

ENTERED ON DOCKET
DATE JAN 20 1993

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

F I L E D

JAN 19 1993 *[Signature]*

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ALTHA TRIMBLE, personal
representative of the Estate
of MILDRED MARSH, deceased,

Plaintiff,

v.

No. 91-C-673-C

COAST COUNTIES EXPRESS, INC.,
a foreign corporation; JOSEPH
MICHAEL CAMPBELL, individually
and EARL EUGENE WHITLEY,
individually,

Defendants.

STIPULATION OF DISMISSAL WITH PREJUDICE

Pursuant to Rule 41(a)(1) F.R.Civ.P., the Plaintiff and the
Defendants hereby stipulate to a Dismissal With Prejudice.

It is stipulated by the Plaintiff and the Defendants involved
in this case that the Plaintiff hereby dismisses the above styled
and numbered case and all causes of action therein against the
Defendants with prejudice to the refileing of same.

[Signature]

One of the Attorneys for Plaintiff

[Signature] #9853

One of the Attorneys for Defendant

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

DONALD R. MORGAN,)
)
Plaintiff,)
)
v.)
)
LOUIS W. SULLIVAN, M.D.,)
SECRETARY OF HEALTH)
AND HUMAN SERVICES,)
)
Defendant.)

91-C-821-C

FILED
 JAN 19 1993
 Richard M. Lawrence, Clerk
 U. S. DISTRICT COURT
 NORTHERN DISTRICT OF OKLAHOMA

ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) for judicial review of the final decision of the Secretary of Health and Human Services ("Secretary") denying Plaintiff's application for disability insurance benefits under §§ 216(i) and 223 of the Social Security Act, as amended.

The procedural background of this matter was summarized adequately by the parties in their briefs and in the decision of the Administrative Law Judge ("ALJ"), which summaries are incorporated herein by reference.

The only issue now before the court is whether there is substantial evidence in the record to support the final decision of the Secretary that Plaintiff is not disabled within the meaning of the Social Security Act.¹

In the case at bar, the ALJ made his decision at the fourth step of the sequential

¹ Judicial review of the Secretary's determination is limited in scope by 42 U.S.C. § 405(g). The court's sole function is to determine whether the record as a whole contains substantial evidence to support the Secretary's decisions. The Secretary's findings stand if they are supported by "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Richardson v. Perales, 402 U.S. 389, 401 (1971) (citing Consolidated Edison Co. v. N.L.R.B., 305 U.S. 197, 229 (1938)). In deciding whether the Secretary's findings are supported by substantial evidence, the court must consider the record as a whole. Hephner v. Mathews, 574 F.2d 359 (6th Cir. 1978).

evaluation process.² He found that claimant had the residual functional capacity to perform the physical exertion requirements of work except for the inability to engage in the lifting and carrying requirements of medium, heavy and very heavy work, secondary to the fatigue precipitated by chronic obstructive pulmonary disease and the limitations inherent in lumbar disk disease. He found no nonexertional limitations. He found that claimant was unable to do his past relevant work as a machinist. Having determined that claimant had the residual functional capacity to perform the full range of sedentary and light work, was a younger individual, had a tenth-grade education, and had acquired work skills, such as machinist skills, the ALJ concluded that he was not disabled under the Social Security Act at any time through the date of the decision.

Claimant now appeals this ruling and asserts alleged errors by the ALJ:

- (1) That the ALJ's decision was not based on substantial evidence.
- (2) That the ALJ erred in failing to ask a proper hypothetical question.
- (3) That the ALJ improperly used the vocational expert's testimony, which was based on improper resources.

It is well settled that the claimant bears the burden of proving his disability that prevents him from engaging in any gainful work activity. Channel v. Heckler, 747 F.2d 577, 579 (10th Cir. 1984).

² The Social Security Regulations require that a five-step sequential evaluation be made in considering a claim for benefits under the Social Security Act:

1. Is the claimant currently working?
2. If claimant is not working, does the claimant have a severe impairment?
3. If the claimant has a severe impairment, does it meet or equal an impairment listed in Appendix 1 of the Social Security Regulations? If so, disability is automatically found.
4. Does the impairment prevent the claimant from doing past relevant work?
5. Does claimant's impairment prevent him from doing any other relevant work available in the national economy?

20 C.F.R. § 404.1520 (1983). See generally, Talbot v. Heckler, 814 F.2d 1456 (10th Cir. 1987); Tillery v. Schweiker, 713 F.2d 601 (10th Cir. 1983).

The medical evidence establishes that claimant has chronic obstructive pulmonary disease. He claims he is disabled by back pain, secondary to back surgery, chest pain, secondary to his receiving multiple stab wounds in 1981 during a robbery, and swelling in his knees and ankles. However, he was able to work for several years after the stabbing occurred (TR 35). He testified that his doctor told him to lift only what he can lift comfortably, which is about twenty pounds (TR 36-37). He testified that he takes Advil and Flexeril for the pain and swelling in his knees, and these have no side effects such as drowsiness or dizziness (TR 39-40). He stated that he cares for his two children while his wife is at work, keeps the house straightened up, does the laundry, cooks, and washes dishes (TR 40-44). He also stated he shops twice a week and rakes outside (TR 136).

Claimant did not seek treatment for residual effects following his heart surgery in 1981. He also never obtained follow-up care for his back after a lumbar laminectomy at L-5 was done following an automobile accident in November of 1988 (TR 148, 151-152). After the back surgery, he was reported to be in good condition, walking without limitation or assistive device, and his prognosis was good (TR 148, 152). On August 29, 1989, he reported a "sudden onset of chest pain," surgery was done for pneumothorax (collapsed lung), and Dr. John Phillips reported that he was "getting along quite well" and would be released to return to his heavy machinery job on September 13, 1989 (TR 158-159, 165-169). He reported being in "his usual state of excellent health" when the chest pain occurred (TR 158). It is significant that claimant filed his disability benefit application on September 13, 1989.

In October of 1989, Dr. Phillips reiterated that claimant's chest pain resulted from pneumothorax, which was resolved (TR 165, 169). Dr. Phillips reported that claimant was not taking medication (TR 169). A month later claimant told the consultative medical examiner, Dr. James Riemer, that he was taking Clinoril and Flexeril as needed and was suffering chest pain (TR 171). Claimant also told Dr. Riemer that he had had three episodes of spontaneous pneumothorax, but only one such episode was reported in the record. A chest x-ray showed he was well healed, and no cause for the chest pain was found (TR 165-172). The doctor reported that claimant had no motor or sensory deficits, ambulated without assistance, was able to manipulate fine objects without difficulty, and had "some restriction of range of motion in stooping and side bending in the lumbar area of his back." (TR 172). The doctor found that claimant, a smoker, had diminished breath sounds, and diagnosed probable early chronic obstructive pulmonary disease (TR 172). His other diagnoses were based only on the history of ailments given him by claimant.

A residual physical functional capacity assessment of claimant was conducted by Dr. Charles Harris on December 27, 1989. The doctor found no signs or symptoms of heart disease or severe respiratory disease (TR 82). The doctor concluded that pain did not limit claimant's capacity to function (TR 82). The doctor stated that "he alleges swelling in his ankles and knees but at LE (presumably refers to "Lower Extremity") he has no edema and no evidence of arthritis in these joints." (TR 85).

The Social Security Act provides that, in considering whether a person is disabled, "[o]bjective medical evidence of pain or other symptoms established by medically acceptable clinical or laboratory techniques . . . must be considered in reaching a

conclusion as to whether the individual is under a disability." 42 U.S.C. § 423(d)(5)(A) (emphasis added). Thus, the Act makes clear that the Secretary must consider all relevant medical evidence of record in reaching a conclusion as to disability. Ray v. Bowen, 865 F.2d 222, 226 (10th Cir. 1989) ("[t]he ALJ must determine the claimant's eligibility for disability benefits in light of the entire record").

The courts have found that both physical and mental impairments can support a disability claim based on pain. Turner v. Heckler, 754 F.2d 326, 330 (10th Cir. 1985). However, the Tenth Circuit has said that "subjective complaints of pain must be accompanied by medical evidence and may be disregarded if unsupported by any clinical findings." Frey v. Bowen, 816 F.2d 508, 515 (10th Cir. 1987). The court in Luna v. Bowen, 834 F.2d 161, 165-66 (10th Cir. 1987), discussed what a claimant must show to prove a claim of disabling pain:

[W]e have recognized numerous factors in addition to medical test results that agency decision makers should consider when determining the credibility of subjective claims of pain greater than that usually associated with a particular impairment. For example, we have noted a claimant's persistent attempts to find relief for his pain and his willingness to try any treatment prescribed, regular use of crutches or a cane, regular contact with a doctor, and the possibility that psychological disorders combine with physical problems. The Secretary has also noted several factors for consideration including the claimant's daily activities, and the dosage, effectiveness, and side effects of medication. Of course no such list can be exhaustive. The point is, however, that expanding the decision maker's inquiry beyond objective medical evidence does not result in a pure credibility determination. The decision maker has a good deal more than the appearance of the claimant to use in determining whether the claimant's pain is so severe as to be disabling. (Citations omitted).

There was substantial evidence in the record to support the ALJ's decision that claimant was not disabled. There was not objective medical evidence to confirm claimant's

complaints of disabling back and chest pain. After his laminectomy and lung surgery, claimant recovered and he was allowed to return to work. His doctors did not prescribe narcotic pain medications and did not diagnose muscle weakness or atrophy related to disabling pain.

The ALJ concluded that claimant was unable to return to his past heavy work and relied on the testimony of the vocational expert to find that he could perform jobs consistent with his age, education, past work, and residual functional capacity for light and sedentary work (TR 15). The expert was qualified by a master's degree in counseling and experience as a vocational rehabilitation counselor for the State for ten years and private practice for eleven years (TR 45).

There is no merit to claimant's argument that the ALJ did not ask a proper hypothetical question. The judge asked if claimant had "any skills that would transfer to light work?" (TR 47). The vocational expert listed jobs and the ALJ followed up with the following questions:

Q. And if the claimant couldn't stand any other than or any longer than he testified, could he do those jobs?

....

Q. Does he have any skills that would transfer to any sedentary jobs?

....

Q. Considering his age, education and work experience, would there be any unskilled jobs that he can do? (TR 48-49).

The ALJ further asked whether the jobs the vocational expert listed required sitting six out of eight hours and a 40-hour work week (TR 49-50).

The claimant's attorney then asked the following questions, which he claims the ALJ should have asked:

Q. And would the occupational base of those jobs be eroded by the fact that someone who can only sit for 30 minutes, can stand for 20 minutes, who can lift no more than 20 pounds, would the occupational base be eroded by those limitations? (TR 51).

....

Q. Now let's take a hypothetical. We have a person who is 32 years of age, who has a tenth-grade education, who last worked October 31st, 1989, whose prior work was as a machinist, who has had back surgery where he can't -- as a result of the back surgery he has had his back swells. If he sits for more than 30 minutes, his knees and ankles will also swell after sitting 30 minutes; who can stand for two hours, and after two hours his back swells and is in pain such that he can hardly walk; who can walk three to four blocks; who can lift 20 pounds. Who in 1981 was stabbed 21 times in the chest; who had open heart surgery as a result of that; and because of the open heart surgery and the stabbing has pains in his chest. His left arm goes numb once or twice a day; who has restrictions of no lifting any more than he can, and that he's determined that to be 20 pounds; who cannot be outside in the heat or in the sun without a shirt. Could that person do or engage in substantial gainful activity? (TR 62-63).

The medical evidence does not support the claims included in the hypothetical question asked by claimant's attorney.

Finally, there is no merit to claimant's argument that the vocational expert relied on improper resources to make her recommendation, "information derived from private sources."³ Earlier in her testimony, the vocational expert stated that she relied on the

³ The questioning of the vocational expert by claimant's counsel concerning the subject was as follows:

Q What research and reason did you use to come up with these numbers [of jobs available]?

A Goodness. You know, these files I have put together over years. And I, and I update them all the time. Some of

Dictionary of Occupational Titles, published by the United States Department of Labor (TR 53-54), and publications of the United States Bureau of Labor and Statistics and the United States Census Bureau (TR 52).

my files have phone research. Some have parts of the **yellow pages** pulled out where I've just counted companies. You know, it's just a compilation of all the information that's available. **And it's all that.** It's, it's, it's from everywhere that I can get it. And there's some additional things. You know, here's the occupational **employment** from the metropolitan statistical area in Texas. That's additional information that I've looked at. There's just a lot that I use. I mean, I don't pull one computer sheet and use it. Here's some information that was compiled by Occu-Data (Phonetic), **which is also** something that I purchased.

Q Okay. Occu-Data's -- again that's **something that** I can't get without buying it, isn't that right?

A That's right.

Q It's not public record.

A That's right. But all of this information **is** information that comes straight from Department of Labor statistics.

Q Now wait, you can't sit here under **oath and say** that, can you?

A Well --

Q You cannot say -- that's a yes or no. **You cannot say** under oath that Occu-Data's reliable or that's [sic] United Stat's reliable, can you?

A I believe I can't.

Q Because you don't -- no [sic]. **You don't know.** You have no way to tell.

A Okay. Let me tell you what --

Q They could throw figures in there. **Their computer** could be wrong, couldn't it?

A Yes.

Q So you cannot sit here and testify **under oath** that those are reliable figures from Occu-Data or United Stat Publishing. And I just want a yes or no.

A If I have to answer it yes or not, I'd **have to say yes**, I can say that.

Q How can you say it?

A Well, because I have gone to training **programs** under the people that have put this together who are some of the most respected people in my field. Tim Field taught --

Q Once again, once again, just because **you think** they're respected people that does not guarantee that the figures are true and correct.

A Well, it guarantees to me that they **come from** where these people say they come from, which is --

Q I'm not --

A -- Department of Labor statistics. (TR 59-61).

Claimant's counsel directs the court to the regulation regarding the court's administrative notice of job data, 20 C.F.R. § 404.1566(d)⁴. Claimant's counsel suggests that this regulation contains an exhaustive list of resources on which the ALJ and the vocational expert can rely in determining certain types of jobs that exist in the national economy. However, the regulation clearly states that the list contains only examples of the kinds of resources which can be examined. As the court stated in Whitehouse v. Sullivan, 949 F.2d 1005, 1007 (8th Cir. 1991), "the Secretary may take administrative notice of any 'reliable job information'" (emphasis added).

The court notes that Rule 703 of the Federal Rules of Evidence states that "[t]he facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence." The court in Head v. Lithonia Corp., Inc., 881 F.2d 941, 942 (10th Cir. 1989), found that the limitation that data be "of a type reasonably relied upon by experts in the field" provides a mechanism "by

⁴ Title 20 of the Code of Federal Regulations, § 404.1566(d), states:

When we determine that unskilled, sedentary, light, and medium jobs exist in the national economy ... we will take administrative notice of reliable job information available from various governmental and other publications. For example, we will take notice of----

- (1) Dictionary of Occupational Titles, published by the Department of Labor;
- (2) Country Business Patterns, published by the Bureau of the Census;
- (3) Census Reports, also published by the Bureau of the Census;
- (4) Occupational Analyses, prepared for the Social Security Administration by various State employment agencies and ;
- (5) Occupational Outlook Handbook, published by the Bureau of Labor Statistics. (Emphasis added.)

which the court can evaluate the trustworthiness of the underlying data on which the expert relies". "What is necessary is that the expert arrived at his ... opinion by relying upon methods that other experts in his field would reasonably rely upon....". Id.

There is no doubt that the vocational expert in this case, in using resources such as Occu-Data or United Stat Publishing, along with the Dictionary of Occupational Titles and other Department of Labor and Statistics and Census Bureau publications, was relying on materials reasonably relied on by vocational experts. Counsel's argument otherwise verges on the frivolous.

The Secretary's decision that claimant was not disabled is supported by substantial evidence and is a correct application of the pertinent regulations. The Secretary's decision is affirmed.

Dated this 19th day of January, 1993.


H. DALE COOK
UNITED STATES DISTRICT JUDGE

JAN 20 1993

FILED

JAN 15 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

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

WILLARD MAYES,)
)
 Plaintiff,)
)
 v.)
)
 LOUIS W. SULLIVAN, M.D.,)
 SECRETARY OF HEALTH AND)
 HUMAN SERVICES,)
)
 Defendant.)

85-C-1127-B

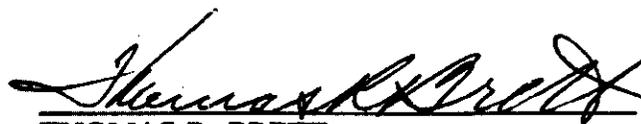
ORDER

The court has for consideration the Supplemental Findings and Recommendations of the Magistrate Judge filed December 8, 1992, in which the Magistrate Judge recommended that the Secretary's decision be reversed and that plaintiff be found to be disabled and entitled to disability insurance benefits under §§ 216(i) and 223 of Title II of the Social Security Act, 42 U.S.C. §§ 416(i) and 423. 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 Supplemental Findings and Recommendations of the Magistrate should be and hereby are affirmed.

It is therefore Ordered that the Secretary's decision is reversed and plaintiff is found to be disabled and entitled to disability insurance benefits under §§ 216(i) and 223 of Title II of the Social Security Act, 42 U.S.C. §§ 416(i) and 423. The Secretary shall compute and pay benefits accordingly.

Dated this 15 day of January, 1993.

A handwritten signature in cursive script, appearing to read "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

ENTERED ON DOCKET
DATE 1-20-93

TAMMY C. COLE,
Plaintiff,
vs.
HOMELAND STORE 118,
Defendant.

No. 93-C-3-E

FILED

JAN 14 1993

ANNETTE M. LAWRENCE, CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Plaintiff filed with the court a motion for leave to proceed in forma pauperis pursuant 28 U.S.C. § 1915, and a complaint alleging, among other charges, that President George Bush ("Bush") is guilty of teason (sic) and bribery. Plaintiff's motion for leave to proceed in forma pauperis has been granted. However, Plaintiff's action shall be dismissed without service as frivolous.

In Neitzke v. Williams, 490 U.S. 319 (1989), the Supreme Court recognized that a court is faced with two somewhat opposing responsibilities when determining which actions shall proceed with a plaintiff who is being allowed to commence an in forma pauperis action. First, a court must be sure that it complies with the "over-arching goal [of] the in forma pauperis statute: 'to assure equality of consideration for all litigants.'" Id. at 329, quoting Coppedge v. United States, 369 U.S. 438, 447 (1962). Commensurate with that responsibility, however, is the realization that § 1915(d) "is designed largely to discourage the filing of, and waste of judicial and private resources upon, baseless lawsuits that paying litigants generally do not initiate because of the costs of

bringing suit and because of the threat of sanctions for bringing vexatious suits under Federal Rule of Civil Procedure 11." Id. at 327.

Consequently, courts have the responsibility to dismiss lawsuits which are frivolous or malicious. A complaint is frivolous where it lacks an arguable basis either in law or in fact. Id. at 325. "Dismissals on these grounds are often made sua sponte prior to the issuance of process, so as to spare prospective defendants the inconvenience and expense of answering such complaints." Id. at 324.

The Supreme Court recently revisited Neitzke in Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728 (1992). Denton emphasizes that a court is not bound to accept without question the truth of a plaintiff's allegations. Id. at 1733. The Court held that a dismissal under § 1915(d) is entrusted to the discretion of the court entertaining the in forma pauperis action, and should only be reviewed for an abuse of discretion. Id. at 1734.

Applying Neitzke and Denton to the case at hand, this court finds that Plaintiff's complaint lacks an arguable basis in law and in fact, and should be dismissed as frivolous. Plaintiff alleges that Bush is accountable for the conviction of teason (sic) and bribery, through the private organization and misdemeanor under the Constitution of the United States. Plaintiff also alleges that Bush used her as "bait".

Plaintiff alleges no competent facts to support her claim. The Court finds that Plaintiff's claims are fanciful and delusional.

Accordingly, Plaintiff's complaint is hereby dismissed without prejudice.

SO ORDERED THIS 14 day of January, 1993.



JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

DATE JAN 19 1993

FILED

JAN 14 1993

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

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

ROBERT AND MARY SULLINS,

Plaintiffs,

vs.

HONORABLE D.C. REVARD,

Defendant.

No. 92-C-991-C

ORDER

Before the Court is the motion of the defendant to dismiss. Plaintiffs bring this civil rights action against defendant, a Judge of Pawnee County, based upon his ruling against them in a state court lawsuit. Judicial immunity bars such an action. See Pierson v. Ray, 386 U.S. 547, 554-55 (1967).

It is the Order of the Court that the motion of the defendant to dismiss is hereby granted.

IT IS SO ORDERED this 14th day of January, 1993.


H. DALE COOK
UNITED STATES DISTRICT JUDGE

6

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

BOB D. MCDANIEL,
Plaintiff,
vs.
BECKY LAWMASTER, et al.,
Defendants.

No. 92-C-1186E

ENTERED IN DOCKET
DATE 1-19-93

FILED

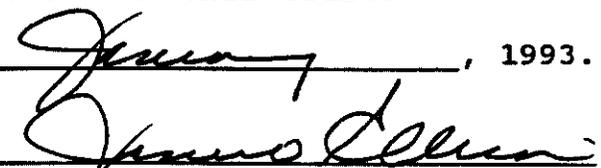
JAN 15 1993

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Plaintiff has filed a civil rights complaint and motion for leave to proceed in forma pauperis. However, Plaintiff's complaint and motion are not on court-authorized forms. Accordingly, Plaintiff's motion shall be denied and his complaint shall be dismissed at this time. Appropriate forms are available if Plaintiff wishes to file a proper action in this court.

SO ORDERED THIS 14th day of January, 1993.



JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

RICKEY D. ROBISON a/k/a RICK
ROBISON; LINDA A. RICHARDSON
f/k/a LINDA A. ROBISON f/k/a
LINDA ROBISON; OZARK CONSTRUCTION
COMPANY, INC.; UNION MORTGAGE
COMPANY, INC.; THE MITSUI BANK
LIMITED; AETNA FINANCE COMPANY,
a Delaware Corporation doing
business as ITT Financial
Services, formerly Aetna Finance
Company of Miami, Inc., an
Oklahoma Corporation; COUNTY
TREASURER, Ottawa County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Ottawa County,
Oklahoma,

Defendants.

FILED

JAN 14 1993

Richard M. Lawfrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 90-C-850-E

DEFICIENCY JUDGMENT

This matter comes on for consideration this 13th day
of Jan, 1993, upon the Motion of the Plaintiff, United
States of America, acting on behalf of the Small Business
Administration, for leave to enter a Deficiency Judgment. The
Plaintiff appears by Tony M. Graham, United States Attorney for
the Northern District of Oklahoma, through Kathleen Bliss Adams,
Assistant United States Attorney, and the Defendants, Rickey D.
Robison a/k/a Rick Robison and Linda A. Richardson f/k/a Linda A.
Robison f/k/a Linda Robison, appear neither in person nor by
counsel.

ENTERED ON DOCKET
DATE JAN 15 1993

The Court being fully advised and having examined the court file finds that on April 1, 1992, a copy of Plaintiff's Motion was mailed by certified return receipt addressee restricted mail to Rickey D. Robison a/k/a Rick Robison and Linda A. Richardson f/k/a Linda A. Robison f/k/a Linda Robison, 24903 Myers, Moreno Valley, California 92388, and by first-class mail to all answering parties and/or counsel of record.

The Court further finds that the amount of the Judgment rendered on September 27, 1991, in favor of the Plaintiff United States of America, and against the Defendants, Rickey D. Robison a/k/a Rick Robison and Linda A. Richardson f/k/a Linda A. Robison f/k/a Linda Robison, with interest and costs to date of sale is \$22,587.42.

The Court further finds that the appraised value of the real property at the time of sale was \$5,367.01.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered September 27, 1991, for the sum of \$3,579.00 which is less than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on March 16, 1992.

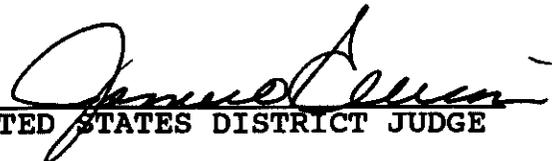
The Court further finds that the Plaintiff, United States of America on behalf of the Small Business Administration, is accordingly entitled to a deficiency judgment against the Defendants, Rickey D. Robison a/k/a Rick Robison and Linda A.

Richardson f/k/a Linda A. Robison f/k/a Linda Robison, as follows:

Principal Balance as of 9/27/91	\$19,280.79
Interest	2,461.61
Abstracting	63.00
Effidentiary Affidavit	20.00
Care and Preservation of Property	374.00
Publication Fees of Notice of Sale	163.02
Court Appraisers' Fees	<u>225.00</u>
TOTAL	\$22,587.42
Less Credit of Appraised Value	- <u>5,367.01</u>
DEFICIENCY	\$17,220.41

plus interest on said deficiency judgment at the legal rate of 3.67 percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Small Business Administration have and recover from Defendants, Rickey D. Robison a/k/a Rick Robison and Linda A. Richardson f/k/a Linda A. Robison f/k/a Linda Robison, a deficiency judgment in the amount of \$17,220.41, plus interest at the legal rate of 3.67 percent per annum on said deficiency judgment from date of judgment until paid.


UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney



KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Deficiency Judgment
Civil Action No. 90-C-850-E

KBA/css

ENTERED ON DOCKET

DATE 1-15-93

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JAN 13 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

THOMAS A. RITCHIE, TRUSTEE OF
THE JAMES RITCHIE REVOCABLE
INTER-VIVOS TRUST DATED
JUNE 26, 1979,

Plaintiff,

vs.

UNITED STATES OF AMERICA,
ex rel. INTERNAL REVENUE,
SERVICE,

Defendant.

Case No. 92-C-921-C

ORDER

Now on this 12th day of January, 1993 there comes before the Court for consideration the Plaintiff's Motion For Summary Judgment in the case at bar. The Court has reviewed the pleadings on file and heard the arguments and statements of counsel and is fully advised in the premises.

The Court finds that all of the allegations of Plaintiff's Petition and Motion For Summary Judgment are true and correct and are judicially so determined. The Court further finds the liens of the Defendant described in paragraph four (4) of Plaintiff's Petition did not attach to Plaintiff's property and can not be enforced against said property. The Court further finds that Plaintiff's Motion for Summary Judgment should be sustained.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Plaintiff, Thomas A. Ritchie, Trustee of the James Ritchie Revocable Inter-vivos Trust dated June 26, 1979 be, and is hereby, granted Summary Judgment against the Defendant, United States of American ex rel, Internal Revenue Service.

5

IT IS, FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's title in and to the following described property, to-wit:

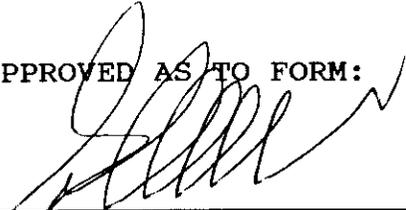
The West 1117.51 feet of the Southwest Quarter of the Southeast Quarter (SW/4 SE/4) in Section Three (3), Township Sixteen (16) North Range Eleven (11) East, lying North and East of Kenyon Creek, containing 10.06 acres more or less

be, and is hereby, quieted against any and all claims, liens or encumbrances of the Defendant herein particularly and including, but not limited to, those liens described in paragraph four (4) of Plaintiff's Petition.

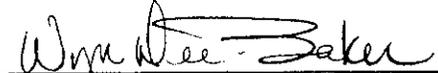
IT IS, FURTHER ORDERED, ADJUDGED AND DECREED that the Defendant has no right, title, lien, estate, encumbrance, claim, assessment or interest, either in law or in equity, in and to the real property which is the subject of this action.


JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM:



Sam T. Allen, IV (O.B.A. #232)
LOEFFLER, ALLEN & HAM
P.O. Box 230
Sapulpa, Oklahoma 74067
PHONE: (918) 224-5302
Attorneys for Plaintiff



Wyn Dee Baker, (O.B.A. #465)
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103

ENTERED ON DOCKET

JAN 15 1993

DATE

FILED

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

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

AMERICAN AIRLINES, INC.,
a Delaware corporation,

Plaintiff,

vs.

NATIONAL AIRLINE CONSULTANTS,
SCHREIER ENTERPRISES, GAYLE
SCHREIER, IRWIN SCHREIER,
JOHN DOE, JANE DOE
and DOE ENTERPRISES,

Defendants.

Case No. 88-C-1158-E

AGREED PERMANENT
INJUNCTION

Having read the Complaint filed in this action, and based on the below-named parties having approved and stipulated to the form and content of this Agreed Permanent Injunction,

IT IS HEREBY ORDERED AND DECREED that Gayle Schreier, Irwin Schreier, National Airline Consultants, and Schreier Enterprises are permanently enjoined from engaging in the following conduct, directly or indirectly, individually or through any entity, or through individuals they employ, anywhere in the world:

1. Using or accessing the SABRE computer system, or altering, changing or adding to the information contained or displayed therein;

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2. Participating in any manner in brokering, soliciting, purchasing, offering for sale, selling or bartering AAdvantage mileage, AAdvantage award certificates, or airline tickets or travel obtained with AAdvantage mileage or AAdvantage awards;

3. Counselling, advising or providing information to any individual or entity regarding purchasing, selling, bartering or brokering AAdvantage mileage, AAdvantage awards, or airline tickets or travel obtained therewith;

4. Counselling, advising or providing information to any individual or entity regarding obtaining AAdvantage mileage, AAdvantage awards, or airline tickets or travel obtained therewith in violation of the AAdvantage rules or in any manner or for any purpose which violates the Settlement Agreement in this action or the terms of this Injunction;

5. Utilizing or disclosing the names, addresses, telephone numbers or AAdvantage account numbers of AAdvantage members in any manner or for any purpose which is prohibited by the terms of the Settlement Agreement in this action or the terms of this Injunction;

6. Opening, using, assigning or accepting assignment of any AAdvantage account or AAdvantage award, or issuing, reissuing, obtaining or using airline tickets or travel based in whole or in part on AAdvantage mileage or awards;

7. Placing or distributing any advertisement, in any medium, which solicits or advertises the purchase, sale, brokering, or bartering of AAdvantage mileage, AAdvantage award certificates or airline tickets or travel obtained therewith; and

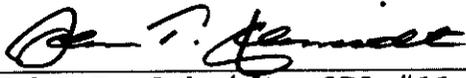
8. Placing or distributing any promotion or advertisement, in any medium, which solicits or relates to the purchase, sale, brokering or bartering of airline travel awards and which fails to state in print at least as large as the smallest print used in the advertisement that the Defendants do not purchase, sell, broker or barter AAdvantage mileage, AAdvantage award certificates, or airline tickets or travel obtained therewith.

ENTERED: Jan 12., 1992

A handwritten signature in cursive script, appearing to read "James D. ...", written over a horizontal line.

UNITED STATES DISTRICT JUDGE

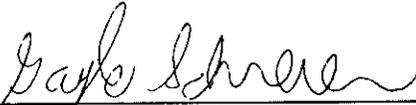
AGREED AS TO FORM AND CONTENT:



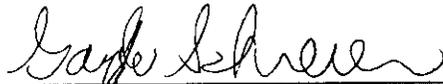
John T. Schmidt, OBA #11,028

CONNER & WINTERS
2400 First National Tower
Tulsa, OK 74103
(918) 586-5711

Attorneys for Plaintiff



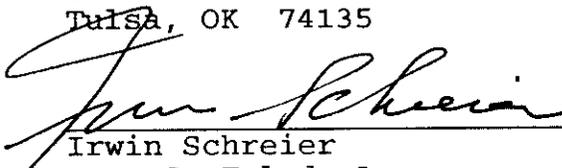
National Airline Consultants
3511 S. Toledo Avenue
Tulsa, OK 74135



Schreier Enterprises
3511 S. Toledo Avenue
Tulsa, OK 74135



Gayle Schreier
3511 S. Toledo Avenue
Tulsa, OK 74135



Irwin Schreier
3511 S. Toledo Avenue
Tulsa, OK 74135

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

FILED

JAN 14 1993

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

KELLEE JO BEARD, by her parents and
next friends, Patty and Bill Beard, *et al.*,

Plaintiffs,

vs.

THE HISSOM MEMORIAL CENTER, et al.,

Defendants.

No. 87-C-704-E

JAN 15 1993
DATE

AMENDED JUDGMENT

In accordance with the Stipulation and Order entered on the 30th day of October 1991, the Court hereby enters an amended judgment in favor of Plaintiffs' counsel, Bullock and Bullock, and against Defendant Sand Springs School District in the amount of \$11,000.00. This judgment shall bear a ten percent (10%) rate of interest, as provided for by 12 O.S. § 727A, from October 30, 1991.

ENTERED this 13th day of January, 1993.

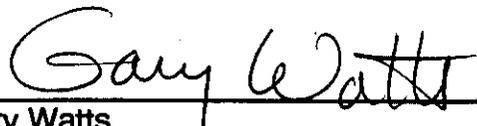

James D. Ellison, Chief Judge
U.S. District Court

APPROVED:


Louis W. Bullock
Patricia W. Bullock
BULLOCK & BULLOCK
320 South Boston, Suite 718
Tulsa, Oklahoma 74103
(918) 584-2001

1/14/93

ATTORNEYS FOR PLAINTIFFS



Gary Watts

David Riggs

CHAPEL, RIGGS, ABNEY,

NEAL & TURPEN

502 West Sixth Street

Tulsa, OK 74119

(918) 587-3161

ATTORNEY FOR SAND SPRINGS

SCHOOL DISTRICT

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

FILED

JAN 14 1993

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

KELLEE JO BEARD, by her parents and
next friends, Patty and Bill Beard, *et al.*,)

Plaintiffs,)

vs.)

No. 87-C-704-E

THE HISSOM MEMORIAL CENTER, *et al.*,)

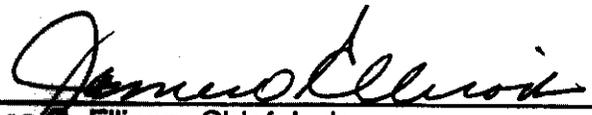
Defendants.)

ENTERED ON DOCKET
DATE JAN 15 1993

AMENDED JUDGMENT

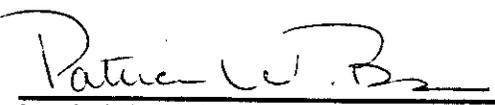
In accordance with the Stipulation and Order entered on the 27th day of February 1992, the Court hereby enters an amended judgment in favor of Plaintiffs' counsel, Bullock and Bullock, and against Defendant Sand Springs School District in the amount of \$5,950.00. This judgment shall bear a rate of interest of 9.58% as provided for by 12 O.S. § 727A from April 14, 1992.

ENTERED this 13th day of January, 1993.



James O. Ellison, Chief Judge
U.S. District Court

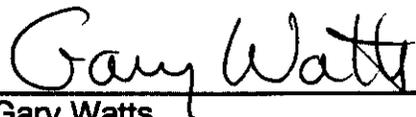
APPROVED:



Louis W. Bullock
Patricia W. Bullock
BULLOCK & BULLOCK
320 South Boston, Suite 718
Tulsa, Oklahoma 74103
(918) 584-2001

ATTORNEYS FOR PLAINTIFFS

1/14/93



Gary Watts

David Riggs

CHAPEL, RIGGS, ABNEY,

NEAL & TURPEN

502 West Sixth Street

Tulsa, OK 74119

(918) 587-3161

**ATTORNEY FOR SAND SPRINGS
SCHOOL DISTRICT**

ENTERED ON DOCKET
JAN 15 1993

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

FILED

JAN 11 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

VARRY WHITE MUSIC, HOWLIN' HITS)
MUSIC, INC., MAJOR BOB MUSIC, BAIT)
AND BEER MUSIC, FORERUNNER MUSIC,)
INC., AND KAL MANN,)

PLAINTIFFS,)

vs.)

BRIAN K. MARTINDALE AND)
JUNIOR F. MARTINDALE,)

DEFENDANTS.)

No. 92-C-31-E

SUPPLEMENTAL JUDGMENT

The above-styled and numbered cause comes before this Court pursuant to plaintiffs' timely Application for Supplemental Judgment for Attorney's Fees. After review of the plaintiffs' Application and the attached Affidavit of plaintiffs' counsel, and being fully advised in the premises, the Court finds that the plaintiffs' Application should be, and the same hereby is, granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiffs are awarded a Supplemental Judgment against defendant Junior F. Martindale for plaintiffs' attorney's fee in the amount of \$ 1,404.00

IT IS SO ORDERED this 14TH day of January, 1993.


UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 1-15-93

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

FILED

JAN 14 1993

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

THRIFTY RENT-A-CAR SYSTEM, INC.,)
an Oklahoma corporation,)

Plaintiff,)

vs.)

A. GONZALEZ, INC., a foreign)
corporation; and ALBERT GONZALEZ,)
SR., ALBERT GONZALEZ, JR., and)
AMELIA GONZALEZ, individuals,)

Defendants.)

Case No. 92-C-340-B

STIPULATION OF DISMISSAL WITH PREJUDICE

The parties to this action stipulate to the dismissal of this matter with prejudice, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

Respectfully submitted,

LIPE, GREEN, PASCHAL,
TRUMP & GOURLEY, P.C.

By: Constance L. Young

Richard A. Paschal, OBA #6927
Constance L. Young, OBA #14637
401 S. Boston Avenue, Ste. 2100
Tulsa, Oklahoma 74103-4015
(918) 599-9400

ATTORNEYS FOR PLAINTIFF

and

WHITE, COFFEY, GALT & FITE, P.C.

By: John M. Coffey

John M. Coffey, OBA #1759
James W. Morris III, OBA #10908
6520 North Western, Suite 300
Oklahoma City, OK 73116

ATTORNEY FOR DEFENDANTS

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

ENTERED ON DOCKET
DATE JAN 14 1993

IN RE:

REPUBLIC FINANCIAL
CORPORATION, an Oklahoma
corporation,

Debtor.

R. DOBIE LANGENKAMP,
Successor Trustee,

Plaintiff-
Appellee.

vs.

INEZ H. ODOM, and
SHELLY DAWN PAGE,

Defendants-
Appellants.

Case No. 84-01460-W
(Chapter 11)

FILED

JAN 13 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Adv. No. 86-0623-C

Dist. Ct. No. 92-C-617-E

ORDER

Comes now before the Court for its consideration the above styled parties' Stipulation of Dismissal pursuant to Rule 41(a)(1)(11) Fed. R. Civ. Proc. After review, the Court finds said Stipulation of Dismissal is hereby granted.

ORDERED this 13TH day of January, 1993.


JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

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

F I L E D

JAN 13 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

KAROL M. LOY

Plaintiff,

vs.

No. 92-C-172-E

ALLSTATE INSURANCE COMPANY,
a foreign corporation,

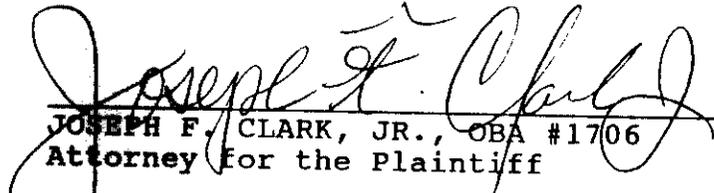
Defendant.

ENTERED ON DOCKET
JAN 14 1993
DATE

STIPULATION ^{of} FOR DISMISSAL PURSUANT TO F.R.C.P. 41(a)(1)(ia)

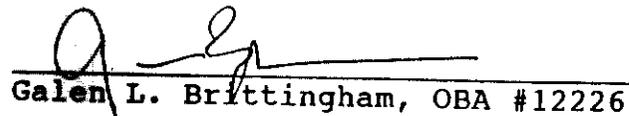
It is hereby stipulated by Karol M. Loy by and through her attorney Joseph F. Clark, Jr. and by Allstate Insurance Company by and through its attorney Galen L. Brittingham that the above entitled action be dismissed with prejudice and that each party should bear their own costs.

CLARK, STAINER AND PARKS, P.A.


JOSEPH F. CLARK, JR., OBA #1706
Attorney for the Plaintiff

406 South Boulder, Suite 600
Tulsa, Oklahoma 74103
(918) 584-6404

THOMAS, GLASS, ATKINSON, HASKINS,
NELLIS & BOUDREAUX


Galen L. Brittingham, OBA #12226

525 South Main
Suite 1500
Tulsa, Oklahoma 74103
(918) 582-8877

ENTERED ON DOCKET
DATE JAN 14 1993

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

FILED

JAN 13 1993
MICHAEL M. LAWRENCE, CLERK
NORTHERN DISTRICT OF OKLAHOMA

IN RE: CREEK COUNTY WELL SERVICES, INC.,
Debtor,
CREEK COUNTY WELL SERVICES, INC.,
Plaintiff,
vs.
EAST CENTRAL OKLAHOMA ELECTRIC COOPERATIVE,
Defendant.

No. 92-C-1147-E

ORDER

COMES NOW BEFORE THE COURT FOR CONSIDERATION East Central Oklahoma Electric Cooperative's (hereinafter East Central) Emergency Motion for Stay of Enforcement of an Order of the United States Bankruptcy Court for the Northern District of Oklahoma, Pending Appeal. For the reasons stated herein, East Central's motion is denied.

I. STATEMENT OF THE CASE

The facts herein are undisputed. This controversy arises out of a bankruptcy petition filed by Creek County Well Services (hereinafter Creek County) in the United States Bankruptcy Court for the Northern District of Oklahoma (hereinafter the Bankruptcy Court and/or the bankruptcy action) on January 28, 1992. Prior to the filing of the bankruptcy petition, a wrongful death action¹

¹ Johnson v. East Central and Creek County, no. C-86-54-D.

8

and a negligence action² were filed against East Central in the District Court in and for Creek County in the State of Oklahoma. East Central brought Creek County into the action as a third-party defendant, claiming, among other things, a statutory right of indemnification under 63 O.S. §984. An order was entered denying Creek County the right to participate in either the Johnson or Wessel trials.

On April 18, 1988, after the filing of the bankruptcy petition, the jury in the Johnson case rendered its verdict, awarding damages for wrongful death in the amount of \$2,506,471.01 plus interest to the Plaintiff, and finding East Central 50% negligent, Creek County 37% negligent, and one of Creek County's employees 13% negligent. Judgment was then entered.

On May 5, 1988, East Central filed a motion in the Bankruptcy action requesting relief from the stay. On June 10, 1988, East Central filed a Proof of Claim in the Bankruptcy action. The parties agreed to submit to the jurisdiction of the Bankruptcy Court for the limited purpose of determining to what extent, if any, Creek County was liable to East Central as a result of the judgment entered in Johnson. East Central waived any claims it had against Creek County's estate without waiving its rights to pursue Creek County's insurance carrier.

On or about November 21, 1988, East Central, Creek County, and Creek County's insurance carriers filed a stipulation with the Bankruptcy Court asking the Bankruptcy Court to determine the

² Wessel v. East Central and Creek County, no. C-86-71-D.

following three issues:

- (1) What liability, if any, does the debtor Creek County Well Services, Inc., owe in indemnity to East Central Oklahoma Electric Cooperative, Inc., both arising by common law and by Oklahoma statute;
- (2) Under the circumstances present, whether the duty of indemnity is for all liability or only a portion thereof?
- (3) Whether the duty of indemnity was affected by the State Court's order denying Creek County Well Service, Inc. the right to participate as a party in the trial of Johnson?

On April 3, 1989, the Bankruptcy Court entered a "Memorandum Decision and Opinion" (hereinafter April 3, 1989 order) which discussed the above issues and concluded, as follows:

THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED as follows:
(1) East Central has in this case a contingent, unliquidated claim against Creek County based on a tort action arising under 63 O.S. §§981 and 984; (2) Recovery on such tort action is not limited by the exclusivity provisions of the Oklahoma Workmen's Compensation Law; (3) Recovery on such tort action cannot exceed the amount of the jury verdict in the state court wrongful death action; (4) Recovery on such tort action is limited to the relative negligence or fault attributable to Creek County, assuming that Creek County raises the defense of comparative negligence; (4) the jury verdict apportioning negligence in the state court wrongful death action is not binding on Creek County; (5) relief from the automatic stay is granted to allow East Central, or its legal assigns or successors, to pursue in state court the cause of action against Creek County, thereby liquidating the claim herein.³

³ In reaching these conclusions, the Bankruptcy Court applied the holding of the Oklahoma Supreme Court in Porter v Norton-Stuart Pontiac-Cadillac of Enid, 405 P.2d 109, 113 (Okla. 1965) (Holding that only one who is merely constructively liable in tort, without fault on his own part, is entitled to implied indemnity from the actual wrongdoer) and placed great emphasis on the unpublished decision of the Oklahoma Supreme Court in Travelers Ins. Co. v. L.V. French Truck Service, Inc., No. 63052 (Okla. July 5, 1988) (1988 WESTLAW 69695) (Clarifying the nature of the liability owed electric companies under 63 O.S. §984). The Bankruptcy Court rejected the decision of the Tenth Circuit in East Central Electric Cooperative v. Robert Gordon Equipment, Inc., 772 F.2d 662 (10th Cir. 1985) (holding in part that Oklahoma statutes relating to

Neither party appealed the April 3, 1989 order of the Bankruptcy Court.

On June 9, 1989, East Central filed in Johnson a motion for summary judgment against Creek County in the full amount of the jury verdict, taking the position that the April 3, 1989 order of the Bankruptcy Court was not binding on the State Court. By March 14, 1991, before adjudication of any of the state level motions, and following Creek County's filing of its Final Report and Application for Final Decree, the Bankruptcy Court approved the final account and closed the case.⁴

In response to the Motion for Summary Judgment in Johnson, Creek County filed with the Oklahoma Supreme Court an Application to Assume Original Jurisdiction and a Petition for Writ of Mandamus and/or Prohibition. Creek County also filed, on September 25, 1992, in the Bankruptcy Action a Motion to Compel Obedience, or in the alternative Motion for Order Requiring East Central to Show Cause why it should not be held in contempt, and for emergency hearing. The Oklahoma Supreme Court denied Creek County's

contribution and comparative liability do not apply to cases under 63 O.S. §984).

⁴ On April 25, 1990, the Bankruptcy Court entered a minute order which stated "Hearing to consider approval of final account; final account approved; final decree to be entered forthwith and case closed". On January 30, 1991, the United States Government ex rel Internal Revenue Service, filed a motion to dismiss, or in the alternative to convert Creek County's Chapter 11 petition to a petition under Chapter 7, on the grounds that Creek County had defaulted in its obligations under the confirmed plan. On March 14, 1991, the Bankruptcy Court entered a minute order denying the motion to dismiss for lack of jurisdiction following approval of the final account. On May 8, 1991, the Bankruptcy Court entered a final decreed and order closing the estate.

Application for Original Jurisdiction on November 10, 1992. East Central immediately filed a motion in Johnson requesting a hearing on its motion for judgment in the full amount of the jury verdict. A hearing was set for December 4, 1992.

Meanwhile, on October 5, 1992, the Bankruptcy Court held a hearing on Creek County's Emergency Motion and indicated to the parties that an adversary proceeding should have been filed. Creek County then filed an adversary proceeding seeking imposition of an injunction prohibiting East Central from proceeding in contravention of the April 3, 1989 order, and a ruling by the Bankruptcy Court that its "memorandum decision and opinion" was a final, appealable order from which East Central failed to timely appeal.

On December 3, 1992, the Bankruptcy Court found that the April 3, 1989 order was a final, appealable order and entered a permanent injunction prohibiting East Central from proceeding with its Motion for Summary Judgment in Johnson or with a like motion in Wessel⁵, and further prohibiting East Central from enforcing any judgment in contravention of the April 3, 1989 Memorandum Decision and Opinion. East Central orally requested that the Bankruptcy Court stay enforcement of the order of injunction pending appeal. The Bankruptcy Court denied East Central's motion.

East Central filed a timely notice of appeal from the injunctive order of the Bankruptcy Court, and an Emergency Motion

⁵ Wessel has meanwhile proceeded to trial. The State Court Judge has ruled that the jury's apportionment of negligence in Johnson is binding upon all the parties to Wessel.

for Stay of the Injunction Pending Appeal with this Court. East Central asks this Court to make the following findings on appeal: (a) the Bankruptcy Court lost jurisdiction over the controversy on either April 25, 1990 or at the latest May 8, 1991 when the case was closed, (b) the April 3, 1989 Memorandum Opinion & Decision recognized East Central's waiver of claims against Creek County except to the extent of Creek County's insurance coverage, (c) the April 3, 1989 Memorandum Opinion & Decision is an appealable order of abstention not to be given full faith and credit by the state court in either Johnson or Wessel, (d) the parties are to adjudicate their claims in State Court and this Court will give full faith and credit to the decisions of the State Court on the remaining matters.

Creek County asks this Court to deny East Central's motion for stay. Creek County urges that East Central's Motion for Stay fails to satisfy the requirements of Bankruptcy Rule 8005 as well as the common law requirements for granting of a Stay.

II. STANDARD FOR REVIEW

This matter comes before the court in the form of a Motion to Stay Enforcement of the December 3, 1992 order of the Bankruptcy Court pending Appeal, pursuant to 28 U.S.C. §158 and Bankruptcy Rule 8005.⁶ Bankruptcy Rule 8005 provides, in pertinent part:

A motion for stay of the judgment, order, or decree of a bankruptcy judge, . . . , or for other relief pending appeal must

⁶ Consequently, this Court is without jurisdiction to review the merits of the April 3, 1989 order, but is limited to determining whether to grant a stay of the December 3, 1992 injunction pending appeal.

ordinarily be presented to the bankruptcy judge in the first instance....A motion for such relief, or for modification or termination of relief granted by a bankruptcy judge, may be made to the district court or the bankruptcy appellate panel, but the motion shall show why the relief, modification or termination was not obtained from the bankruptcy judge.

The rule is followed by the following Editors' Comment:

. . . .
There is little reported case law on the standard for the grant or denial of relief pending appeal pursuant to Bankruptcy Rule 8005, and its predecessor, former Bankruptcy Rule 805. Available case law is divergent. Some courts have held that the test for a stay pending appeal is a proper exercise of "judicial discretion", whereas others have indicated that the grant or denial of an appellate stay in a bankruptcy case should be governed by the "preliminary injunction" test....

. . . .
The Court of Appeals for the Tenth Circuit has not yet addressed the issue of whether the "judicial discretion" standard or the "preliminary injunction" standard is appropriate in reviewing a motion under Bankruptcy Rule 8005. However, the Bankruptcy Court for the Northern District of Oklahoma adopted the preliminary injunction test in the case of Jarboe v. Yukon National Bank, 54 B.R. 81, 82 (Bkrtcy. 1985), citing Schwartz v. Covington, 341 F.2d 537 (9th Cir. 1965) and Long v. Robinson, 432 F.2d 977 (4th Cir. 1970). In order for this Court to issue a stay pending appeal, the following elements must be established by the moving party: (1) the likelihood that the moving party will prevail on the merits of the appeal, (2) irreparable injury to the moving party unless the stay is granted, (3) no substantial harm to the other interested persons, and (4) no harm to the public interest.

II. Likelihood of success on the merits of the appeal

The heart of East Central's appeal lies in its request that

this Court determine that the April 3, 1989 "Memorandum Decision and Opinion" of the Bankruptcy Court was an unappealable order of abstention under 28 U.S.C. §1334(c)(2). Section 1334(c)(2) provides:

(2) Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11..., the district court shall abstain from hearing such proceeding if an action is commenced and can be timely adjudicated, in a State forum of appropriate jurisdiction. Any decision to abstain or not to abstain made under this subsection is not reviewable on appeal or otherwise....

This Court cannot find that the April 3, 1989 "Memorandum Decision and Opinion" of the Bankruptcy Court was an unappealable order of abstention under 28 U.S.C. 1334(c)(2). An order of abstention under section 1334(c)(2) would require the Bankruptcy Court to refrain from assuming jurisdiction over the state law issues. In this case, East Central, by joint stipulation, agreed to submit to the jurisdiction of the Bankruptcy Court in order for the Bankruptcy Court to resolve the three submitted state law issues.

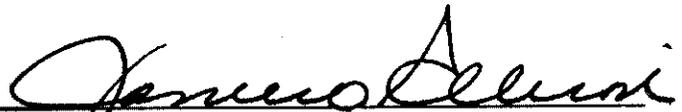
Therefore, this Court finds that the "Memorandum Decision & Opinion" was a final, appealable order. The Court further finds that East Central waived its right to appeal the April 3, 1989 order when it failed to timely appeal or request an extension for time to appeal within the ten (10) day period pursuant to Bankruptcy Rule 8002(a) and (c). The principles of res judicata therefore render the matters adjudicated by the Bankruptcy Court in the "Memorandum Decision & Opinion" binding on the parties who submitted to that Court's jurisdiction, namely, East Central, Creek County, and their respective insurance carriers, with respect to

the ongoing state court litigation in Johnson and Wessel.

In conclusion, the Court finds that East Central would not succeed on the merits of their appeal to this court. Because East Central failed to establish this first element, this Court need not look at the three remaining elements required for granting a stay.

IT IS THEREFORE ORDERED that East Central's Motion to Stay enforcement of the December 3, 1992 order of the Bankruptcy Court for the Northern District of Oklahoma is hereby denied.

ORDERED this 13th day of January, 1993.


JAMES G. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET

DATE 1-14-93

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

FILED

JAN 13 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JONATHAN R. THOMAS,)
)
 Plaintiff,)
)
 v.)
)
 STANLEY GLANZ,)
)
 Defendant.)

92-C-714-B

ORDER

This order pertains to Plaintiff's Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 (Docket #2)¹ and Defendant's Motion to Dismiss and/or Motion for Summary Judgment (Docket #5). On September 22, 1992, Plaintiff asked the court for an enlargement of time of sixty days to respond to Defendant's Motion to Dismiss and/or Motion for Summary Judgment (Docket #6). On December 3, 1992, the court granted the motion and gave Plaintiff until December 28, 1992 to respond (Docket #7). No response has been filed. Pursuant to Rule 15(A) of the Local Rules for the United States District Court for the Northern District of Oklahoma, Plaintiff's failure to respond constitutes waiver of objection to the motion to dismiss.

The complaint can be tested under the standard set forth in 28 U.S.C. § 1915(d), as Plaintiff's Motion for Leave to Proceed In Forma Pauperis was granted on August 12, 1992. If the complaint is found to be obviously without merit, it is subject to summary dismissal. Henriksen v. Bentley, 644 F.2d 852, 853 (10th Cir. 1981). The test to be applied is whether or not the Plaintiff can make a rational argument on the law or the facts

¹ "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion, order, or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

to support his claim. Van Sickle v. Holloway, 791 F.2d 1431, 1434 (10th Cir. 1986). Applying the test to Plaintiff's claim, **this action** is dismissed as obviously without merit.

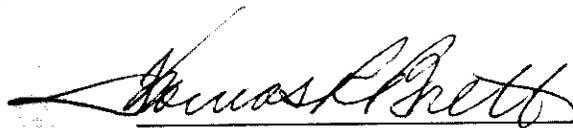
In order to recover in a § 1983 action, Plaintiff must show deprivation of a right secured by the laws or Constitution of **the United States** and that the person who deprived him of that right acted under color of **state law**. Gomez v. Toledo, 446 U.S. 635 (1980).

Plaintiff was brought to the **Tulsa County Jail** on June 5, 1992, accused of several traffic charges and two felony charges. **He filed** this civil rights action on August 13, 1992, alleging he needed an operation on his **right hand** for "nerve damage." He does not claim his "injury" is a result of Defendant's **actions**. He made no request for money or other damage, but only requested that the **needed** medical care be provided. On September 3, 1992, the criminal charges against **him were** resolved, and he was released from the jail.

Plaintiff has failed to allege that **Defendant** deprived him of a constitutional right. Additionally, this court cannot fashion **any relief**, since he has been released from custody. He is free to seek whatever medical **care he** deems appropriate.

Plaintiff's Complaint Pursuant to **42 U.S.C. § 1983** is dismissed under 28 U.S.C. § 1915(d).

Dated this 13 day of Jan., 1993.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 1-14-93

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

FILED

JAN 13 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ULUS GUY, JR.,)	
)	
Plaintiff,)	
)	
v.)	92-C-639-B
)	
RON CHAMPION, et al,)	
)	
Defendants.)	

ORDER

Now before this Court is Ulus Guy's Petition For A Writ Of Habeas Corpus (docket #1). Respondent has filed a response (docket #8), which will be treated as a Motion To Dismiss. Respondents argue the case **should** be dismissed because Petitioner is procedurally barred from raising his claims in a federal habeas court.

I. Facts/Procedural History

Ms. Bobbie Prince died from a **gunshot** wound in 1984. A Tulsa County District Court subsequently convicted Petitioner of first-degree murder and sentenced him to life.

Petitioner directly appealed his case, raising four issues: (1) Improper admission of evidence; (2) Trial court failed to declare a mistrial during the testimony of a witness; (3) improper prosecutorial conduct; and (4) Trial court erred by allowing state to present improper rebuttal evidence. The Oklahoma Court of Criminal Appeals, however, rejected his arguments and affirmed the conviction. *Case No. F-85-722, Exhibit B of Response To Petition For Writ Of Habeas Corpus.*

Petitioner then applied for post-conviction relief in the Tulsa County District Court, raising numerous arguments. The state court rejected Petitioner's claim for ineffective

assistance of appellate counsel. The Oklahoma Court of Criminal Appeals affirmed. It also procedurally barred all other claims made by Petitioner. *Order Affirming Denial Of Post-Conviction Relief, Exhibit D of Response To Petition (docket #8)*.

Subsequently, on July 23, 1992, Petitioner filed this lawsuit. He makes the following habeas claim:

I still need my first trial transcript that occurred April 8-9, 1985. It has the same information number CRF-84-4331 the first jury was discharged under this number, therefore the second trial under this number is illegal. *Petition, page 5 (docket #1)*.

Respondents assert that this issue was raised before the state court in Petitioner's post-conviction application.¹ As a result, they contend this Court may not examine the claim on its merits because the state court applied a procedural bar. (docket #9).²

II. Legal Analysis

The issue is whether a federal court should examine Petitioner's habeas claims in light of the procedural bar applied by the state. When a state court applies an independent and adequate state procedural rule, federal habeas review of those claims are barred "unless the prisoner can demonstrate cause for the default and actual prejudice as a result of the alleged violation of federal law, or demonstrate that failure to consider the claims will result in a miscarriage of justice." *Coleman v. Thompson*, 111 S.Ct. 2546 (1991).

In this case, the Oklahoma Court of Criminal Appeals, citing *Hale v. State*, applied a procedural bar. It wrote that "Petitioner has failed to show that he is entitled to any relief in a post-conviction proceeding. He has not raised any issues that he did not or

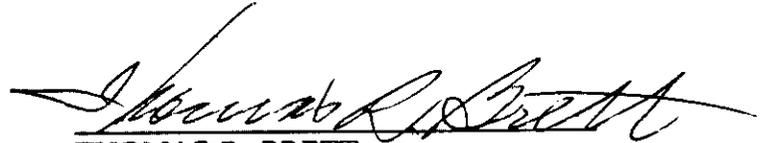
¹ In his habeas petition, Petitioner refers to "Proposition VIII." That proposition states: "Appellant was denied a fair trial by trial court and the Oklahoma Criminal Court [sic] on post-conviction thereby denying appellant the right to an impairment trial thereby violating appellant constitution right to the United States Constitution whereas the trial court erred.

² Petitioner generally argues that *res judicata* should not apply.

could not have raised in his appeal." *See Exhibit D to Response (docket #8).*³

Since the state properly applied the procedural bar, the issue is whether Petitioner has demonstrated cause for his procedural default. He has not. In addition, he has made no showing that a failure to review his claim on the merits would result in a fundamental miscarriage of justice. As a result, this Court GRANTS Respondent's Motion To Dismiss.

SO ORDERED THIS 13 day of Jan., 1993.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

³ While the wording could be more precise, the appellate court did apply a procedural bar. In addition to the above language, the court cited *Hale v. State*, 807 P.2d 264, 266-267 (Okla. Cr. 1991). *Hale* states, in part: "We have previously construed this statute [post-conviction application, 22 Okla. Stat. §1086] to bar the assertion of alleged errors which could have been raised on direct appeal but were not. Further, we have held that the doctrine of res judicata bars consideration in post-conviction proceedings which have been, or which could have been, raised on direct appeal."

ENTERED ON DOCKET

DATE 1-14-93

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

FILED

CYNTHIA RUNYAN,)
)
Plaintiff,)
)
v.)
)
LOUIS W. SULLIVAN, M.D.,)
SECRETARY OF HEALTH)
AND HUMAN SERVICES,)
)
Defendant.)

JAN 13 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

91-C-533-B

ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) for judicial review of the final decision of the Secretary of Health and Human Services ("Secretary") denying plaintiff's application for disability insurance benefits under §§ 216(i) and 223 of the Social Security Act, as amended.

The procedural background of this matter was summarized adequately by the parties in their briefs and in the decision of the Administrative Law Judge, which summaries are incorporated herein by reference.

The only issue now before the court is whether there is substantial evidence in the record to support the final decision of the Secretary that plaintiff is not disabled within the meaning of the Social Security Act.¹

¹ Judicial review of the Secretary's determination is limited in scope by 42 U.S.C. § 405(g). The court's sole function is to determine whether the record as a whole contains substantial evidence to support the Secretary's decisions. The Secretary's findings stand if they are supported by "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Richardson v. Perales*, 402 U.S. 389, 401 (1971) (citing *Consolidated Edison Co. v. N.L.R.B.*, 305 U.S. 197, 229 (1938)). In deciding whether the Secretary's findings are supported by substantial evidence, the court must consider the record as a whole. *Hephner v. Mathews*, 574 F.2d 359 (6th Cir. 1978).

In the case at bar, the ALJ made **his** decision at the fourth step of the sequential evaluation process.² He found that **claimant** had the residual functional capacity to perform work-related activities, **except for work involving lifting more than 10 pounds, prolonged standing and prolonged walking.** He found that claimant's past relevant work as a secretary did not require **performance of work-related activities** precluded by these limitations. Having determined that **claimant's** impairments did not prevent her from performing her past relevant work, the **ALJ** concluded that she was not disabled under the Social Security Act at any time through **the date** of the decision.

Claimant now appeals this ruling **and asserts** alleged errors by the ALJ:

- (1) The ALJ ignored the **objective** medical evidence and erroneously held that **claimant's** impairments did not meet or equal a listed impairment in Appendix 1, Subpart 8, Regulations No. 4.
- (2) That the ALJ erroneously **held** that claimant was capable of performing sedentary work.

Claimant also argues that post-decisional medical evidence further substantiates that claimant's impairment meets a listing **and asks** that this case be remanded to allow consideration of this evidence.

² The Social Security Regulations require that a **five-step** sequential evaluation be made in considering a claim for benefits under the Social Security Act:

1. Is the claimant currently working?
2. If claimant is not working, does the **claimant** have a severe impairment?
3. If the claimant has a severe impairment, **does** it meet or equal an impairment listed in Appendix 1 of the Social Security Regulations? If so, disability is automatically found.
4. Does the impairment prevent the **claimant from doing** past relevant work?
5. Does claimant's impairment prevent **him from doing** any other relevant work available in the national economy?

20 C.F.R. § 404.1520 (1983). See generally, Talbot v. Heckler, 814 F.2d 1456 (10th Cir. 1987); Tillery v. Schweiker, 713 F.2d 601 (10th Cir. 1983).

It is well settled that the claimant bears the burden of proving his disability that prevents him from engaging in any gainful work activity. Channel v. Heckler, 747 F.2d 577, 579 (10th Cir. 1984).

The evidence in the record shows that claimant suffers right lower extremity pain caused by osteoarthritis in her right knee. Prior to 1980, she underwent surgery on the knee seven times, and between the years 1980 and 1986 she underwent four additional surgical procedures on the knee, including a coventry osteotomy, two arthroscopic debridements, and a sympathectomy.

The ALJ concluded that the decision denying disability benefits to claimant on July 16, 1981 could not be reopened, as it had been more than four years since that decision. Therefore, res judicata was applied by the ALJ for the period of time from claimant's alleged onset date of March 15, 1980 to September 6, 1981, and the earliest date claimant could allege a disability was September 17, 1981. The ALJ also determined that claimant's insurance for purposes of social security benefits expired on June 30, 1986,³ so evidence subsequent to that date could not be considered unless she proved her disability between September 17, 1981 and June 30, 1986.

The ALJ based his decision on the fact that claimant's testimony at the hearing was

³Entitlement to disability insurance coverage is based on the number of quarters which a person has worked prior to the onset of disability. 42 U.S.C. § 415. An individual must be "fully insured," as defined in 42 U.S.C. § 414 (1983) (one quarter of coverage for each year between age twenty-two and death, disability, or age sixty-two, whichever comes first), and either have twenty quarters of coverage in the last forty before the onset of disability or, if, as of the last quarter, the individual is not yet thirty-one, have had covered quarters in one-half of the elapsed quarters since he turned twenty-one (with a minimum of six covered quarters). The purpose of the requirement of covered employment is linked to the insurance aspects of the Social Security system. There is a perceived connection between an individual's contributions and the benefits received. Someone who has paid Social Security taxes is deemed to have a greater claim on public assistance than someone who has not. Social Security benefits are viewed as an entitlement, not a handout. Claimant did not work sufficient quarters to make her eligible for disability insurance coverage for disability which did not arise until after June 30, 1986.

aimed primarily at her current condition and not particularly at the period between September 17, 1981 and June 30, 1986. However, there is substantial evidence in the record from which it can clearly be inferred that plaintiff suffered a condition that met Listing 1.03⁴ of the Social Security regulations during this period, and that she has been disabled since then.

On October 30, 1978, a surgical procedure was done to determine the cause of the chronic pain in claimant's right knee. (TR 115). Dr. Terrill Simmons reported on that date that he had seen claimant "for an extensive period of time complaining of pain in her right knee" and "multiple surgical procedures in the past" had not relieved her discomfort. (TR 115). Dr. Simmons diagnosed her problem as "chronic instability" and "degenerative changes" in the knee. (TR 115). Dr. Simmons took x-rays and found both valgus instability and rotatory instability. (TR 115). He noted that claimant had been "advised of the surgical procedure carrying a very low chance of success with the history of infection in the past, and that complications can be even worse than her present condition." (TR 115). But the doctor felt this was the safest alternative to a total knee replacement, which

⁴ Listing 1.03 pertains to arthritis of a major weight-bearing joint and describes a disabling condition as follows:

With history of persistent joint pain and stiffness with signs of marked limitation of motion or abnormal motion of the affected joint on current physical examination. With:

A. Gross anatomical deformity of hip or knee (e.g., subluxation, contracture, bony or fibrous ankylosis, instability) supported by x-ray evidence of either significant joint space narrowing or significant bony destruction and markedly limiting ability to walk and stand; or

B. Reconstructive surgery or surgical arthrodesis of a major weight-bearing joint and return to full weight-bearing status did not occur, or is not expected to occur, within 12 months of onset.

was discouraged for a woman who was **only** twenty-four years old. (TR 115).

In June of 1980, Dr. Simmons **noted** medial compartment crepitation, marked atrophy, and markedly restricted ambulation. (TR 144). An arthroscopy was done that month. (TR 144). On November 3, 1980, after another arthroscopy, Dr. Simmons noted evidence of condromalacia patella tibial **femoral** arthritis as well as ligament instability and discussed a total joint replacement. (TR 156). He noted that he had told claimant a total knee replacement might be the first **step toward** amputation or fusion. (TR 156).

In January of 1981, claimant **had a follow-up** arthroscopy, neuroma excision. (TR 157). She had been wearing her brace **constantly**, could barely flex her knee, and had a great deal of pain. (TR 157). The doctor **noted** that there was still medial instability, with questionable post operative results. (TR 158). Physical therapy was initiated, but the claimant was advised that "her **long-term prognosis** is quite guarded." (TR 158).

On March 10, 1981, Dr. Simmons **diagnosed** claimant as follows:

(1) chronic ligamentous **instability** of the medial aspect of the knee, (2) chronic anterior instability of the **right knee**, (3) chronic posterior instability of the right knee, (4) **degenerative arthritis** of the medial compartment of the knee, (5) marked and chronic **muscle atrophy** of the proximal muscles of the knee joint and distal aspect of **the right thigh**, (6) patellar instability secondary to muscular imbalance (**sic**). (TR 187).

Dr. Simmons stated that her **condition** could not be expected to improve, but rather would continue to deteriorate and **would require** continued surgical intervention. (TR 187). Dr. Simmons opined that "she **would** be unable to stand for any length of time, sit for any period of time greater than **one hour**, walk for any distance and certainly would not be able to perform without the **use of two crutches** for external support for her right leg. Considering her vocational **experience and** education, it would be my opinion that she

is permanently disabled with no significant chance for improvement I would expect that . . . she can anticipate and expect **near constant pain.**" (TR 188).

Dr. Simmons wrote on March 24, 1981 that claimant had persistent instability in her knee, bone crepitation, pain with **movement**, and evidence of subluxation of the patella. (TR 189). She had pain with **any movement** or stress on the knee and decreased tolerance of sitting and standing. (TR 189). The doctor stated: "I feel her condition will degenerate." (TR 189).

On June 22, 1981, Dr. Norman **Dunitz** examined claimant upon the request of Dr. Simmons. (TR 190). He recommended **fusion** or arthrodesis of the knee or a total knee joint replacement. (TR 190). Because of her young age, Dr. Dunitz stated that the arthrodesis should be done first with **the joint replacement** later. (TR 190).

In August of 1981, Dr. John **Phillips** reported that claimant had undergone a sympathectomy, a blockage to the **sympathetic** nerve chain by injection to help her pain, but this provided only temporary relief. (TR 194). Dr. Phillips noted that claimant was suffering " a lot of deep aching pain **down in the bone** of her thigh from the hip to the knee and mostly along the medial and **lateral** aspect of the thigh." (TR 195). She then underwent a permanent sympathectomy, **but this** did not put an end to the pain. (TR 195 and 301).

On November 15, 1983, claimant **underwent** an arthroscopic debridement and on June 25, 1986 she underwent **conventry osteotomy**. (TR 244 and 281). On January 10, 1986, Dr. Simmons noted claimant **was regressing** unusually quickly. (TR 295). In July of 1986, her knee became more **unstable**, her condition worsened, and a brace was

recommended. (TR 294). She had a **total** joint replacement in February of 1989 (TR 244), but continues to suffer pain and **has not** returned to employment.

Claimant testified at the hearing in some detail regarding her difficulty in maintaining steady employment in clerical positions since 1977 due to her impairment and the pain resulting from her impairment. (TR 29-33). She stated that she had not worked on a sustained basis since 1980. (TR 33). She noted that she had had 18 knee surgeries. (TR 48). The medical records show that since 1980 she has consistently required pain medication, such as Zomax, Tylenol No. 3, Tylenol No. 2, Wygesic, and Dolobid, and even Class I narcotics. (TR 43, 130, 131, 142, 187, 294-302). She testified that her medication made her sleepy. (TR 42). In 1980, Dr. Simmons prescribed a TENS unit to alleviate her pain. (TR 136 and 145). Dr. Simmons also noted that she required a brace and cane to ambulate. (TR 132). She went to the Mayo Clinic Pain Management Center in 1984. (TR 10-14).

Both physical and mental impairments can support a disability claim based on pain. Turner v. Heckler, 754 F.2d 326, 330 (10th Cir. 1985). However, the Tenth Circuit has said that "subjective complaints of pain **must** be accompanied by medical evidence and may be disregarded if unsupported by any **clinical findings**." Frey v. Bowen, 816 F.2d 508, 515 (10th Cir. 1987). The court in Luna v. Bowen, 834 F.2d at 165-66, discussed what a claimant must show to prove a claim of **disabling** pain:

[W]e have recognized numerous **factors** in addition to medical test results that agency decision makers should **consider** when determining the credibility of subjective claims of pain **greater** than that usually associated with a particular impairment. For **example**, we have noted a claimant's persistent attempts to find relief for his **pain** and his willingness to try any treatment prescribed, regular use of crutches or a cane, regular contact with a doctor,

and the possibility that psychological disorders combine with physical problems. The Secretary has also noted several factors for consideration including the claimant's daily activities, and the dosage, effectiveness, and side effects of medication. Of course no such list can be exhaustive. The point is, however, that expanding the decision maker's inquiry beyond objective medical evidence does not result in a pure credibility determination. The decision maker has a good deal more than the appearance of the claimant to use in determining whether the claimant's pain is so severe as to be disabling. (Citations omitted).

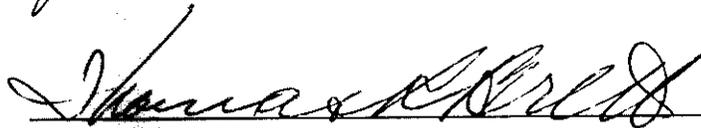
The record is replete with medical evidence substantiating Ms. Runyan's impairment to her right knee, which existed in 1980 and continues to exist and which meets or equals Listing 1.03. There is absolutely no medical evidence in the record which contradicts the findings of her treating physicians. No physician has questioned the credibility of claimant's complaints of pain. The Administrative Law Judge's decision that she is not disabled is not supported by substantial evidence.

There is no reason to remand this case to admit additional evidence of plaintiff's disabling condition when she so clearly met Listing 1.03 during the critical time period. Physicians opined from 1981 to 1986 that her knee condition was a progressive condition that was rapidly worsening. During the period in question, she saw her doctors many times for treatment. The treatments, while not the knee replacement surgery she eventually had, were attempts to put off that surgery as long as possible. By legitimate inference from the records from 1981-1986, it is clear that claimant met Listing 1.03, although no specific physician's report generated during the period found her totally disabled. More recent medical reports confirm that the disability continues.

Plaintiff is entitled to a period of disability commencing on September 17, 1981 and to disability benefits under §§ 216(i) and 223 of Title II of the Act, 42 U.S.C. §§ 416(i) and

423, respectively, and the Secretary shall compute and pay benefits accordingly.

Dated this 13 day of Jan, 1993.

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

THOMAS R. BRET
UNITED STATES DISTRICT JUDGE

DATE 1-14-93

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

ANGELA RICHARDSON,
Plaintiff,

vs.

COUNTRY HERITAGE, FORMERLY COUNTRY
CRAFTSMAN, AN OKLAHOMA PARTNERSHIP;
MIKE HASKIN, BRENDA HASKIN, BRIAN
BENNETT, MARY BENNETT,
DAVE PHIFER AND VAL PHIFER

Defendants.

Case No. 92-C-297-B

FILED

JAN 13 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

The motion of Plaintiff for dismissal of the above-entitled
action without prejudice came on for consideration on
1-13, 199~~2~~³;

And, it appearing that Defendants in their answers make no
counterclaim against Plaintiff and will not be substantially
prejudiced by a dismissal; therefore,

IT IS ORDERED that the above-entitled action be, and it is
hereby, dismissed without prejudice.

DATED Jan. 13, 199~~2~~³.

THOMAS H. BRETT

JUDGE OF THE DISTRICT COURT

ENTERED ON DOCKET
JAN 14 1993

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

FILED

LINDA K. DENNEY,)
)
 Plaintiff,)
)
 v.)
)
 LOUIS W. SULLIVAN, M.D.,)
)
 Defendant.)

JAN 11 1993
Richard M. Lowther, Clerk
U.S. DISTRICT COURT
91-C-556-E NORTHERN DISTRICT OF OKLAHOMA

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed December 10, 1992 in which the Magistrate Judge recommended that the Secretary's decision be reversed.

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 Report and Recommendation of the United States Magistrate Judge should be and hereby is adopted and affirmed.

It is, therefore, Ordered that the recommendations of the Magistrate Judge are hereby adopted as set forth above; that the Decision of the Secretary is hereby REVERSED, and that Claimant be awarded Social Security Disability benefits from November 22, 1987.

SO ORDERED THIS 12th day of Jan., 1993.


JAMES O. ELLISON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

23

ENTERED ON DOCKET

DATE 1-13-93

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

TERESA LYNN PRATHER,

Plaintiff,

vs.

Case No. 92-C-744 B

WITMER, INC., a Texas corporation,
d/b/a WOODCRAFT FURNITURE
a/k/a WOODCRAFT UNFINISHED
FURNITURE; ED BRUBAKER and
LAURA BRUBAKER a/k/a LAURA
WITMER,

Defendants.

FILED

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL WITH PREJUDICE

UPON The Joint Stipulation For Dismissal With Prejudice filed
herein by the parties, it is hereby

ORDERED that this case is dismissed with prejudice, each party
to bear his, her or its own costs and attorney's fees.

DATED this 12th day of January, 199³.

S/ THOMAS R. BRETT

United States District Judge

Submitted by:

DAVID E. STRECKER, OBA NO. 8687
LESLIE C. RINN, OBA NO. 12160

SHIPLEY, INHOFE & STRECKER
3600 First National Tower
15 East Fifth Street
Tulsa, Oklahoma 74103-4307
(918) 582-1720

ENTERED ON DOCKET

DATE 1-13-93

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

F.E. BUCK COOK,)
)
Plaintiff,)
)
vs.)
)
CRAIG D. CORGAN, D.A., et al.,)
)
Defendants.)

No. 91-C-929-B

J U D G M E N T

In accord with the Order filed this date sustaining the Defendants' Motion for Summary Judgment, the Court hereby enters judgment in favor of the Defendants, Larry Silvers and the Washington County Sheriff's Department, and against the Plaintiff, F. E. Buck Cook. Plaintiff shall take nothing of his claim. Costs are assessed against the Plaintiff, if timely applied for under Local Rule 6, and each party is to pay its respective attorney's fees.

Dated, this 12th day of January, 1993.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 1-13-93

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

FILED

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

PAMELA GAIL KEY,
an individual, plaintiff,

v.

DILLON FAMILY & YOUTH
SERVICES, d/b/a SHADOW,
Mountain Institute
a corporation, defendant

Case No. 92-C-182-B.

ORDER GRANTING
PARTIES' STIPULATION
TO DISMISS.

ORDER GRANTING PARTIES' STIPULATION TO DISMISS WITH PREJUDICE.

All of the parties who have appeared in this action, i.e., plaintiff, PAMELA GAIL KEY, defendant, DILLON FAMILY & YOUTH SERVICES, d/b/a SHADOW MOUNTAIN INSTITUTE, (all collectively hereinafter the "parties"), have stipulated to the dismissal with prejudice of all of plaintiff's claims stated in her complaint against defendant. The Court having being fully advised, finds good cause, and hereby dismisses with prejudice all of plaintiff's claims stated in her complaint against defendant. The Court also hereby recognizes that the plaintiff, PAMELA GAIL KEY, is the prevailing party in this case for all purposes including the taxing of costs and attorney fees incurred in this action and that the parties have so agreed in a settlement that they executed.

Dated this 12th day of Jan., 1992.³

THOMAS R. BRETT

Judge of the U.S. District Court.

ENTERED ON DOCKET

DATE 1-13-93

FILED
JAN 18 1993

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

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CARRIE WATKINS,)
)
 Plaintiff,)
)
 vs.)
)
 PAPER CONVERTING MACHINE)
 COMPANY, a Wisconsin)
 corporation,)
)
 Defendant.)

No. 91-C-905-B

ORDER OF DISMISSAL WITH PREJUDICE

Now on this 12 day of January, 1993, upon application of all parties for this court to enter an Order of Dismissal With Prejudice, the Court finds that said application should be granted.

IT IS THEREFORE ORDERED that this cause is dismissed with prejudice.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET

DATE 1-13-93

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 GERALD D. HARRIS; EDDIE M.)
 HARRIS; FIDELITY FINANCIAL)
 SERVICES, INC.; WORLD AND TRIBUNE)
 FEDERAL CREDIT UNION; STATE OF)
 OKLAHOMA ex rel. OKLAHOMA TAX)
 COMMISSION; STATE OF OKLAHOMA)
ex rel. DEPARTMENT OF HUMAN)
 SERVICES; HILLCREST MEDICAL)
 CENTER; JOHN DOE, TENANT;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 91-C-908-B

DEFICIENCY JUDGMENT

This matter comes on for consideration this 12 day of January, 1993, upon the Motion of the Plaintiff, United States of America, acting on behalf of the Secretary of Veterans Affairs, for leave to enter a Deficiency Judgment. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Gerald D. Harris, appears neither in person nor by counsel.

The Court being fully advised and having examined the court file finds that a copy of Plaintiff's Motion was mailed by first-class mail to Gerald D. Harris, 3414 N. Lansing Ave., Tulsa, Oklahoma 74106, and to all answering parties and/or counsel of record.

The Court further finds that the amount of the Judgment rendered on June 15, 1992, in favor of the Plaintiff United States of America, and against the Defendant, Gerald D. Harris, with interest and costs to date of sale is \$12,621.60.

The Court further finds that the appraised value of the real property at the time of sale was \$3,500.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered June 15, 1992, for the sum of \$3,118.00 which is less than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on December 30, 1992.

The Court further finds that the Plaintiff, United States of America on behalf of the Secretary of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendant, Gerald D. Harris, as follows:

Principal Balance plus pre-Judgment Interest as of June 15, 1992	\$11,292.75
Interest From Date of Judgment to Sale	147.21
Late Charges to Date of Judgment	170.19
Appraisal by Agency	500.00
Abstracting	121.00
Publication Fees of Notice of Sale	165.45
Court Appraisers' Fees	<u>225.00</u>
TOTAL	\$12,621.60
Less Credit of Appraised Value	- <u>3,500.00</u>
DEFICIENCY	\$ 9,121.60

plus interest on said deficiency judgment at the legal rate of 3.67 percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Secretary of Veterans Affairs have and recover from Defendant, Gerald D. Harris, a deficiency judgment in the amount of \$9,121.60, plus interest at

the legal rate of 3.67 percent per annum on said deficiency judgment from date of judgment until paid.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney

PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

PB/esr

DATE 1-13-93

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

FILED

JAN 18 1993

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MARCUS W. ENGLISH,
Petitioner,
vs.
STATE OF OKLAHOMA, et al.,
Respondents.

No. 92-C-1141-B

ORDER

Marcus W. English has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, and motion for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. His motion for leave to proceed in forma pauperis is hereby granted.

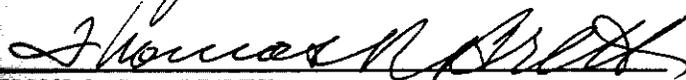
However, English's petition shall be dismissed because his petition form is not properly or completely filled out. In addition, it is clear from the petition that English's state remedies have not been exhausted, and that he has claims currently before the Oklahoma Court of Criminal Appeals.

To exhaust a claim, English must have "fairly presented" that specific claim to the Oklahoma Court of Criminal Appeals. See Picard v. Conner, 404 U.S. 270, 275-76 (1971). The exhaustion requirement is based on the doctrine of comity, which "teaches that one court should defer action on causes properly within its jurisdiction until the courts of another sovereignty with concurrent powers, and already cognizant of the litigation, have had an opportunity to pass upon the matter." Darr v. Burford, 339

U.S. 200, 204 (1950). Requiring exhaustion "serves to minimize friction between our federal and state systems of justice by allowing the State an initial opportunity to pass upon and correct alleged violations of prisoners' federal rights." Duckworth v. Serrano, 454 U.S. 1, 3 (1981) (per curiam).

Thus, for all the above reasons, English's petition for a writ of habeas corpus is hereby dismissed.

SO ORDERED THIS 12 day of Jan, 199~~2~~³.


THOMAS R. BRETT
UNITED STATES DISTRICT COURT

EOD
DATE 1-13-93

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

FILED

JAN 18 1993 *UB*

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MARCUS W. ENGLISH,)
)
Petitioner,)
)
vs.)
)
STATE OF OKLAHOMA, et al.,)
)
Respondents.)

No. 92-C-1141-B ✓

ORDER

Marcus W. English has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, and motion for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. His motion for leave to proceed in forma pauperis is hereby granted.

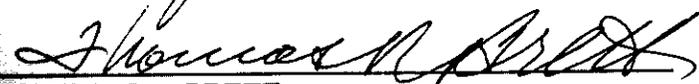
However, English's petition shall be dismissed because his petition form is not properly or completely filled out. In addition, it is clear from the petition that English's state remedies have not been exhausted, and that he has claims currently before the Oklahoma Court of Criminal Appeals.

To exhaust a claim, English must have "fairly presented" that specific claim to the Oklahoma Court of Criminal Appeals. See Picard v. Conner, 404 U.S. 270, 275-76 (1971). The exhaustion requirement is based on the doctrine of comity, which "teaches that one court should defer action on causes properly within its jurisdiction until the courts of another sovereignty with concurrent powers, and already cognizant of the litigation, have had an opportunity to pass upon the matter." Darr v. Burford, 339

U.S. 200, 204 (1950). Requiring exhaustion "serves to minimize friction between our federal and state systems of justice by allowing the State an initial opportunity to pass upon and correct alleged violations of prisoners' federal rights." Duckworth v. Serrano, 454 U.S. 1, 3 (1981) (per curiam).

Thus, for all the above reasons, English's petition for a writ of habeas corpus is hereby dismissed.

SO ORDERED THIS 12 day of Jan., 1992³.


THOMAS R. BRETT
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET

DATE 1-13-93

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

L. WIN HOLBROOK, Trustee of)
the Bankruptcy Estate of)
Danny Rowell,)
)
Plaintiff,)

vs.)

Case No: 92-C-249-B

TERRY GARTSIDE REALTORS;)
GEORGE C. REINTJES and MARY)
E. REINTJES; and the UNITED)
STATES OF AMERICA, ex. rel.)
INTERNAL REVENUE SERVICE,)
)
Defendants.)

FILED

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Upon due consideration of the Joint Stipulation for Judgment submitted by the parties in this case, IT IS HEREBY ORDERED THAT:

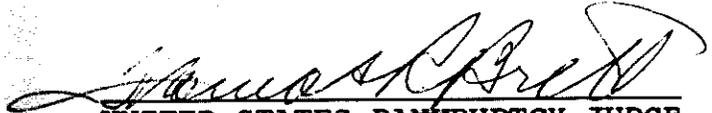
1. That the Defendant, Terry Gartside Realtors, Inc., shall pay to the Plaintiff, L. Win Holbrook, \$2,000.00 for the legal fees that he sustained in bringing this action;

2. That the Defendant, Terry Gartside Realtors, Inc., shall pay to the Defendant, the United States of America, ex. rel. the Internal Revenue Service, the rest of the interpleaded funds, \$8,236.38;

3. That the above-referenced case is dismissed with prejudice as to all parties except George G. Reintjes and Mary E. Reintjes, each party is to bear their own respective costs, including any possible attorneys' fees, except those specifically mentioned in paragraph 1; and,

4. That the Default Judgment rendered against George G. Reintjes and Mary E. Reintjes on February 18, 1992, shall remain in full force and effect.

ENTERED:


UNITED STATES BANKRUPTCY JUDGE

DISTRICT

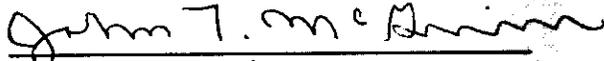
APPROVED:

RHODES & HOLBROOK

By: 

L. Win Holbrook, OBA #4284
Tim D. Haggard, OBA #12316
525 Central Park Dr., Suite 108
Oklahoma City, Oklahoma 73105
(405) 528-0535
FAX NO. 525-9809

ATTORNEYS FOR L. WIN HOLBROOK,
TRUSTEE OF THE BANKRUPTCY ESTATE
OF DANNY ROWELL



John T. McGuire
Trial Attorney Department of Justice
Tax Division
Post Office Box 7238
Washington, D.C. 20044

ATTORNEY FOR DEFENDANT, UNITED
STATES, EX. REL. INTERNAL REVENUE SERVICE



Richard A. Woolery
322 Wells Building
208 East Dewey
Sapulpa, Oklahoma 74066

ATTORNEY FOR DEFENDANT,
TERRY GARTSIDE REALTORS, INC.

Tim\Rowell\Order

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

JIMMIE H. CASTLE,)
)
 Plaintiff,)
)
 v.)
)
 LOUIS W. SULLIVAN, M.D.,)
)
 Defendant.)

91-C-595-C

FILED
JAN 12 1993
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed December 13, 1992 in which the Magistrate Judge recommended that the case be remanded to determine if Plaintiff can return to her past relevant work or if the Secretary can prove that she can work elsewhere in the national economy.

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 Report and Recommendation of the United States Magistrate Judge should be and hereby is adopted and affirmed.

It is, therefore, Ordered that **this case** is hereby REMANDED to the Secretary for further proceedings consistent with this Order.

199

SO ORDERED THIS 12th day of January, 1993.

H. Dale Cook
H. DALE COOK
UNITED STATES DISTRICT JUDGE

DATE JAN 13 1993

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDWARD G. MAYEUX, JR.; TONI L.
MAYEUX a/k/a TONI LYNNE MAYEUX;
KELLY ALM; PAMELA ALM; COUNTY
TREASURER, Tulsa County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Tulsa County,
Oklahoma,

Defendants.

F I L E D

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 91-C-428-C

DEFICIENCY JUDGMENT

This matter comes on for consideration this 12 day
of Jan, 1993, upon the Motion of the Plaintiff,
United States of America, acting on behalf of the Secretary of
Veterans Affairs, for leave to enter a Deficiency Judgment. The
Plaintiff appears by Tony M. Graham, United States Attorney for
the Northern District of Oklahoma, through Kathleen Bliss Adams,
Assistant United States Attorney, and the Defendants, Edward G.
Mayeux, Jr. and Toni L. Mayeux a/k/a Toni Lynne Mayeux, appear
neither in person nor by counsel.

The Court being fully advised and having examined the
court file finds that a copy of Plaintiff's Motion was mailed by
first-class mail to Edward G. Mayeux, Jr. and Toni L. Mayeux
a/k/a Toni Lynne Mayeux, 9248 87th Avenue, Tulsa, Oklahoma 74133,
and to all answering parties and/or counsel of record.

The Court further finds that the amount of the Judgment
rendered on March 2, 1992, in favor of the Plaintiff United
States of America, and against the Defendants, Edward G. Mayeux,

NOTE: THIS DOCUMENT IS FILED AND
PROCESSED IMMEDIATELY
UPON RECEIPT

Jr. and Toni L. Mayeux a/k/a Toni Lynne Mayeux, with interest and costs to date of sale is \$65,989.24.

The Court further finds that the appraised value of the real property at the time of sale was \$23,000.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered March 2, 1992, for the sum of \$20,484.00 which is less than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on the 29th day of December, 1992.

The Court further finds that the Plaintiff, United States of America on behalf of the Secretary of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendants, Edward G. Mayeux, Jr. and Toni L. Mayeux a/k/a Toni Lynne Mayeux, as follows:

Principal Balance Plus Pre-Judgment Interest as of 03-02-92	\$63,014.82
Interest From Date of Judgment to Sale	1,672.92
Late Charges to Date of Judgment	520.96
Appraisal by Agency	300.00
Abstracting	115.00
Publication Fees of Notice of Sale	140.54
Court Appraisers' Fees	<u>225.00</u>
TOTAL	\$65,989.24
Less Credit of Appraised Value	- <u>23,000.00</u>
DEFICIENCY	\$42,989.24

plus interest on said deficiency judgment at the legal rate of _____ percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

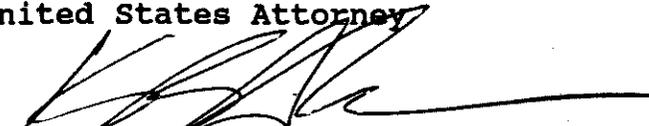
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Secretary of Veterans Affairs have and recover from Defendants, Edward G. Mayeux, Jr. and Toni L. Mayeux a/k/a Toni Lynne Mayeux, a deficiency judgment in the amount of \$42,989.24, plus interest at the legal rate of 3.67 percent per annum on said deficiency judgment from date of judgment until paid.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney



KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

KBA/css

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

ATLANTIC RICHFIELD COMPANY,)
)
Plaintiff,)
)
v.)
)
American Airlines, Inc., et al.)
)
Defendants.)

Consolidated Case Nos.

89-C-868-B
89-C-869-B
90-C-859-B

FILED

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

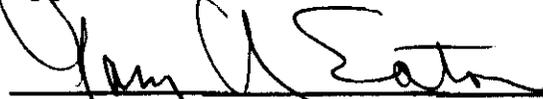
ORDER FOR DISMISSAL WITHOUT PREJUDICE

Now on this 12th day of ~~December~~ January, 1993, upon presentation of the Stipulation for Dismissal Without Prejudice executed by Plaintiff Atlantic Richfield Company and Defendants Production Manufacturing Company and Larry Patterson, the Court finds and adjudges that all claims of Atlantic Richfield Company set forth herein against Production Manufacturing Company and Larry Patterson should be and are hereby dismissed without prejudice to any future action upon such claims and that each of these parties shall bear and be responsible for its own costs and expenses incurred herein.

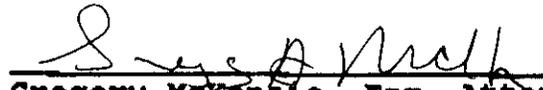
S/ THOMAS R. BRETT

Judge

Approved as to form and content



Gary A. Eaton, Attorney for
Atlantic Richfield Company



Gregory Mckenzle, Esq. Attorney
for Production Manufacturing
Company and Larry Patterson

E4W92C89.9EL

ENTERED ON DOCKET
DATE 1-13-93

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

IRENE GREER, ELEANOR LUDWICK,)
and ALAN SZEWCZYK,)

Plaintiffs,)

vs.)

LONNIE C. JONES, JR., and)
CHARLES D. GOODWIN, INC.,)
d/b/a GOODWIN TRUCKING)
COMPANY,)

Defendants/Third Party)
Plaintiffs,)

vs.)

JOSEPH L. WILSON, WES TEX)
TRUCK LEASING and VAN-PAK)
TRUCKING, INC.,)

Third Party Defendants.)

FILED

JAN 12 1993

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

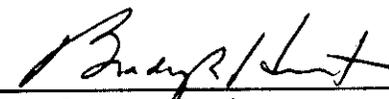
Case No. 92-C-107-E

ENTERED ON DOCKET
JAN 13 1993
DATE

OF
STIPULATION FOR DISMISSAL

COME NOW all parties hereto and stipulate that the above entitled cause may be dismissed with prejudice as to all claims made, or which could have been made against Defendants/Third Party Plaintiffs, Lonnie C. Jones, Jr., and Charles D. Goodwin, Inc., d/b/a Goodwin Trucking Company and Third Party Defendants, Joseph L. Wilson, Wes Tex Truck Leasing and Van-Pak Trucking, Inc., and Alan Szewczyk.

BRADY R. HUNT & ASSOCIATES, INC.

By: 
Brady R. Hunt
8000 S.E. 15th
Midwest City, OK 73110
(405) 733-2717
ATTORNEYS FOR PLAINTIFFS

RHODES, HIERONYMUS, JONES, TUCKER
& GABLE

By: Willk
WILLIAM S. LEACH, OBA #14892
15 West Sixth Street
Suite 2800
Tulsa, Oklahoma 74119-5430
(918) 582-1173

ATTORNEYS FOR DEFENDANTS/THIRD PARTY
PLAINTIFFS, CHARLES D. GOODWIN, INC.
D/B/A GOODWIN TRUCKING COMPANY AND
LONNIE C. JONES, JR.

KNOWLES, KING & SMITH

By: [Signature]
Scott Ryan
603 Expressway Tower
2431 East 51st Street
Tulsa, Oklahoma 74105
(918) 749-5566

ATTORNEYS FOR THIRD PARTY DEFENDANTS

1-12-93

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

FILED

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

TACONIC PETROLEUM CORPORATION, a Delaware corporation,
Plaintiff,
vs.
PITTENCRIEFF plc, a foreign corporation
formed under the laws of Scotland, and
ROBERT J. WOLSEY,
Defendant.

Case No. 92-C-550-B

STIPULATION OF DISMISSAL WITH PREJUDICE

All parties to this action, pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), dismiss all claims and counterclaims in this action *with prejudice*, with each party to bear its own attorneys' fees and costs.

GEORGE H. LOWREY, OBA #10888

OF COUNSEL:

LYNNWOOD R. MOORE, JR.
CONNER & WINTERS
2400 First National Tower
15 East 5th Street
Tulsa, OK 74103-4391

By: 

2400 First National Tower
15 East 5th Street
Tulsa, OK 74103-4391

Attorneys for Plaintiff
TACONIC PETROLEUM CORPORATION



Richard W. Gable, OBA #3191
GABLE & GOTWALS
2000 Fourth National Bank Bldg.
15 W. 6th Street
Tulsa, OK 74119

Attorneys for Defendants
PITTENCRIEFF plc and
ROBERT J. WOLSEY

ENTERED ON DOCKET

DATE 1-12-93

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

BENIEN INVESTMENT CO., INC.,)

Plaintiff,)

v.)

No. 92-C-247-B

HARTFORD FIRE INSURANCE)
COMPANY,)

Defendant/Third-Party)
Plaintiff,)

v.)

LESLIE INSURANCE AGENCY, INC.,)

Third-Party Defendant.)

FILED

JAN 12 1993

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL WITH PREJUDICE

NOW ON this 12th day of January, 1993, it appearing to the Court that this matter has been compromised and settled, this case is herewith dismissed with prejudice to the refiling of a future action.

S/ THOMAS R. BRETT

United States District Judge

FILED

ENTERED ON DOCKET

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

DATE JAN 11 1993

JAN 8 1993

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

DONALD L. BOSHEARS,)
)
 Plaintiff,)
)
 vs.)
)
 HOMESTEAD PRODUCTS, INC., a)
 Michigan Corporation; BERNARD)
 L. ROBINSON and RUTH ANN)
 ROBINSON,)
)
 Defendants.)

Case No. 91-C-230-C/

OF
JOINT STIPULATION FOR DISMISSAL

COMES NOW the Plaintiff, Donald L. Boshears and the Defendants, Homestead Products, Inc., Bernard L. Robinson and Ruth Ann Robinson and hereby stipulate and agree to a Joint Dismissal of the captioned matter.

WHEREFORE, by their agreement and Stipulation of Dismissal the parties hereby move the Court to enter a Stipulation of Dismissal in accordance therewith.

BARBER & BARTZ
Attorneys for Plaintiff

By [Signature]
John M. Hickey, OBA #11100
One Ten Occidental Place
110 W. 7th St., Suite 200
Tulsa, Oklahoma 74119
(918) 599-7755
599-

SNEED, LANG, ADAMS & BARNETT

By [Signature]
Brian S. Gaskill
2300 Williams Center Tower II
Two West Second Street
Tulsa, OK 74103
(918) 583-3145

45