this 2^d day of June, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN -1 1988

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

RICHARD L. ELLIOT,

Plaintiff,

v.

BOB VALE PAINTING AND TILE CO.,
an Oklahoma corporation, and
ROBERT VALE,

Defendants.

Case No. 88-C-333B

NOTICE OF DISMISSAL WITH PREJUDICE

COMES NOW Plaintiff and dismisses the above styled and numbered
cause with prejudice to any future action.

FRASIER & FRASIER

By: 

Steven R. Hickman
1700 Southwest Blvd.
Suite 100
P.O. Box 799
Tulsa, OK 74101
918/584-4724

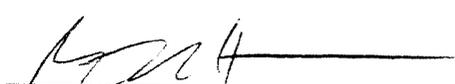
OBA# 4172

CERTIFICATE OF MAILING

I hereby certify that on this the 31st day of May, 1988, I
mailed a true and correct copy of the above and foregoing
instrument to:

Jim Polland
1000 Atlas Life Building
Tulsa, OK 74103

with the correct and proper postage thereon fully prepaid.


Steven R. Hickman

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

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Plaintiff,

vs.

STEELCO, INC., an Oklahoma
corporation, BOBBY L. BOOKOUT,
DELORES M. BOOKOUT and GABOR
TRUCKING, INC., a Minnesota
corporation,

Defendants.

Case No. 87-C-1018-C

F I L E D

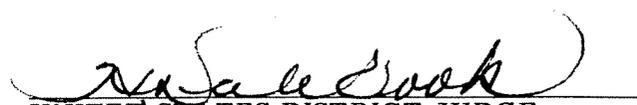
JUN - 1 1988

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

ADMINISTRATIVE CLOSING ORDER

The parties in this matter, having filed their Joint Application for Entry of Administrative Closing Order herein, and for good cause shown, IT IS HEREBY ORDERED that the Clerk administratively terminate this action in his records, and that the parties may reopen these proceedings for good cause shown or for any other purpose required to obtain a final determination of this litigation, PROVIDED, however, that if no party to this action moves to reopen this matter or to extend this order within sixty (60) days of this date, this action will be dismissed without prejudice to the refiling of the same.

IT IS SO ORDERED this 31st day of May, 1988.


UNITED STATES DISTRICT JUDGE