

NSA FOIA lawsuit

First posted

Thursday April 26, 2007 12:31

Updated

Saturday June 23, 2007 17:58

Our legal project has brought us to Tehran [and the Evin Prison] and now the [Nojeh airbase in Hamedan](#).

IIAF Personnel killed by Islamic Regime between 1979 - Present

1st Fighter Base, Mehrabad, Tehran. Generating fighter and escort missions inside the border along western and south-western Iraq. It also operated as the main hub for tanker operations and aerial reconnaissance missions into Iraq and over battle fronts. 3rd Fighter Base, Hamedan (Shahroki, [later Nojeh](#)). Home to 31st and 32nd Fighter Wings. This base was in charge of aerial support of the western front. Flying time from this base to Baghdad was 30 minutes. Due to its high sortie generation rate, Nojeh came under constant enemy bombing.



UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
OFFICE OF THE CLERK
SUITE 270
333 LOMAS BLVD., N.W.
ALBUQUERQUE, NEW MEXICO 87102

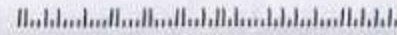
OFFICIAL BUSINESS



Case: 97cv266

William H Payne
13015 Calle de Sandias, NE
Albuquerque, NM 87111

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OFFICIAL BUSINESS

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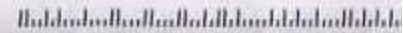


UNITED STATES POSTAL SERVICE
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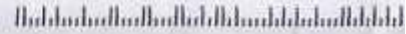
UNITED STATES DISTRICT COURT
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William H Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111








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Our legal project would not be possible without all of this high tech stuff. But there are problems.

Mitchell's long 8 page response required about a 19 page reply.

Michell was emailed our reply. Outlook Express apparently doesn't like long emails. Our reply got stuck in the OUTBOX. This resulted.


 Mitchell, Jan (USANM)	Not read: REPLY TO RESPONSE IN OPPO...	6/20/07 6:21 AM
 Mitchell, Jan (USANM)	Not read: REPLY TO RESPONSE IN OPPO...	6/20/07 6:21 AM
 Mitchell, Jan (USANM)	Not read: REPLY TO RESPONSE IN OPPO...	6/20/07 6:21 AM
 Mitchell, Jan (USANM)	Not read: REPLY TO RESPONSE IN OPPO...	6/20/07 6:21 AM
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 Mitchell, Jan (USANM)	Not read: REPLY TO RESPONSE IN OPPO...	6/20/07 6:21 AM
 Mitchell, Jan (USANM)	Not read: REPLY TO RESPONSE IN OPPO...	6/20/07 6:21 AM

and

 Aimee_Bevan@nmcourt.f...	Re: REPLY TO RESPONSE IN OPPOSITION TO PL...	6/6/07 3:08 PM
 bill payne	REPLY TO RESPONSE IN OPPOSITION T...	6/6/07 2:45 PM
 bill payne	REPLY TO RESPONSE IN OPPOSITION TO PLAINT...	6/6/07 2:30 PM
 bill payne	REPLY TO RESPONSE IN OPPOSITION TO...	6/6/07 2:27 PM
 bill payne	REPLY TO RESPONSE IN OPPOSITION TO PLAINT...	6/6/07 2:23 PM
 bill payne	REPLY TO RESPONSE IN OPPOSITION TO...	6/6/07 2:20 PM
 bill payne	REPLY TO RESPONSE IN OPPOSITION TO...	6/6/07 2:20 PM

We haven't read Bevan's email yet. We have been reading email on our laptop however while on vacation.

[The Honorable M. Christina Armijo](#). Note that Armijo is in Albuquerque.

Address  <http://cryptome.org/>

CRYPTOME

dos061407.htm	+ Secret International Security Panel Meet	June 15, 2007
nist061207-2.htm	+ RFC Secure Hash Standard	June 13, 2007
nist061207.htm	+ RFC Keyed-Hash Message Authentication Code	June 13, 2007
uscg061207.htm	+ Coast Guard Asks Raytheon for Command Help	June 13, 2007
machinic-intel.htm	+ Machinic Intellectuals	June 12, 2007
war-art.htm	+ War Art Profiteers: Venice Biennale	June 12, 2007
nukes-29000.htm	+ 29,000 Names and Addresses of Nuclear Licensees	June 11, 2007
army-oio.htm	+ Army Offensive Information Operations RFP	June 9, 2007
nsa-liberty.htm	+ NSA Opens 100s of New Docs on USS Liberty Attack	June 9, 2007
cia-blackholes.pdf	+ CIA Secret Detention Facilities	June 9, 2007
nsa-ip-info2.htm	+ More NSA IP Packet Tracking and Analysis	June 8, 2007
doj060707.htm	+ Federal Detainees Grow 1000 Per Cent: Ka-Chink	June 8, 2007
bop060607-2.htm	+ Annual Cost of Federal Prisoner: Ka-Chink	June 8, 2007
nsa-ip-info.htm	+ NSA IP Packet Tracking and Analysis	June 6, 2007
jfk-tanks.htm	+ Eyeballing the JFK Airport Fuel Tanks	June 3, 2007
usemb-ig.htm	+ Eyeballing the US Embassy Baghdad	June 2, 2007
nsa-ping.htm	+ NSA Resources For Rapid Targeting and Analysis	June 2, 2007
sss060107.htm	+ Draft Board Spies College Students	June 2, 2007

Offsite

Crooked	Bent Judge Orders Kill of NSA Lawsuit	June 15, 2007
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----- Original Message -----

From: amorales58@comcast.net
To: bill payne
Sent: Friday, June 15, 2007 10:21 AM
Subject: Re: void judgment

Bill, as a matter of record, I agree that we should file a void judgment against vasquez!

----- Original Message -----

From: amorales58@comcast.net
To: bill payne
Sent: Friday, June 15, 2007 4:03 PM
Subject: Re: MOTION TO COMPEL DOCKETING OF MOTION FOR EXTENSION OF TIME

I, Arthur R. Morales, have the read the motion below and agree with William H. Payne.

----- Original Message -----

From: bill payne
To: jan.mitchell@usdoj.gov ; foialo@nsa.gov
Cc: amorales58@comcast.net ; mvproposedtext@nmcourt.fed.us ; VazquezChambers@nmcourt.fed.us ; mcaproposedtext@nmcourt.fed.us ; USANM.ECFCivil@usdoj.gov ; craig.larson@usdoj.gov ; bpayne37@comcast.net
Sent: Friday, June 15, 2007 5:30 PM
Subject: MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION

FINAL

Friday June 15, 2007 17:25

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#vazquez>

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City, State, ZIP+4 Santa Fe, NM 87504

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><u>[Signature]</u></p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery</p> <p><u>Pat Rowley</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
<p>1. Article Addressed to:</p> <p style="font-size: 1.2em; text-align: center;"><u>Cleah</u> <u>POB 2710</u> <u>Santa Fe, NM 87504</u></p>	<p style="text-align: center;"> </p> <p>3. <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p> <p style="font-size: 1.2em; text-align: center;">7006 0100 0001 2619 4395</p>	
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-1540

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE**

**William H. Payne
Arthur R. Morales
Plaintiffs**

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

Federal Rule of Civ. P.

60(b)(4)

MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION

I. INTRODUCTION

1 [Docket entry 87 in 97 cv 0266](#) shows
06/14/2007 87 ORDER of Reference by Judge Martha Vazquez (jmg) (Entered:
06/14/2007)

II. BASIS OF MOTION

2 Judge Judge M. Christina Armijo is presiding judge as of 06/12/2007. See [docket entry 86](#)
06/12/2007 86 MINUTE ORDER, Judge M. Christina Armijo added. Judge
Santiago E. Campos no longer assigned to case. (ln) (Entered: 06/12/2007)

3 Judge Martha Vazquez is no standing in 97 cv 0266 and thus lack jurisdiction to
issue ORDER seen in docket entry 87.

III. ISSUES

4 Judge Martha Vazquez has long history of harassing plaintiffs along with judges
Garcia and Downes in Court.

Vazquez's harassment caused her to be named as defendant in [New Mexico](#)
[01:CV:3118](#) 12 person jury trial lawsuits

which was fraudlently removed to federal court and labeled [01 CV 0634](#).

5 Docket entry 15 of 01 CV 0634 shows
06/11/2001 15 DEMAND for jury trial by plaintiffs (sl) (Entered: 06/12/2001)

6 Docket entry 57 reads
05/28/2004 57 ORDER by District Judge William F. Downes denying as moot
motions [55-1] [49-1] [44-1] [45-1] [39-1] granting motion to dismiss [21-1] denying
as moot motions [20-1] [19-1] granting federal defts motion to dismiss pltf's
complaint [17-1] denying as moot motions [14-1] [12-1] and granting federal defts
motion [7-1] [5-1] dismissing case (cc: all counsel) (sl) (Entered: 05/28/2004)

Plaintiffs have been denied right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#).

Moreover, Downes rulings are void for reason of lack of subject matter jurisdiction. Harassment, replevin, and defamation [libel] are not federal questions and no affidavit that these are federal question was even submitted to courts.

9 Downes repeatedly ruled in [00 cv 1574](#) and [00 cv 1677](#). for which he also lacked subject matter jurisdiction and jurisdiction to render verdict since both are jury trial DEMAND federal lawsuits and fraudulently removed New Mexico 12 person paid-for jury trial lawsuits.

These harassing activities [earned Downes a criminal complaint in Bernalillo Metropolitan Court](#) which is still subject to action.

10 Lorenzo Garcia in [99 cv 270](#) issued

11/30/1999 105 JUDGMENT: by Magistrate Judge Lorenzo F. Garcia entered in favor of deft DOE on all of pltf's federal claims which are hereby dismissed with prejudice [95-1] (cc: all counsel*) (rd) (Entered: 11/30/1999)

11/30/1999 106 JUDGMENT: by Magistrate Judge Lorenzo F. Garcia entered in favor of individually named DOE and EEOC defts on all of pltf's federal claims, which are dismissed with prejudice [96-1], [96-2] (cc: all counsel*) (rd) (Entered: 11/30/1999)

11/30/1999 107 JUDGMENT: by Magistrate Judge Lorenzo F. Garcia entered in favor of EEOC on all of pltf's federal claims, which are dismissed with prejudice; all other common law claims against EEOC are dismissed with prejudice [97-1] dismissing case (cc: all counsel*) (rd) (Entered: 11/30/1999)

11 99 cv 270 is

03/24/1999 3 DEMAND for jury trial by pltf (rd) (Entered: 03/25/1999)

Thus Payne was denied right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#). which is voidable.

12 Vazquez writes in her ORDER wrote

Further, the Chief Magistrate Judge shall determine whether the Plaintiffs' filing of pleadings in this case constitutes a violation of the federal injunction previously entered prohibiting William H. Payne and Arthur R. Morales from filing new lawsuits or re-asserting claims which have previously been dismissed (Arthur R. Morales and William H. Payne v. Theodore C. Baca et al., CIV 01-634, Doc. 61).2

and

Plaintiffs could file pleadings as long as they complied with the requirements outlined in the attachment, Appendix A, to the Honorable William F. Downes'

injunctive order. [Id.] See also, *Tripati v. Beaman*, 878 F.2d 351, 354 (10th Cir. 1989).

Downes, in fact, wrote

08/18/2004 61 ORDER by District Judge William F. Downes granting injunctive relief and prohibiting plffs William Payne and Arthur Morales from initiating a civil action in the U.S. District Court (cc: all counsel) (sl) (Entered: 08/18/2004)

Motion to vacate judgment in CIV NO 97 0266 SC/DJS is well within allowable legal activities since "initiating a civil action in the U.S. District Court" was not done. We merely filed to void in existing case before the court.

IV RELIEF SOUGHT

6 Return filed stamped copy of this Motion with 10 working days.

7 Sign attached ORDER VACATING Judge Martha Vazquez' s 06/14/2007 87 ORDER of Reference by Judge Martha Vazquez (jmg) (Entered: 06/14/2007)

Respectfully submitted,

William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: _____

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to [LTG Keith B. Alexander, Director, National Security Agency](#), 9800 Savage Road, Fort George G. Meade, MD 20755-6000, emailed Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 at jan.mitchell@usdoj.gov, and foialo@nsa.gov by email this Friday June 15, 2007.

DRAFT
Friday June 15, 2007 15:39

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE

William H. Payne
Arthur R. Morales
Plaintiffs

v
[0266 SC/DJS](#)

[CIV NO 97](#)

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

Federal Rule of Civ.

P. 60(b)(4)

ORDER VACATING Judge Martha Vazquez' s
06/14/2007 87 ORDER of Reference by Judge Martha Vazquez (jmg)
(Entered: 06/14/2007)

1 Judge Martha Vazquez' s 06/14/2007 87 ORDER of Reference by Judge Martha Vazquez (jmg) (Entered: 06/14/2007) is void for lack of jurisdiction since judgeM. Christina Armijo was assigned to case on 06/12/2007.

2 Judges Martha Vazquez, Lorenzo Garcia, and William F Downes are ordered to desist in any attempts to further sanction litigants Morales and Payne from pursuing legal remedies guaranteed by US Constitution and Federal Rules of Civil Procedure.

M. Christina Armijo
United States District Judge

Date

- (3) Fraud committed in the procurement of jurisdiction
- (5)a judge does not follow statutory procedure,
- (6)Unlawful activity of a judge,

- (7) Violation of due process
- (8) If the court exceeded its statutory authority
- (21) where an order/judgment is based on a void order/judgment

- (6) Unlawful activity of a judge, Code of Judicial Conduct
- (20) Where an order/judgment is based on a void order/judgment

[Downes has voidable 01 cv 0634.](#)

[Downes has voidable 00 cv 1574.](#)

[Downes has voidable 00 cv 1677.](#)

[Lorenzo Garcia also has voidable judgment in 99 cv 270.](#)

[§ 636. Jurisdiction, powers, and temporary assignment](#)

(a) Each United States magistrate judge serving under this chapter shall have within the territorial jurisdiction prescribed by his appointment—

(1) all powers and duties conferred or imposed upon United States commissioners by law or by the Rules of Criminal Procedure for the United States District Courts;

(2) the power to administer oaths and affirmations, issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial, and take acknowledgements, affidavits, and depositions;

(3) the power to conduct trials under section 3401, title 18, United States Code, in conformity with and subject to the limitations of that section;

(4) the power to enter a sentence for a petty offense; and

(5) the power to enter a sentence for a class A misdemeanor in a case in which the parties have consented.

....

(b)

(1) Notwithstanding any provision of law to the contrary—

(A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph

(A) where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law.

(B) a judge may also designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the

disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for posttrial [1] relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.

(C) the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

...

[Lorenzo Garcia also has voidable judgment in 99 cv 270.](#)

<http://www.prosefights.org/nmlegal/nsalawsuit/vazquez.pdf>

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WILLIAM H. PAYNE,
Plaintiffs,

vs. CIVIL NO. 97-266 NATIONAL SECURITY AGENCY,
Defendant.

ORDER OF REFERENCE

THIS MATTER is before the Court sua sponte. On May 16, 2007, pro se Plaintiffs William H. Payne and Arthur R. Morales filed pleadings in this case [Docs. 81, 82], years after the case was dismissed [Doc. 73, Oct. 27, 1999] and the dismissal affirmed by the Tenth Circuit Court of Appeals [Doc. 80, Dec. 13, 2000]. The filing of the motion of the present motion to set aside judgment [Doc.

81] necessitated a response from the United States [Doc. 83]. The Court now issues an Order of Reference directing that the district's Chief Magistrate Judge, Lorenzo F. Garcia, issue a report and recommendation on the motion to vacate. Further, the Chief Magistrate Judge shall determine whether the Plaintiffs' filing of pleadings in this case constitutes a violation of the federal injunction previously entered prohibiting William H. Payne and Arthur R. Morales from filing new lawsuits or re-asserting claims

which have previously been dismissed (Arthur R. Morales and William H. Payne v. Theodore C. Baca et al., CIV 01-634, Doc. 61).²

1The report and recommendation will be issued to the Chief Judge, as the former trial judge, the Honorable Santiago Campos, is deceased and no Article III judge is currently assigned to this case.
2Pro se Plaintiffs' access to the Court was not absolutely barred. Plaintiffs could file pleadings as long as they complied with the requirements outlined in the attachment, Appendix A, to the Honorable William F. Downes' injunctive order. [Id.] See also, *Tripati v. Beaman*, 878 F.2d 351, 354 (10th Cir. 1989).

The Chief Magistrate Judge may undertake whatever legal analysis he deems necessary and may conduct hearings to determine if there is a violation of the injunction and, if so, to recommend the imposition of sanctions, including censure, striking pleadings, imposition of fines and/or incarceration of the Plaintiffs. The Chief Magistrate Judge will issue his report and recommendation to the Court in accord with the requirements of 28 U.S.C. § 636(b)(1).

Martha Vaquez

CHIEF UNITED STATES DISTRICT JUDGE

Read 17:15 Bozeman, MT on PACER.

12/13/2000	80	COPY of judgment from USCA affirming the decision of the District Court [78-1] (r
05/16/2007	81	MOTION to Set Aside Judgment by William H Payne, Arthur R Morales. (pz) (Ent
05/16/2007	82	MANDATORY JUDICIAL NOTICE by William H Payne and Arthur R Morales (
05/29/2007	83	RESPONSE in Opposition re 81 MOTION to Set Aside Judgment filed by Nationa
06/12/2007	84	MOTION for Extension of Time to File response to any document filed between Jur Morales. (pz) (Entered: 06/12/2007)
06/12/2007	85	REPLY to Response to Motion re 81 MOTION to Set Aside Judgment filed by Wi
06/12/2007	86	MINUTE ORDER, Judge M. Christina Armijo added. Judge Santiago E. Campos r

**UNITED STATES
DISTRICT OF**

WILLIAM H. PAYNE and
ARTHUR R. MORALES,

Plaintiffs,

v.

LT. GEN. KENNETH A. MINIHAN
and NATIONAL SECURITY AGENCY,

Defendants.

MINUTE

MINUTE ORDER

Please be advised that the above-captioned case is assigned to
Santiago Campos, Senior United States District Judge, to be assigned to
United States District Judge.

In accordance with D.N.M.LR-Civ. 10.1 'the first case file number and initials of the assigned Judge of the newly-assigned judge may result in a subsequent delay of rulings by the newly-assigned judge.

Kindly reflect this change when submitting further filings.

CASE NUMBER CV 97-0266 MCA/DJS

CASE NUMBER CV 97-0266 MCA/DJS.

FINAL
Wednesday June 6, 2007 15:02

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Total Postage & Fees	\$	\$6.28

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 City, State, ZIP+4 87504

PS Form 3800, August 2006 See Reverse for Instructions

7007 0220 0002 8762 9367

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <u>Patrick Kowley</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Patrick Kowley</u> C. Date of Delivery</p> <p>D. Is delivery address different from item 17? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
<p>1. Article Addressed to: <u>Clech</u> <u>87504</u></p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number <u>7007 0220 0002 8762 9367</u> (Transfer from service label)</p>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#reply>

Constitution and Rules 3 and 4, a written and sworn complaint should set forth the essential facts constituting the offense charged and also facts showing that the offense was committed and that the defendant committed it.

And,

As to the requirement that the complaint be made on personal knowledge of the complainant, it is enough for the issuance of a warrant that a complainant shows it to be on the knowledge of the complainant.

[Giordenello v United States (1958) 357 US 480, 2 L Ed. 2d 1503, 78 S Ct 1245, revg (Ca5 Tx) 241 F2d 575, 579 in accord Rice v Ames (1901) 180 US 371, 45 L Ed 577, 21 S ct 406, and United States v Walker, (1952, CA2 NY) 197 F 2d 287, 289, cert den 344 US 877, 97 L Ed 679, 73 S Ct 172]

We charge Zibigniew Brzezinski with inciting Saddam Hussein to invade Iran in 1980.

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me this day of

6/6/07

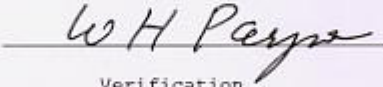
Arthur R Morales



SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me this day of

6/6/07

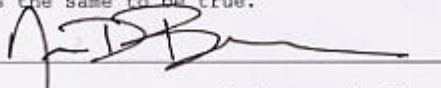
William H Payne



Verification

Under penalty of perjury as provided by law, the undersigned certifies pursuant to 28 USC section 1746 that material factual statements set forth in this pleading are true and correct, except as to any matters therein stated to be information and belief of such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Notary Public



Plaintiffs ask that you return a copy of the Brzezinski summons to us within 60 days.



Wednesday June 6, 2007

Clerk
United States District Court
Post Office Box 2710
Santa Fe, New Mexico 87504

Dear Clerk:

page 1 copy

Enclosed are an original and ~~two copies~~ of REPLY TO RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ and a self addressed stamped envelope.

Please return a file stamped copies to us.

Thank you in advance.

Sincerely

Payne and Morales

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE

FILED
UNITED STATES DISTRICT COURT

William H. Payne
Arthur R. Morales
Plaintiffs

JUN 12 2007

v
SC/DJS

CIV NO 97 0266

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

Federal Rule of Civ. P. 60(b)(4)

REPLY TO RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID JUDGMENT
FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE
CHIEF JUDGE MARTHA VAZQUEZ

1 Mitchell writes

Defendant National Security Agency¹ opposes Plaintiffs'²
Motion to Void Judgment for Lack of Jurisdiction Directed
To District Of New Mexico, Santa Fe Chief Judge Martha
Vázquez, hereinafter referred to as "Plaintiffs' Motion."³

Defendant National Security Agency to oppose a motion to void judgment
must show that deceased judge Santiago followed rules of the Court and
US Constitution.

Campos violated the US Constitution by giving defendant NSA summary
judgment in a jury trial lawsuit.

128 The limitations inherent in the requirements of due
process of law extend to judicial, as well as political,
branches of the government, ' so that a judgment may not be
rendered in violation of those constitutional limitations
and guaranties. '3

Right of jury trial is guaranteed inviolate by 7th Amendment to US
Constitution and 28 USC Rule 38.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE**

**William H. Payne
Arthur R. Morales
Plaintiffs**

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

Federal Rule of Civ. P.

60(b)(4)

REPLY TO RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ

1 Mitchell writes

Defendant National Security Agency¹ opposes Plaintiffs'² Motion to Void Judgment for Lack of Jurisdiction Directed To District Of New Mexico, Santa Fe Chief Judge Martha Vázquez, hereinafter referred to as "Plaintiffs' Motion."³

Defendant National Security Agency to oppose a motion to void judgment must show that deceased judge Santiago followed rules of the Court and US Constitution.

Campos violated the US Constitution by giving defendant NSA summary judgment in a jury trial lawsuit.

128 The limitations inherent in the requirements of due process of law extend to judicial, as well as political, branches of the government,⁸ so that a judgment may not be rendered in violation of those constitutional limitations and guaranties.⁹

Right of jury trial is guaranteed inviolate by 7th Amendment to US Constitution and 28 USC Rule 38.

2 Mitchell writes

Plaintiff contends that the Summary Judgment entered in this case is void for lack of jurisdiction because he paid the filing fee and demanded a trial by jury. Plaintiff previously raised this same issue and it was denied by Judge Santiago Campos in his Memorandum Opinion and Order dated February 17, 1999 [Doc. No. 57] and his Memorandum Opinion and Order dated December 23, 1999 [Doc. No. 77] and, as such, constitutes law of the case. Plaintiffs' Motion should be denied.

At issue is not whether Campos' Opinion and Order and Order constitutes "law of case." but rather to void Campos' rulings for failure of

(3) the court or tribunal must have the power of authority to render the particular judgment.

3 Mitchell writes

Plaintiffs' Motion should be denied.

Plaintiffs' motion CANNOT BE DENIED if evidence in writing exists that Campos' judgments violated 7th Amendment to US Constitution and 28 USC Rule 38 which Campos' judgments did by denying us right to trial by jury guaranteed inviolate.

Further Plaintiffs' motion to void cannot be denied because,

6 When rule providing relief from void judgments is applicable, relief is mandatory and is not discretionary. ⁴

4 Mitchell writes

STATEMENT OF THE CASE

This lawsuit was filed on February 28, 1997 under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, relating to a request for documents which William H. Payne made upon the National Security Agency.

Mitchell's statement does not give the true picture of the situation.

Below paragraphs tell what happened and why.

Paragraph 1

Nojeh Coup

In July 1980, [Zbigniew Brzezinski](#) of the United States met [Jordan's King Hussein in Amman](#) to discuss detailed plans for Saddam Hussein to sponsor a coup in Iran against Khomeini. King Hussein was Saddam's closest confidant in the Arab world, and served as an intermediary during the planning. The Iraqi invasion of Iran would be launched under the pretext of a call for aid from Iranian loyalist officers plotting their own uprising on July 9, 1980 (codenamed Nojeh, after Shahrokhi/Nojeh air base in Hamedan). The Iranian officers were organized by [Shapour Bakhtiar](#), who had fled to France when Khomeini seized power, but was operating from Baghdad and Sulimaniyah at the time of Brzezinski's meeting with Hussein. However, [Khomeini](#) learned of the Nojeh Coup plan from Soviet agents in France and Latin America. Shortly after Brzezinski's meeting with Hussein, the President of Iran, [Abolhassan Bani-Sadr](#) quietly rounded up 600 of the loyalist plotters within Iran, putting an effective end to the Nojeh Coup.[5] Saddam decided to invade without the Iranian officers' assistance, beginning the Iran-Iraq war on 22 September 1980.

Paragraph recently removed from Wikipedia

Paragraph 2

In 1980, the US and Britain engineered Saddam Hussein's invasion of Iran in an attempt to crush its new revolutionary Islamic government. That war inflicted nearly one million casualties on Iran. President Ahmadinejad led volunteers in the war.

Canadian journalist Eric Margolis

Paragraph 3

[Next, this leak was compounded by the U.S. demonstration that it was also reading secret Iranian communications.](#) As reported in Switzerland's Neue Zürcher Zeitung, the U.S. provided the contents of encrypted Iranian messages to France to assist in the [conviction of Ali Vakili Rad and Massoud Hendi](#) for the stabbing death in the Paris suburb of Suresnes of the former Iranian prime minister Shahpour Bakhtiar and his personal secretary Katibeh Fallouch. [2]

J Orlin Grabbe

Paragraph 4

What information was provided to Saddam Hussein exactly? Answers to this question are currently being sought in a lawsuit against NSA in New Mexico, which has asked to see "all Iranian messages and translations between January 1, 1980 and June 10, 1996". [7]

J Orlin Grabbe

5 Mitchells writes

1. Plaintiffs filed their first motion for summary judgment on June 4, 1997 [Doc. No. 11] to which Defendant responded on June 19, 1997 [Doc. No. 17] and Plaintiffs replied on July 8, 1997 [Doc. No. 20].
2. Defendant filed its motion for partial dismissal and for summary judgment on October 3, 1997 [Doc. No. 23], to which Plaintiffs responded on October 31, 1997 [Doc. No. 30]. Defendant filed its reply on November 14, 1997 [Doc. No. 32] and Plaintiffs filed an answer (surreply) on November 28, 1997 [Doc. No. 33].
3. Plaintiffs filed their second motion for summary judgment on December 22, 1997 [Doc. No. 34], to which Defendant responded on January 5, 1998 [Doc. No. 35] and Plaintiffs replied on January 20, 1998 [Doc. No. 36].
4. On April 30, 1998, Judge Campos entered a Memorandum Opinion and Order denying as moot Plaintiffs' motion for summary judgment, denying Defendant's motion for partial dismissal and staying Defendant's motion for summary judgment pending an in camera review of a declaration to be provided to the Court⁴, and denying without prejudice Plaintiffs' motion for summary judgment [Doc. No. 42].
5. Plaintiffs filed a motion to amend the memorandum opinion and order [Doc. No. 43], which was denied by the Court on May 21, 1998 [Doc. No. 44.] On May 28, 1998, Plaintiff Payne filed another motion to amend the Memorandum Opinion and Order which was denied on February 17, 1999 [Doc. No. 57.]
6. Plaintiffs filed a Notice of Interlocutory Appeal on June 9, 1998 [Doc. Nos 46, 47]. The appeal was dismissed by the United States Court of Appeals for the Tenth Circuit for lack of jurisdiction on December 17, 1998 [Doc. No. 52].
7. On October 27, 1999, Judge Campos entered a Memorandum Opinion and Order

granting Defendant's motion for summary judgment, dismissing the case, [Doc. No. 72], and entered Summary Judgment [Doc. No. 73].

8. On November 9, 1999, Plaintiff filed a motion to alter and amend the Memorandum Opinion and Order [Doc. No. 74], to which Defendant filed a response [Doc. No. 75], and Plaintiff filed a reply [Doc. No. 76].

9. On December 23, 1999, Judge Campos entered a Memorandum Opinion and Order denying the motion to alter and amend [Doc. No. 77].

10. Plaintiff filed a Notice of Appeal with the United States Court of Appeals for the Tenth Circuit on January 3, 2000. [Doc. No. 78]. The Court of Appeals affirmed the decision of the District Court on December 13, 2000 [Doc. No. 80].

⁴ The FOIA specifically authorizes in camera examination of documents. 5 U.S.C. § 552(a)(4)(B) (2000); S. Conf. Rep. No. 93-1200 at 9 (1974).

All Mitchell writes in above 1-10 is irrelevant for the reason that judge Campos did not schedule DEMANDED trial by jury and let the jury, not Campos, reach a verdict.

6 Mitchell writes

ARGUMENT

Plaintiff William H. Payne asserts that because he paid a filing fee of \$150 on February 28, 1997 and requested a jury trial, Judge Santiago Campos lacked jurisdiction to grant Defendant's motion for summary judgment.

This is correct. Right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#).

7 Michell writes

First, there is no right to a jury trial under the Freedom of Information Act.

Had the authors of the US Constitution intended that there be exceptions to

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

then they would have written

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, except in some special cases, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

In all lawsuits where the value in controversy shall exceed twenty dollars, the right to trial by jury is inviolate not matter what the subject.

Which points to a mistake in [the docket of 97-cv-00266-SEC-DJS](#)

Demand: \$0

[Complaint states](#)

C award plaintiffs its costs and reasonable fees incurred in this action; and

Settlement fees are \$1,000 per docket entry. After taxes, of course.

8 Michell writes

Second, the granting of summary judgment was entirely appropriate in this case.

Above statement is false for the reason that 97-cv-00266 is a jury trial lawsuit which can only be decided by jury verdict.

9 Michell writes

Third, Plaintiff has previously made this same assertion in this Court, i.e., that he has a right to a jury trial under the Seventh Amendment of the United States Constitution and under Federal Rule of Civil Procedure 38 [Doc. Nos. 44, 45, 76]. This argument was specifically addressed and rejected by this Court [Doc. No. 57]. Plaintiff argued the right to a jury trial again in his reply [Doc. No. 76] which the Court again rejected in its Memorandum Opinion and Order entered on December 23, 1999 [Doc. No. 77]. Under the law of the case, this issue should not be relitigated.

The court should have helped pro se plaintiffs and pointed out, sua sponte, that its ruling was void in 1999.

Plaintiffs only learned in about 2006 that void judgment was the proper venue for relief of Campos disregard for Right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#). Plaintiff learned this from [The Family Guardian](#).

Only in 2007 have plaintiffs learn of the mechanics to void a judgment from [Moore's Forms \[Bender\]](#), [tocongress.com](#), [voidjudgments.net](#), [VOID JUDGMENTS](#), [Twenty-two reasons to vacate void judgment](#), [Authorities on Void Judgments](#), and others. So plaintiffs' delay in filing to vacate judgmentS [we have many to void] is easily understood.

And we are not "religating," we are voiding judgments for
(3) the court or tribunal must have the power of authority to render the particular judgment.

which Campos did not.

And, of course, from our MANDATORY JUDICIAL NOTICE AND
AUTHORITIES TO VOID JUDGMENT

5 A void judgment must be dismissed, regardless of timeliness if jurisdiction is deficient.⁵

9 Michell writes

I. No Right To Jury Trial In FOIA Action

Plaintiff contends that because he paid a filing fee of \$150 and demanded a jury trial in this lawsuit, Judge Campos lacked jurisdiction to dismiss the lawsuit. Plaintiff has previously raised a similar, if not identical argument in this case. On May 21, 1998, Plaintiff Payne filed a motion to amend the Memorandum Opinion and Order entered April 30, 1998 [Doc. No. 45]. In his motion, Plaintiff asserted that he had a right to a jury trial under the Seventh Amendment of the United States Constitution and under Federal Rule of Civil Procedure 38 and alleged that the Court violated Plaintiff's rights to a jury trial. In his Memorandum Opinion and Order dated February 17, 1999 [Doc. No. 57] at page 5, Judge Campos addressed this issue.

As Judge Campos succinctly stated:

There is no right to a jury trial in a statutory cause of action against the federal government unless the relevant statute explicitly and unambiguously provides such a right. See *Lehman v. Nakshian*, 453 U.S. 156, 16-62, 168 (1981); see also *Johnson v. Hospital of Med. College of Pa.*, 826 F. Supp. 942, 942, 945 (E.D. Pa. 1993). Congress did not explicitly provide for right to jury trial in FOIA. See 5 U.S.C. § 552.

Campos, instead of guiding a DEMANDED jury trial, is issued a vacuous Memorandum Opinion and Order dated February 17, 1999 [Doc. No. 57].

[Lehman v. Nakshian](#) is a voidable ruling because Right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#). Court did not have

(3) the court or tribunal must have the power of authority to render the particular judgment.

[Johnson v. Hospital of Med. College of Pa.](#) is also a voidable ruling if a trial by jury was DEMANDED but not obtained.

Voidable ruling should be used to try to support claim that Campos' ruling is not voidable.

Any judgment which says that a party does not have right to trial by jury when jury DEMAND was made is, of course, voidable.

10 Mitchell writes

While summary judgment is the procedural vehicle by which nearly all FOIA cases are resolved, in the event of a trial on a contested issue of fact, it will be decided by a judge alone because the FOIA does not provide for a jury trial. Office of Information and Privacy, U. S. Department of Justice, Freedom of Information Act & Privacy Act Overview, 804 (May 2004 ed.). Thus, Plaintiff was not entitled to a jury trial in this action.

Mitchell's above statement implies that FOIA overrules the 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#).

Not only is Mitchell's above statement false, it is unintelligent, incompetent and with malicious intent to misrepresent the US Constitution for personal gain.

A jury trial is a jury trial. All that is required is that the amount in question be over \$20.

11 Mitchell writes

II. Summary Judgment Was Appropriate

As Judge Campos held, there is no Seventh Amendment jury trial right where no genuine issue of material fact exists because the court may, without violating Seventh Amendment rights, grant summary judgment pursuant to Fed. R. Civ. P. 56.

Two issues of material facts are 1] do we get the requested documents from NSA

"all Iranian messages and translations between January 1, 1980 and June 10, 1996".

and 2] our \$1,000 per docket entry in CIV NO 97 0266 either by settlement or almost-certain jury award.

This Court must take into consideration possible consequences if the matter of the spy sting on Iran perpetrated by NSA is not peacefully settled.

First step to peaceful settlement is to obtain the documents through settlement or jury trial decision followed by court order.

12 Mitchell writes

Memorandum Opinion and Order at 6, [Doc. No. 57], citing [Shore v. Parklane Hosiery Co., Inc., 565 F.2d 815, 819 \(2d Cir. 1977\)](#) (citation omitted), aff'd, [Parklane Hosiery Co. Inc. v. Shore, 439 U. S. 322 \(1979\)](#). See [Murphy v. Derwinski, 990 F.2d 540, 544 \(10th Cir. 1993\)\(citing Fed. R. Civ. P. 56\(c\); Celotex Corp. v. Catrett, 477 U. S. 317, 322-23 \(1986\)\)](#). It is beyond question that a district court may grant

summary judgment where the material facts concerning a claim cannot reasonably be disputed. Even though this technically prevents the parties from having a jury trial upon those facts, there is no need to go forward with a jury trial, (assuming a jury trial is even permitted under the appropriate statute, which, as stated supra, is not permitted under FOIA), when the pertinent facts are obvious and indisputable from the record; the only remaining truly debatable matters are legal questions that a court is competent to address. [Garvie v. City of Fort Walton Beach, Florida, 366 F.3d 1186 \(11th Cir. 2004\)](#).

Further, a Seventh Amendment right to trial is not violated because no such right exists if a party fails to make a Rule 56-required demonstration that some dispute of material fact exists which a trial could resolve. [Conboy v. Edward D. Jones Co., 2005 WL 1515479 \(5th Cir. 2005\)](#). Without a genuine issue for trial, there can be no demand for a jury trial. See [Anderson v. Liberty Lobby, Inc., 477 U. S. 242, 250 \(1986\)](#) (summary judgment inquiry is threshold determination “whether there is the need for a trial.”); [DeYoung v. Lorentz, No. 95-3153, 69 F.3d 547, 1995 WL 662087 at *2 n.5 \(10th Cir. Nov. 9, 1995\)](#) (unpublished disposition) (“[A] properly applied summary judgment procedure does not violate the Seventh Amendment.”) Plaintiff in this case did not establish that a dispute of material fact existed nor was there a genuine issue for trial.

If a jury trial was DEMANDED and not received in any of Mitchell's above citations, then that lawsuit is voidable because the right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#).

Mitchell's statement, "Plaintiff in this case did not establish that a dispute of material fact existed nor was there a genuine issue for trial." is repeated again. So we will repeat the response with an underline.

Two issues of material facts are 1] do we get the requested documents from NSA

"all Iranian messages and translations between January 1, 1980 and June 10, 1996".

and 2] our \$1,000 per docket entry in CIV NO 97 0266 either by settlement or almost-certain jury award.

This Court must take into consideration possible consequences if the matter of the spy sting on Iran perpetrated by NSA is not peacefully settled. More important the malicious intent to violate the rules and purpose of the US Constitution is egregious attempt to undermine, not only the power of the US Citizen, but jeopardize our national health and survival.

First step to peaceful settlement is to obtain the documents through settlement or jury trial decision followed by court order.

13 Mitchell writes

Finally, as Judge Campos noted, and the record clearly reflects, “Plaintiff cannot complain about the possible resolution of this case on Defendant’s motion for

summary judgment when [Plaintiff] himself has filed two motions for summary judgment in this case.” Memorandum Opinion and Order, at 7 [Doc. No. 57]. Judge Campos’ holding in 1999 that the Seventh Amendment and Fed. R. Civ. P. 38 do not apply to Plaintiff’s lawsuit and Plaintiff has no right to a jury trial is an appropriate finding and should not be set aside. Based upon the findings of this Court, the granting of summary judgment was entirely appropriate.

Plaintiffs can move for summary judgment because they brought the lawsuit AND defendant DID NOT DEMAND trial by jury.

Defendants cannot legally move to summary judgment when a jury DEMAND has been filed by plaintiffs.

A judge who dismisses a jury trial DEMAND lawsuit is subject to a void judgment motion as is happening here.

Plaintiffs can also move to dismiss lawsuit, as they will do if 1] we get the requested documents from NSA
"all Iranian messages and translations between January 1, 1980 and June 10, 1996".

and 2] our \$1,000 per docket entry in CIV NO 97 0266 either by settlement or almost-certain jury award.

14 Michell writes

III. Law Of The Case

“[T]he law of the case doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.” McIlravy v. Kerr-McGee Coal Corp., 204 F.3d 1031, 1034 (10th Cir. 2000) (quoting United States v. Monsisvais, 946 F.2d 114, 115 (10th Cir. 1991)).
“Law of the case rules have developed to maintain consistency and avoid reconsideration of matters once decided during the course of a single continuing lawsuit.” Kennedy v. Lubar, 273 F.3d 1293, 1298 (10th Cir. 2001) (quoting 18 Wright, Miller & Cooper, Federal Practice & Procedure: Jurisdiction § 4478, at 788 (1981)).

Although Plaintiff has requested that the judgment in Civ. No. 97-266 SC/DJS be voided as opposed to reconsidered, law of the case would still apply. Because this Court has already issued decisions determining that the Seventh Amendment and Fed. R. Civ. P. 38 did not apply to Plaintiff’s lawsuit and that Plaintiff had no right to a jury trial, [Doc. Nos. 57, 77], the doctrine of law of the case governs. The Tenth Circuit has “routinely recognized that the law of the case doctrine is ‘discretionary, not mandatory,’ and that the rule ‘merely expresses the practice of courts generally

to refuse to reopen what has been decided, not a limit on their power.” [Stifel, Nicolaus & co., v. Woolsey & Co., 81 F.3d 1540, 1544 \(10th Cir. 1996\)](#) (quoting [Messenger v. Anderson, 225 U.S. 436, 444 \(1912\)](#)).

However, even though the doctrine of law of the case is discretionary in nature and not absolute, there are limitations on when a Court should depart from the doctrine. The Tenth Circuit has determined that there are “three exceptionally narrow circumstances” when it will depart from the law of the case doctrine which are: “(1) when the evidence in a subsequent trial is substantially different; (2) when controlling authority has subsequently made a contrary decision of the law applicable to such issues; or (3) when the decision was clearly erroneous and would work a manifest injustice.” [United States v. Alvarez, 142 F.3d 1243, 1247 \(10th Cir. 1998\), cert. denied, 525 U.S. 905 \(1998\)](#). In this case, none of the three narrow exceptions apply. As to the first exception, there has not been a trial on this matter wherein new evidence would alter the Court’s decision. The second exception is equally inapplicable in that there has not been any new case law on the matter. Regarding the third exception, there is absolutely no indication that the Court’s decision was “clearly erroneous and would work a manifest injustice” nor that the Court lacked jurisdiction in the first place.

“[T]here is a natural and healthy reluctance not to reconsider the decision (or, in this case, void the decision) unless powerful reasons are given for doing so. Otherwise parties would have an incentive constantly to pester judges with requests for reconsideration.” [Johnson v. Burken, 930 F.2d 1202, 1207 \(7th Cir. 1991\)](#). The fact that Plaintiff is not happy with the results of this case nearly seven years after the United States Court of Appeals for the Tenth Circuit affirmed the District Court’s decision does not constitute “manifest injustice,” does not establish that this Court lacked jurisdiction to render a decision and certainly does not warrant reopening this case. Thus, this Court’s holding pertaining to Plaintiff’s right to a jury trial must stand and Plaintiff’s motion to void the judgment entered herein must fail.

Michell apparently failed to read or understand the Mandatory Judicial Notice filed with the Motion to void judgment so main points are shown below

1 (3) the court or tribunal must have the power of authority to render the particular judgment.

2 Any judgment rendered by a court which lacks jurisdiction, either of the subject matter of the parties, or lacks inherent power to enter the particular judgment, or entered an Order which violated due process or was procured through extrinsic or collateral fraud, is null and void, and can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court.

3 Such a judgment is void from its inception, incapable of confirmation or ratification, and can never have any legal effect.

4 A void judgment must be dismissed, regardless of timeliness if jurisdiction is deficient.

5 The passage of time, however great, does not affect the validity of a judgment⁶ and cannot render a void judgment valid

6 The limitations inherent in the requirements of due process of law extend to judicial, as well as political, branches of the government, so that a judgment may not be rendered in violation of those constitutional limitations and guaranties.

7 A court may not render a judgment which transcends the limits of its authority, and a judgment is void if it is beyond the powers granted to the court by the law of its organization, even where the court has jurisdiction over the parties and the subject matter.

and finally for the benefit of the Court

8 When rule providing relief from void judgments is applicable, relief is mandatory and is not discretionary.

So Mitchell's arguments must be rejected, our proposed ORDER signed, and then we

A Settle

B have jury trial is guaranteed inviolate by 7th Amendment to US Constitution and 28 USC Rule 38. with the conditions that

1 No oral argument is necessary

2 Only the original complaint

3 The docket

4 MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ

5 MANDATORY JUDICIAL NOTICE and authorities for void judgment

6 ORDER VACATING Judge Santiago Campos'

10/27/99 MEMORANDUM, OPINION, AND ORDER

7 RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ

8 REPLY TO RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#voidjudgment>

is given to the jury to render its verdict.

Jury members should be required to sign a verified statement that they have read 1-5.

14 Michell writes

CONCLUSION

This Court had jurisdiction over the above-captioned case and summary judgment was appropriately entered. For the reasons stated above, Plaintiffs' Motion should be denied.

For reasons given by Plaintiffs, the MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ must be granted because "relief is mandatory and is not discretionary."

15 Since this matter is properly before this court, we feel that we should try to peacefully settle these unfortunate matters before they get worse.

Paragraph 1 of this reply, the Nojeh Coup, appears to indicate that Zibigniew Brzezinski incited Saddam Hussein to attack Iran. This appears to be a violation of 18 USC [§ 1091\(c\)](#).

Rule 3 of the Federal Rules of Criminal Procedure, entitled the Complaint provides:

The complaint is a written statement of the essential facts constituting the offense charged. It shall be made upon oath before a magistrate.

As you may be aware,

An individual may "make a written complaint on oath before an examining and committing magistrate, and obtain a warrant of arrest." This is in conformity with the Federal Constitution, and "consonant with the principles of natural justice and personal liberty found in the common law."

[United States v Kilpatrick (1883, DC NC) 16G 765, 769]

You may also be aware,

A complaint though quite general in terms is valid if it sufficiently apprises the defendant of the nature of the offense with which he is charged.

[United States v Wood (1927, DC Tex) 26F2d 908, 910, affd (CA5 Tex) 26 F2d 912.

And for your edification,

The commission of a crime must be shown by facts positively stated. The oath or affirmation required is of facts and not opinions or conclusion.

[United States ex rel. King v Gokey (1929, DC NY) 32 F2d 793, 794] The complaint must be accompanied by an oath. [Re Rules of Court (1877, CC Ga) 3 Woods 502, F Cas No 12126]

A complaint must be sworn to before a commissioner or other officer empowered to

commit persons charged with offenses against the United States.

[United States v Bierley (1971, WD Pa) 331 F Supp 1182]

Such office is now called a magistrate.

A complaint is ordinarily made by an investigating officer or agent, and where private citizens seek warrants of arrest, the practice recommended by the Judicial Conference of the United States is to refer the complaint to the United States Attorney. However, further reference to him is rendered futile where a mandamus proceeding is brought to compel him to prosecute and he opposes the proceeding.

[Pugach v Klein (1961, SD NY) 193 F Supp 630, citing Manual for United States Commissioners 5 (1948)]

We are citizens of the United States and you are the assigned magistrate.

In order to satisfy the requirement of the Constitution and Rules 3 and 4, a written and sworn complaint should set forth the essential facts constituting the offense charged and also facts showing that the offense was committed and that the defendant committed it.

And,

As to the requirement that the complaint be made on personal knowledge of the complainant, it is enough for the issuance of a warrant that a complainant shows it to be on the knowledge of the complainant.

[Giordenello v United States (1958) 357 US 480, 2 L Ed. 2d 1503, 78 S Ct 1245, revg (Ca5 Tx) 241 F2d 575, 579 in accord Rice v Ames (1901) 180 US 371, 45 L Ed 577, 21 S ct 406, and United States v Walker, (1952, CA2 NY) 197 F 2d 287, 289, cert den 344 US 877, 97 L Ed 679, 73 S Ct 172]

We charge Zibigniew Brzezinski with inciting Saddam Hussein to invade Iran in 1980.

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me this day of

Arthur R Morales _____

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me this day of

William H Payne _____

Verification

Under penalty of perjury as provided by law, the undersigned certifies pursuant to 28 USC section 1746 that material factual statements set forth in this pleading are

true and correct, except as to any matters therein stated to be information and belief of such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

Notary Public _____

Plaintiffs ask that you return a copy of the Brzezinski summons to us within 60 days.

Respectfully submitted,

William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: _____

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to [LTG Keith B. Alexander, Director, National Security Agency](#), 9800 Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email.

Date

Respectfully submitted,

W H Payne
William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R. Morales
Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: 6/6/07

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was ^{electronically} mailed to LTG Keith B. Alexander, Director, National Security Agency, 9800 Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email.

W H Payne
Date 6/6/07

Wednesday June 6, 2007

**Clerk
United States District Court
Post Office Box 2710**

Santa Fe, New Mexico 87504

Dear Clerk:

Enclosed are an original and two copies of REPLY TO RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ and a self addressed stamped envelope.

Please return a file stamped copies to us.

Thank you in advance.

Sincerely

Payne and Morales

FILED
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE

JUN 12 2007

William H. Payne
Arthur R. Morales
Plaintiffs

v

CIV NO 97 0266 SC/DJS

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

Federal Rule of Civ. P. 6(b)

MOTION FOR EXTENSION OF TIME

I COMES NOW plaintiffs Arthur R Morales and William H Payne to request extension of 14 days to respond to any document filed in No. 97-0266 between June 5 and June 22, 2007 for reason we will be on vacation roughly and unavailable between June 7 and June 22, 2007.

Respectfully submitted,

W H Payne

William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R Morales

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: 5/7/07

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was emailed Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 at jan.mitchell@usdoj.gov.

W H Payne

Date

5/6/07

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE

William H. Payne
Arthur R. Morales
Plaintiffs

v

CIV NO 97 0266 SC/DJS

**Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
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UNITED STATES DISTRICT COURT
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W H Payne
5/6/07
Date

Mitchell response citations. Monday June 4, 2007 09:57

<http://www.prosefight.org/nmlegal/nsalawsuit/nsalawsuit.htm#responsecitations>

1 LEHMAN v. NAKSHIAN, 453 U.S. 156 (1981)

2 Johnson v. Hospital of Med. College of Pa., 826 F. Supp. 942, 942, 945 (E.D. Pa.

1993)

3 *Shore v. Parklane Hosiery Co., Inc.*, 565 F.2d 815, 819 (2d Cir. 1977)

7. Section 20(a) of 1934 Act: *Shore v. Parklane Hosiery Co.*, 565 F.2d 815 (2d Cir. 1977) (acknowledging the right to a jury trial under Section 20(a)), *aff'd*, 439 U.S. 322 (1979).

4 *Parklane Hosiery Co. Inc. v. Shore*, 439 U. S. 322 (1979)

.Eight years later, in *Parklane Hosiery Co. v. Shore*, the Supreme Court held that in the federal civil context, trial courts should have broad discretion in allowing offensive issue preclusion. Therefore, in federal civil cases, issue preclusion can be used in the second lawsuit by either the defendant or the plaintiff and can bind a party who was not a party in the first action.

5 *Murphy v. Derwinski*, 990 F.2d 540, 544 (10th Cir. 1993)

By comparison, a disparate impact claim requires no finding of intentional discrimination to prove a prima facie case. *Murphy v. Derwinski* (See Tab 7), 990 F.2d 540, 544 (10th Cir, 1993). To make out a prima facie case of discrimination under the disparate impact theory, plaintiff must show that a neutral employment practice or policy caused a significant disparate impact on a protected group. *Id.* As in pattern or practice discrimination cases, statistics may be used to show the disparate impact resulting from the complained of practice or policy.

Accordingly, "[t]he thrust of the inquiry is whether the employer's practice creates 'artificial, arbitrary and unnecessary barriers to employment.'" [Murphy v. Derwinski, 990 F.2d 540, 544 \(10th Cir. 1993\)](#)

"Under the disparate impact theory, a plaintiff must first make out a prima facie case of discrimination by showing that a specific identifiable employment practice or policy caused a significant disparate impact on a protected group." [Murphy v. Derwinski, 990 F.2d 540, 544 \(10th Cir. 1993\)](#) (internal quotation marks omitted). In other words, a plaintiff must "show that there is a legally significant disparity between (a) the [gender] composition, caused by the challenged employment practice, of the pool of those enjoying a job or job benefit; and (b) the [gender] composition of the qualified applicant pool .

6 *Celotex Corp. v. Catrett*, 477 U. S. 317, 322-23 (1986).

Indeed, the United States Supreme Court has stated that summary judgment is mandatory in the absence of a genuine issue of any material fact. [See Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 \(1986\).](#)

7 *Garvie v. City of Fort Walton Beach, Florida*, 366 F.3d 1186 (11th Cir. 2004).

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Garvie v. City of Fort Walton Beach, Florida, 366 F.3d 1186 (11th Cir. 2004). Further, a Seventh Amendment right to trial is not violated because no such ... mywebpages.comcast.net/bpayne37/index.htm - 581k - May 31, 2007 -

8 Conboy v. Edward D. Jones Co., 2005 WL 1515479 (5th Cir. 2005).

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Conboy v. Edward D. Jones Co., 2005 WL 1515479 (5th Cir. 2005). Without a genuine issue for trial, there can be no demand for a jury trial. See *Anderson v. ...* mywebpages.comcast.net/bpayne37/index.htm - 581k - May 31, 2007 -

9 [Anderson v. Liberty Lobby, Inc., 477 U. S. 242, 250 \(1986\)](#)

10 DeYoung v. Lorentz, No. 95-3153, 69 F.3d 547, 1995 WL 662087 at *2 n.5 (10th Cir. Nov. 9, 1995) (unpublished disposition)

Google found

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DeYoung v. Lorentz, No. 95-3153, 69 F.3d 547, 1995 WL 662087 at *2 n.5 (10th Cir. Nov. 9, 1995) (unpublished disposition) (“[A] properly applied summary ... mywebpages.comcast.net/bpayne37/index.htm - 581k - May 31, 2007 -

11 McIlravy v. Kerr-McGee Coal Corp., 204 F.3d 1031, 1034 (10th Cir. 2000) Furthermore, the statutory-review scheme did not give the district court jurisdiction to review the ALJ's jurisdictional determinations. The district court in this case held that because the ALJ's decisions resolved the jurisdictional issue and Stratton did not file the proper appeal, the ALJ's decisions stand as the law of the case. See *R., Vol. V* at 17-18. "The law of the case doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages of the same case." *Huffman v. Saul Holdings Ltd. P'ship*, 262 F.3d 1128, 1132 (10th Cir. 2001) (quotation omitted); see [McIlravy v. Kerr-McGee Coal Corp., 204 F.3d 1031, 1034 & n.1 \(10th Cir. 2000\)](#);

In short, the court took Plaintiff's factual allegations as true and still determined that none of his asserted rights had been violated. Stare decisis, see *United States v. Meyers*, 200 F.3d 715, 720 (10th Cir. 2000), and the law of the case doctrine, see [McIlravy v. Kerr-McGee Coal Corp., 204 F.3d 1031, 1034 \(10th Cir. 2000\)](#), compel us to follow *Tonkovich I*.

Lots more google hits.

12 *United States v. Monsisvais*, 946 F.2d 114, 115 (10th Cir. 1991).

"The law of the case 'doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.'" [United States v. Monsisvais, 946 F.2d 114, 115 \(10th Cir. 1991\)](#) (quoting *Arizona v. California*, 460 U.S. 605, 618 (1983)). Accordingly, "when a case is appealed and remanded, the decision of the appellate court establishes the law of the case and ordinarily will be followed by both the trial court on remand and the appellate court in any subsequent appeal." *Rohrbaugh v. Celotex Corp.*, 53 F.3d 1181, 1183 (10th Cir. 1995). This doctrine is "based on sound public policy that litigation should come to an end and is designed to bring about a quick resolution of disputes by preventing continued re-argument of issues already decided." *Gage v. General Motors Corp.*, 796 F.2d 345, 349 (10th Cir. 1986) (citations omitted). Of course, this rule "also serves the purposes of discouraging panel shopping at the court of appeals level." *Monsisvais*, 946 F.2d at 116.

13 [Kennedy v. Lubar, 273 F.3d 1293, 1298 \(10th Cir. 2001\)](#).

14 Wright, Miller & Cooper, *Federal Practice & Procedure: Jurisdiction* § 4478, at 788 (1981)).

?11 "[T]he law of the case doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case." *McIlravy v. Kerr-McGee Coal Corp.*, 204 F.3d 1031, 1034 (10th Cir. 2000) (quoting *United States v. Monsisvais*, 946 F.2d 114, 115 (10th Cir. 1991)) (further quotations omitted). "Law of the case rules have developed to maintain consistency and avoid reconsideration of matters once decided during the course of a single continuing lawsuit," 18 Wright, Miller & Cooper, *Federal Practice & Procedure: Jurisdiction* ? 4478, at 788 (1981) ("Wright & Miller"). Such rules are commonly applied to prevent an appellate court from revisiting or reconsidering "matters resolved on a prior appeal," and it is not uncommon for "appellate court . . . [to] adhere[] to prior rulings as the law of the case, at times despite substantial reservations as to the correctness of the ruling." *Id.*

15 *Stifel, Nicolaus & co., v. Woolsey & Co.*, 81 F.3d 1540, 1544 (10th Cir. 1996)

This court has "routinely recognized," however, that application of these principles is "discretionary, not mandatory." *Kennedy v. Lubar*, 273 F.3d 1293, 1299 (10th Cir. 2001) (quoting [Stifel, Nicolaus & Co. v. Woolsey & Co., 81 F.3d 1540, 1544 \(10th Cir. 1996\)](#) (further quotation omitted)). There are well-recognized exceptions to both the law of the case doctrine and the mandate rule.(4) One of these exceptions is triggered by a subsequent, contrary decision of applicable law by a controlling authority. *Huffman v. Saul Holdings Ltd. P'ship*, 262 F.3d 1128, 1133 (10th Cir. 2001).

16 [Messenger v. Anderson, 225 U.S. 436, 444 \(1912\)](#).

17 *United States v. Alvarez*, 142 F.3d 1243, 1247 (10th Cir. 1998), cert. denied, 525 U.S. 905 (1998).

Clark previously challenged the instant forfeiture action on double jeopardy grounds. Pursuant to *Abney v. United States*, 431 U.S. 651, 660 (1977), we considered his appeal of the district court's denial of his motion to dismiss prior to the completion of the forfeiture proceedings, and affirmed that denial pursuant to *United States v. Ursery*, 518 U.S. 267, 277-79 (1996). See *Oriental Park Second*, 1997 WL 312140 at **1. To the extent that Clark re-urges his double jeopardy arguments in this appeal, they are barred not only by *Ursery* but also by the doctrine of law of the case. See *McIlravy v. Kerr-McGee Coal Corp.*, 204 F.3d 1031, 1034-35 (10th Cir. 2000). Insofar as Clark's brief can be read as urging exceptions to this doctrine based either on a theory of intervening change in the law or on a theory the result was "clearly erroneous and would work a manifest injustice," *id.* at 1035 (quoting [United States v. Alvarez](#), 142 F.3d 1243, 1247 (10th Cir.), cert. denied, 525 U.S. 905 (1998)), such arguments are frivolous. Clark relies on *United States v. Rhodes*, 62 F.3d 1449, 1451-52 (D.C. Cir. 1995), vacated sub nom *Rhodes v. United States*, 577 U.S. 1164 (1996), which was decided prior to both *Ursery* and Clark's initial appeal in this case, and we cannot see how compliance with the clear instructions of the Supreme Court can represent clear error. Clark's arguments that application of *Ursery* represented a violation of the Ex Post Facto Clause are likewise entirely without merit. Additionally, we note that the *Ursery* Court, 518 U.S. at 281-82, expressly declined to extend the holding of *Department of Revenue of Montana v. Kurth Ranch*, 511 U.S. 767 (1994), relied on by Clark, into the context of civil forfeitures.

Number 3 google hit is

Pro Se Fights [United States v. Alvarez](#), 142 F.3d 1243, 1247 (10th Cir. 1998), cert. denied, 525 U.S. 905 (1998). In this case, none of the three narrow exceptions apply. ... [mywebpages.comcast.net/bpayne37/index.htm](#) - 581k - May 31, 2007 -

18 *Johnson v. Burken*, 930 F.2d 1202, 1207 (7th Cir. 1991).

The taxpayers argue that the Tax Court was precluded by either the doctrine of *res judicata* or (somewhat more plausibly) the doctrine of law of the case from disallowing the deduction. The case had initially been assigned to a judge of the Tax Court, who granted partial summary judgment for the taxpayers, 94 T.C. 464 (1990), implicitly (the taxpayers argue) resolving the main issue in this case--the applicability of section 483--in their favor. The case was later reassigned to another judge, who reached the opposite conclusion. If the same judge had handled the case throughout, the law of the case doctrine would not have prevented him from reversing himself, [Johnson v. Burken](#), 930 F.2d 1202, 1207 (7th Cir. 1991); *Peterson v. Lindner*, 765 F.2d 698, 704 (7th Cir. 1985); *Dictograph Products Co. v. Sonotone Corp.*, 230 F.2d 131, 134 (2d Cir. 1956) (L. Hand, J.), unless the time for reconsideration had expired. *Johnson v. Burken*, *supra*, 930 F.2d at 1207.

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Pro Se Fights

Johnson v. Burken, 930 F.2d 1202, 1207 (7th Cir. 1991). The fact that Plaintiff is not happy with the results of this case nearly seven years after the ... mywebpages.comcast.net/bpayne37/index.htm - 581k - May 31, 2007

Saturday June 2, 2007 19:57

Dear Dr Nejad:

An unfortunate situation has arisen which requires your and others help to resolve peacefully.

In 1980, the US and Britain engineered Saddam Hussein's invasion of Iran in an attempt to crush its new revolutionary Islamic government. That war inflicted nearly one million casualties on Iran. President Ahmadinejad led volunteers in the war.

Regards

Dr Payne

[Book 1](#)

[Book 1a](#)

[Book 2](#)

[Book 3](#)

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#closednonsense>

Responses and Replies6:97-cv-00266-SEC-DJS Payne, et al v. Minihan, et al **CASE CLOSED on 10/27/1999**

U.S. District Court

District of New Mexico - Version 3.0

Notice of Electronic Filing

The following transaction was entered by Mitchell, Jan on 5/29/2007 at 3:37 PM MDT and filed on 5/29/2007

Case Name: Payne, et al v. Minihan, et al**Case Number:** 6:97-cv-266**Filer:** National Security Agency**WARNING: CASE CLOSED on 10/27/1999****Document Number:** 83**Docket Text:**

RESPONSE in Opposition re [81] MOTION to Set Aside Judgment filed by National Security Agency. (Mitchell, Jan)

6:97-cv-266 Notice has been electronically mailed to:

Jan Elizabeth Mitchell jan.mitchell@usdoj.gov, craig.larson@usdoj.gov,
USANM.ECFCivil@usdoj.gov

6:97-cv-266 Notice has been delivered by other means to:

William H Payne
13015 Calle de Sandias, NE
Albuquerque, NM 87111

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP dcecfStamp_ID=1167529506 [Date=5/29/2007] [FileNumber=969922-0]
[5415ded1af4b541169b684031d4891614efb19d7d7289cdee4af6c403aa6a408073b
3de2a012a71309b29f3a76f8ede83d39f0c52bb5ad293b926f9195d6b211]]

**U.S. District Court
District of New Mexico - Version 3.0**

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RESPONSE in Opposition re [81] MOTION to Set Aside Judgment filed by National Security Agency.

(Mitchell, Jan)

6:97-cv-266 Notice has been electronically mailed to:

^

Jan Elizabeth Mitchell jan.mitchell@usdoj.gov, craig.larson@usdoj.gov, USANM.ECFCivil@usdoj.gov

6:97-cv-266 Notice has been delivered by other means to:

William H Payne

13015 Calle de Sandias, NE

Albuquerque, NM 87111

The following document(s) are associated with this transaction:

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Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1 167529506 [Date=5/29/2007] [FileNumber=969922-0]

[5415ded1 af4b541169b684031 d4891614efb 19d7d7289cdee4af6c403aa6a408073b

3de2a012a71309b29f3a76f8ede83d39fDc52bb5ad293b926f9195d6b211]]

<https://ecf.nmd.uscourts.gov/cei-hin/Disnatch.nl?5800911948979635/29/2007>

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#mitchellresponse>

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

WILLIAM H. PAYNE

Plaintiff,

vs.

CIVIL NO. 97-00266 SEC/DJS

NATIONAL SECURITY AGENCY

Defendant

**RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO VOID
JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO DISTRICT OF
NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA VAZQUEZ**

Defendant National Security Agency¹ opposes Plaintiffs'² Motion to Void Judgment for Lack of Jurisdiction Directed To District Of New Mexico, Santa Fe Chief Judge Martha Vázquez, hereinafter referred to as "Plaintiffs' Motion."³ Plaintiff contends that the Summary Judgment entered in this case is void for lack of jurisdiction because he paid the filing fee and demanded a trial by jury. Plaintiff previously raised this same issue and it was denied by Judge Santiago Campos in his Memorandum Opinion and Order dated February 17, 1999 [Doc. No. 57] and his Memorandum

1 On April 30, 1998, Judge Campos entered a Memorandum, Opinion and Order holding, sua sponte, that the Defendant is the National Security Agency, and not Lt. Gen. Kenneth A. Minihan and further captions for the case should reflect this change.

2 As a preliminary note, Plaintiff Morales was dismissed as a plaintiff from this action by order of the Court dated April 30, 1998, docket no. 42 .

3 On August 18, 2004, United States District Judge William F. Downes entered an Order Granting Injunctive Relief in United States District Court for the District of New Mexico Civ. No. 01-634 WFD/DJS. The Order enjoined Plaintiff from filing any further actions without complying with the procedures set out by the Court.

Opinion and Order dated December 23, 1999 [Doc. No. 77] and, as such, constitutes law of the case. Plaintiffs' Motion should be denied.

STATEMENT OF THE CASE

This lawsuit was filed on February 28, 1997 under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, relating to a request for documents which William H. Payne made upon the National Security Agency. As reflected on the Civil Docket Sheet for this case, the following pleadings are relevant to the instant motion:

1. Plaintiffs filed their first motion for summary judgment on June 4, 1997 [Doc. No. 11] to which Defendant responded on June 19, 1997 [Doc. No. 17] and Plaintiffs replied on July 8, 1997 [Doc. No. 20].

2. Defendant filed its motion for partial dismissal and for summary judgment on October 3, 1997 [Doc. No. 23], to which Plaintiffs responded on October 31, 1997

[Doc. No. 30]. Defendant filed its reply on November 14, 1997 [Doc. No. 32] and Plaintiffs filed an answer (surreply) on November 28, 1997 [Doc. No. 33].

3. Plaintiffs filed their second motion for summary judgment on December 22, 1997 [Doc. No. 34], to which Defendant responded on January 5, 1998 [Doc. No. 35] and Plaintiffs replied on January 20, 1998 [Doc. No. 36].

4. On April 30, 1998, Judge Campos entered a Memorandum Opinion and Order denying as moot Plaintiffs' motion for summary judgment, denying Defendant's motion for partial dismissal and staying Defendant's motion for summary judgment pending an in camera review of a declaration to be provided to the Court⁴, and denying without prejudice Plaintiffs' motion for summary judgment [Doc. No. 42].

5. Plaintiffs filed a motion to amend the memorandum opinion and order [Doc. No. 43], which was denied by the Court on May 21, 1998 [Doc. No. 44.] On May 28, 1998, Plaintiff Payne filed another motion to amend the Memorandum Opinion and Order which was denied on February 17, 1999 [Doc. No. 57.]

6. Plaintiffs filed a Notice of Interlocutory Appeal on June 9, 1998 [Doc. Nos 46, 47]. The appeal was dismissed by the United States Court of Appeals for the Tenth Circuit for lack of jurisdiction on December 17, 1998 [Doc. No. 52].

7. On October 27, 1999, Judge Campos entered a Memorandum Opinion and Order granting Defendant's motion for summary judgment, dismissing the case, [Doc. No. 72], and entered Summary Judgment [Doc. No. 73].

8. On November 9, 1999, Plaintiff filed a motion to alter and amend the Memorandum Opinion and Order [Doc. No. 74], to which Defendant filed a response [Doc. No. 75], and Plaintiff filed a reply [Doc. No. 76].

9. On December 23, 1999, Judge Campos entered a Memorandum Opinion and Order denying the motion to alter and amend [Doc. No. 77].

10. Plaintiff filed a Notice of Appeal with the United States Court of Appeals for the Tenth Circuit on January 3, 2000. [Doc. No. 78]. The Court of Appeals affirmed the decision of the District Court on December 13, 2000 [Doc. No. 80].

⁴ The FOIA specifically authorizes in camera examination of documents. 5 U.S.C. § 552(a)(4)(B) (2000); S. Conf. Rep. No. 93-1200 at 9 (1974).

ARGUMENT

Plaintiff William H. Payne asserts that because he paid a filing fee of \$150 on February 28, 1997 and requested a jury trial, Judge Santiago Campos lacked jurisdiction to grant Defendant's motion for summary judgment. First, there is no

right to a jury trial under the Freedom of Information Act. Second, the granting of summary judgment was entirely appropriate in this case. Third, Plaintiff has previously made this same assertion in this Court, i.e., that he has a right to a jury trial under the Seventh Amendment of the United States Constitution and under Federal Rule of Civil Procedure 38 [Doc. Nos. 44, 45, 76]. This argument was specifically addressed and rejected by this Court [Doc. No. 57]. Plaintiff argued the right to a jury trial again in his reply [Doc. No. 76] which the Court again rejected in its Memorandum Opinion and Order entered on December 23, 1999 [Doc. No. 77]. Under the law of the case, this issue should not be relitigated.

I. No Right To Jury Trial In FOIA Action

Plaintiff contends that because he paid a filing fee of \$150 and demanded a jury trial in this lawsuit, Judge Campos lacked jurisdiction to dismiss the lawsuit. Plaintiff has previously raised a similar, if not identical argument in this case. On May 21, 1998, Plaintiff Payne filed a motion to amend the Memorandum Opinion and Order entered April 30, 1998 [Doc. No. 45]. In his motion, Plaintiff asserted that he had a right to a jury trial under the Seventh Amendment of the United States Constitution and under Federal Rule of Civil Procedure 38 and alleged that the Court violated Plaintiff's rights to a jury trial. In his Memorandum Opinion and Order dated February 17, 1999 [Doc. No. 57] at page 5, Judge Campos addressed this issue.

As Judge Campos succinctly stated:

There is no right to a jury trial in a statutory cause of action against the federal government unless the relevant statute explicitly and unambiguously provides such a right. See *Lehman v. Nakshian*, 453 U.S. 156, 16-62, 168 (1981); see also *Johnson v. Hospital of Med. College of Pa.*, 826 F. Supp. 942, 942, 945 (E.D. Pa. 1993). Congress did not explicitly provide for right to jury trial in FOIA. See 5 U.S.C. § 552.

While summary judgment is the procedural vehicle by which nearly all FOIA cases are resolved, in the event of a trial on a contested issue of fact, it will be decided by a judge alone because the FOIA does not provide for a jury trial. Office of Information and Privacy, U. S. Department of Justice, *Freedom of Information Act & Privacy Act Overview*, 804 (May 2004 ed.). Thus, Plaintiff was not entitled to a jury trial in this action.

II. Summary Judgment Was Appropriate

As Judge Campos held, there is no Seventh Amendment jury trial right where no genuine issue of material fact exists because the court may, without violating Seventh Amendment rights, grant summary judgment pursuant to Fed. R. Civ. P. 56. Memorandum Opinion and Order at 6, [Doc. No. 57], citing *Shore v. Parklane Hosiery Co., Inc.*, 565 F.2d 815, 819 (2d Cir. 1977) (citation omitted), *aff'd*, *Parklane Hosiery Co. Inc. v. Shore*, 439 U. S. 322 (1979). See *Murphy v. Derwinski*, 990 F.2d 540, 544 (10th Cir. 1993)(citing Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U. S. 317, 322-23 (1986)). It is beyond question that a district court may grant summary judgment where the material facts concerning a claim cannot reasonably be disputed. Even though this technically prevents the parties from having a jury rule upon those facts, there is no need to go forward with a jury trial, (assuming a

jury trial is even permitted under the appropriate statute, which, as stated supra, is not permitted under FOIA), when the pertinent facts are obvious and indisputable from the record; the only remaining truly debatable matters are legal questions that a court is competent to address. *Garvie v. City of Fort Walton Beach, Florida*, 366 F.3d 1186 (11th Cir. 2004).

Further, a Seventh Amendment right to trial is not violated because no such right exists if a party fails to make a Rule 56-required demonstration that some dispute of material fact exists which a trial could resolve. *Conboy v. Edward D. Jones Co.*, 2005 WL 1515479 (5th Cir. 2005). Without a genuine issue for trial, there can be no demand for a jury trial. See *Anderson v. Liberty Lobby, Inc.*, 477 U. S. 242, 250 (1986)(summary judgment inquiry is threshold determination “whether there is the need for a trial.”); *DeYoung v. Lorentz*, No. 95-3153, 69 F.3d 547, 1995 WL 662087 at *2 n.5 (10th Cir. Nov. 9, 1995) (unpublished disposition) (“[A] properly applied summary judgment procedure does not violate the Seventh Amendment.”) Plaintiff in this case did not establish that a dispute of material fact existed nor was there a genuine issue for trial.

Finally, as Judge Campos noted, and the record clearly reflects, “Plaintiff cannot complain about the possible resolution of this case on Defendant’s motion for summary judgment when [Plaintiff] himself has filed two motions for summary judgment in this case.” Memorandum Opinion and Order, at 7 [Doc. No. 57]. Judge Campos’ holding in 1999 that the Seventh Amendment and Fed. R. Civ. P. 38 do not apply to Plaintiff’s lawsuit and Plaintiff has no right to a jury trial is an appropriate finding and should not be set aside. Based upon the findings of this Court, the granting of summary judgment was entirely appropriate.

III. Law Of The Case

“[T]he law of the case doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.” *McIlravy v. Kerr-McGee Coal Corp.*, 204 F.3d 1031, 1034 (10th Cir. 2000) (quoting *United States v. Monsisvais*, 946 F.2d 114, 115 (10th Cir. 1991)). “Law of the case rules have developed to maintain consistency and avoid reconsideration of matters once decided during the course of a single continuing lawsuit.” *Kennedy v. Lubar*, 273 F.3d 1293, 1298 (10th Cir. 2001) (quoting 18 *Wright, Miller & Cooper, Federal Practice & Procedure: Jurisdiction* § 4478, at 788 (1981)).

Although Plaintiff has requested that the judgment in Civ. No. 97-266 SC/DJS be voided as opposed to reconsidered, law of the case would still apply. Because this Court has already issued decisions determining that the Seventh Amendment and Fed. R. Civ. P. 38 did not apply to Plaintiff’s lawsuit and that Plaintiff had no right to a jury trial, [Doc. Nos. 57, 77], the doctrine of law of the case governs. The Tenth Circuit has “routinely recognized that the law of the case doctrine is ‘discretionary, not mandatory,’ and that the rule ‘merely expresses the practice of courts generally to refuse to reopen what has been decided, not a limit on their power.’” *Stifel, Nicolaus & co., v. Woolsey & Co.*, 81 F.3d 1540, 1544 (10th Cir. 1996) (quoting

Messenger v. Anderson, 225 U.S. 436, 444 (1912).

However, even though the doctrine of law of the case is discretionary in nature and not absolute, there are limitations on when a Court should depart from the doctrine. The Tenth Circuit has determined that there are “three exceptionally narrow circumstances” when it will depart from the law of the case doctrine which are: “(1) when the evidence in a subsequent trial is substantially different; (2) when controlling authority has subsequently made a contrary decision of the law applicable to such issues; or (3) when the decision was clearly erroneous and would work a manifest injustice.” United States v. Alvarez, 142 F.3d 1243, 1247 (10th Cir. 1998), cert. denied, 525 U.S. 905 (1998). In this case, none of the three narrow exceptions apply. As to the first exception, there has not been a trial on this matter wherein new evidence would alter the Court’s decision. The second exception is equally inapplicable in that there has not been any new case law on the matter. Regarding the third exception, there is absolutely no indication that the Court’s decision was “clearly erroneous and would work a manifest injustice” nor that the Court lacked jurisdiction in the first place.

“[T]here is a natural and healthy reluctance not to reconsider the decision (or, in this case, void the decision) unless powerful reasons are given for doing so. Otherwise parties would have an incentive constantly to pester judges with requests for reconsideration.” Johnson v. Burken, 930 F.2d 1202, 1207 (7th Cir. 1991). The fact that Plaintiff is not happy with the results of this case nearly seven years after the United States Court of Appeals for the Tenth Circuit affirmed the District Court’s decision does not constitute “manifest injustice,” does not establish that this Court lacked jurisdiction to render a decision and certainly does not warrant reopening this case. Thus, this Court’s holding pertaining to Plaintiff’s right to a jury trial must stand and Plaintiff’s motion to void the judgment entered herein must fail.

CONCLUSION

This Court had jurisdiction over the above-captioned case and summary judgment was appropriately entered. For the reasons stated above, Plaintiffs’ Motion should be denied.

Respectfully submitted,

LARRY GOMEZ Acting United States Attorney

Electronically filed 5/29/07

**JAN ELIZABETH MITCHELL
Assistant U. S. Attorney
P.O. Box 607
Albuquerque, NM 87103
505.346.7274
jan.mitchell@usdoj.gov**

I HEREBY CERTIFY that on May 29, 2007, I filed the foregoing pleading electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

AND I FURTHER CERTIFY that on such date I served the foregoing pleading on the following non-EM/ECF Participant via first class mail, postage prepaid addressed as follows:

**William H. Payne
13015 Calle de Sandias, NE
Albuquerque, NM 87111 /s
JAN ELIZABETH MITCHELL**

**U.S. District Court
District of New Mexico - Version 3.0 (Santa Fe) CIVIL DOCKET FOR
CASE #: 6:97-cv-00266-SEC-DJS**

**Payne, et al v. Minihan, et al
Assigned to: Senior Judge Santiago E. Campos
Referred to: Magistrate Judge Don J. Svet
Demand: \$0
Case in other court: 00-02019
98-02156
98-02157
Cause: 05:552 Freedom of Information Act
Date Filed: 02/28/1997
Date Terminated: 10/27/1999
Jury Demand: Plaintiff
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant
Plaintiff
William H Payne represented by William H Payne
13015 Calle de Sandias, NE
Albuquerque, NM 87111
(505) 292-7037
PRO SE**

**Plaintiff
Arthur R Morales
TERMINATED: 04/30/1998 represented by Arthur R Morales
1734 Soplo Rd SE
Albuquerque, NM 87123-4485
PRO SE**

V.

**Defendant
Lieutenant General Kenneth A Minihan**

USAF Director
TERMINATED: 04/30/1998 represented by Jan Elizabeth Mitchell
United States Attorneys Office
Civil Division
P.O. Box 607
Albuquerque, NM 87102
505 346-7274
Fax: 505 346-7205
Email: jan.mitchell@usdoj.gov
TERMINATED: 04/30/1998
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant
National Security Agency represented by Jan Elizabeth Mitchell
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#dockettext>

Date Filed # Docket Text

02/28/1997 1 COMPLAINT (referred to Magistrate Don J. Svet) (pz)
(Entered: 03/04/1997)

03/04/1997 FILING FEE PAID: on 2/28/97 in the amount of \$150.00,
receipt #: 100 105110. (pz) (Entered: 03/04/1997)

03/17/1997 2 DEMAND for jury trial by plaintiffs (dmw) (Entered:
03/18/1997)

04/01/1997 3 CONFIRMATION (MOTION) for Extension by plaintiff
William H Payne to respond to complaint until plaintiff has returned
from business trip on 4/7/97 & notification of business travel (dmw)
(Entered: 04/01/1997)

04/01/1997 4 ORDER by Senior Judge Santiago E. Campos granting
deft's request (motion) for extension of time to answer until 4/4/97 [3-1]
(cc: all counsel) (mk) (Entered: 04/01/1997)

04/04/1997 5 ANSWER by defendant [1-1] (dmw) (Entered: 04/07/1997)

04/24/1997 6 REPLY & affidavit by plaintiffs to answer to complaint [5-1]
(dmw) (Entered: 04/25/1997)

05/02/1997 7 INITIAL SCHEDULING ORDER by Magistrate Don J.
Svet ; parties to meet and confer by 5/14/97; provisional discovery plan is
due 5/23/97; IPTR submitted by 5/23/97; Rule 16 scheduling conference is

set for 6/5/97 at 10:30 am on 6/5/97 (cc: all counsel) (seal) (Entered: 05/02/1997)

05/23/1997 8 NOTICE by plaintiffs (re initial pretrial report) (dmw) (Entered: 05/23/1997)

05/23/1997 9 MOTION by plaintiff for order to accept discovery plan (dmw) (Entered: 05/23/1997)

06/03/1997 10 MINUTE ORDER: striking Initial Pre-Trial Report filed 5/23/97 for failure to comply with scheduling order filed by Magistrate Svet [8-1] CLK-mm (cc: all counsel) (msm) (Entered: 06/03/1997)

06/04/1997 11 MOTION by plaintiffs for summary judgment (dmw) (Entered: 06/04/1997)

06/06/1997 12 CLERK'S MINUTES: before Magistrate Don J. Svet ; Rule 16 scheduling conference was held (pz) (Entered: 06/06/1997)

06/09/1997 13 MOTION by plaintiff to accept discovery plan of plaintiffs as an unopposed motion before the Court (dmw) (Entered: 06/09/1997)

06/09/1997 14 RESPONSE by defendants to motion to accept discovery plan of plaintiffs as an unopposed motion before the Court [13-1] (dmw) (Entered: 06/10/1997)

06/11/1997 15 ORDER by Magistrate Don J. Svet ; Discovery cutoff 9/3/97 ; Motion Filing cutoff 9/23/97; Pretrial order ddl 11/18/97 FURTHER ORDERED that discovery in this matter shall only be undertaken upon obtaining Court permission; See Order for specifics (cc: all counsel) (pz) Modified on 06/13/1997 (Entered: 06/11/1997)

06/13/1997 16 REPLY by plaintiffs to response to motion to accept discovery plan of plaintiffs as an unopposed motion before the Court [13-1] (dmw) (Entered: 06/13/1997)

06/19/1997 17 RESPONSE by defendant to motion for summary judgment [11-1] (dmw) (Entered: 06/19/1997)

06/24/1997 18 MOTION by pltfs to remove (strike) docket sheet entry 14 and associated response (kd) (Entered: 06/25/1997)

06/24/1997 19 MOTION by pltfs for order to restore pltfs' civil rights (kd) (Entered: 06/25/1997)

07/08/1997 20 REPLY by pltfs to response to mtn for summary judgment [11-1] (kd) (Entered: 07/08/1997)

09/23/1997 21 MOTION by defts to dismiss pltf Arthur R. Morales (kd)

(Entered: 09/23/1997)

09/23/1997 22 MEMORANDUM by defts in support of mtn to dismiss pltf Arthur R. Morales [21-1] (kd) (Entered: 09/23/1997)

10/03/1997 23 MOTION by defendant for partial dismissal , and for summary judgment (dmw) Modified on 10/03/1997 (Entered: 10/03/1997)

10/06/1997 24 RESPONSE by plaintiffs to motion to dismiss pltf Arthur R. Morales [21-1] (dmw) (Entered: 10/06/1997)

10/07/1997 25 ORDER by Magistrate Don J. Svet denying as moot plaintiffs' motion to accept discovery plan of plaintiffs as an unopposed motion before the Court [13-1] & for order to accept discovery plan [9-1] (cc: all counsel) (dmw) (Entered: 10/07/1997)

10/15/1997 26 MOTION for Extension by plaintiffs to respond to motion for partial dismissal [23-1] & for summary judgment until 10/31/97 & resetting time limits for discovery [23-2] (dmw) (Entered: 10/15/1997)

10/15/1997 27 REPLY by deft to response to memorandum in support of motion to dismiss pltf Arthur R. Morales [21-1] (dmw) (Entered: 10/16/1997)

10/23/1997 28 MOTION & memorandum by defendant to strike any and all of plaintiffs' first set of requests for admissions to various employees of the National Security Agency & to various employees of Sandia National Laboratory (dmw) (Entered: 10/23/1997)

10/31/1997 29 MOTION DENY (RESPONSE) by plaintiffs to motion for partial dismissal [23-1] and for summary judgment [23-2] (dmw) (Entered: 10/31/1997)

10/31/1997 30 RESPONSE by plaintiffs to memorandum in support of motion for partial dismissal [23-1] and for summary judgment [23-2] (dmw) (Entered: 10/31/1997)

11/05/1997 31 RESPONSE by plaintiffs to motion to strike any and all of plaintiffs' first set of requests for admissions to various employees of the National Security Agency & to various employees of Sandia National Laboratory [28-1] (dmw) (Entered: 11/06/1997)

11/14/1997 32 REPLY by defendant to response to motion for partial dismissal [23-1] & for summary judgment [23-2] (dmw) (Entered: 11/17/1997)

11/28/1997 33 ANSWER (SURREPLY) by plaintiffs to cross-claim reply to response to motion for partial dismissal [23-1] & for summary

judgment [23-2] (dmw) (Entered: 11/28/1997)

12/22/1997 34 MOTION by plaintiffs for summary judgment based on evidence from admissions (dmw) (Entered: 12/22/1997)

01/05/1998 35 RESPONSE by defendant to motion for summary judgment based on evidence from admissions [34-1] (dmw) Modified on 03/13/1998 (Entered: 01/06/1998)

01/20/1998 36 REPLY by plaintiffs to response to motion for summary judgment based on evidence from admissions [34-1] (dmw) (Entered: 01/20/1998)

01/28/1998 37 ORDER by Magistrate Don J. Svet granting defendant's motion to strike any and all of plaintiffs' first set of requests for admissions to various employees of the National Security Agency & to various employees of Sandia National Laboratory (see order for further specifics re sanctions & communication) [28-1] (cc: all counsel, electronically) (dmw) (Entered: 01/28/1998)

02/09/1998 38 AFFIDAVIT of attorney fees by Jan Elizabeth Mitchell in accordance with court order [37-1] (dmw) Modified on 02/12/1998 (Entered: 02/10/1998)

02/10/1998 39 ORDER by Magistrate Don J. Svet denying as moot plaintiffs' motion to remove docket sheet entry 14 and associated response [18-1] (cc: all counsel, electronically) (dmw) (Entered: 02/11/1998)

02/19/1998 40 RESPONSE by plaintiffs to orders & affidavit of attorney fees (dmw) (Entered: 02/19/1998)

03/10/1998 41 ORDER sua sponte by Magistrate Don J. Svet that plaintiffs shall pay defendant \$625.00 in sanctions within 20 days of entry of this order (cc: all counsel, electronically) (dmw) (Entered: 03/10/1998)

04/30/1998 42 MEMORANDUM, OPINION, AND ORDER: by Senior Judge Santiago E. Campos; sua sponte the deft is deemed by the Court to be NSA, and not Lt Gen Kenneth A Minihan, future captions for this case should reflect this change; and FURTHER denying as moot pltf's motion for summary judgment based on evidence from admissions [34-1]; denying deft Minihan's motion for partial dismissal [23-1], and staying deft Minihan's motion for summary judgment pending an in camera ex parte declaration consistent herewith provided by deft to the Court within 60 days of the date of this opinion [23-2], granting deft Minihan's motion to dismiss pltf Arthur R. Morales [21-1]; and denying without prejudice pltf's motion for summary judgment [11-1]; as further described herein (cc: all counsel) (pz) (Entered: 04/30/1998)

05/08/1998 43 MOTION by plaintiffs to amend memorandum opinion &

order filed 4/30/98 (dmw) (Entered: 05/11/1998)

05/21/1998 44 MEMORANDUM, OPINION, AND ORDER: by Senior Judge Santiago E. Campos denying pltf's motion to amend memorandum opinion & order filed 4/30/98 [43-1] (cc: all counsel, electronically) (dmw) (Entered: 05/22/1998)

05/28/1998 45 MOTION & objection to in camera ex parte meeting by plaintiff to amend memorandum opinion & order (dmw) (Entered: 05/28/1998)

06/09/1998 46 NOTICE OF INTERLOCUTORY APPEAL by plaintiff William H Payne from Dist. Court decision [44-1]; Fees paid - Distribution as required (cc: all counsel) (pz) Modified on 06/10/1998 (Entered: 06/10/1998)

06/09/1998 RECEIVED re appeal [46-1] fee in amount of \$105.00 (Receipt # 100 110699) (notice sent to USCA) (pz) Modified on 06/10/1998 (Entered: 06/10/1998)

06/10/1998 LETTER to USCA transmitting preliminary record on appeal (pz) (Entered: 06/10/1998)

06/10/1998 47 NOTICE OF INTERLOCUTORY APPEAL by pltfs William H Payne and Arthur R Morales from Dist. Court decision [42-1] ; Fees paid - Distribution required. (cc: all counsel) (pz) (Entered: 06/10/1998)

06/10/1998 RECEIVED re appeal of pltfs Payne and Morales [47-1] fee in amount of \$105.00 (Receipt #100 110700) (notice sent to USCA) (pz) (Entered: 06/10/1998)

06/10/1998 LETTER to USCA transmitting preliminary record on appeal of pltfs Payne and Morales (pz) (Entered: 06/10/1998)

06/12/1998 48 MOTION & memorandum by defendant to tax fees (dmw) (Entered: 06/15/1998)

06/12/1998 49 BILL OF COSTS submitted by defendant in the amount of \$625.00 (dmw) (Entered: 06/15/1998)

06/17/1998 ACKNOWLEDGEMENT of receipt of preliminary record in by USCA on 6/12/98 re appeal of Payne, et al vs Minihan - USCA Number: 98-2157 (pz) (Entered: 06/17/1998)

06/17/1998 ACKNOWLEDGEMENT of receipt of preliminary record in by USCA on 6/12/98 re appeal Payne vs NSA - USCA Number: 98-2156 (pz) (Entered: 06/17/1998)

06/22/1998 50 MOTION & memorandum by defendant to remand pltf's first FOIA request with instructions , and to stay proceedings (dmw) (Entered: 06/22/1998)

06/30/1998 51 RESPONSE by plaintiff to motion to remand first FOIA request with instructions [50-1] & to stay proceedings [50-2] (dmw) (Entered: 06/30/1998)

06/30/1998 TAXED COSTS for defendant in the amount of \$ 625.00 against plaintiff (cc: all counsel) (mjr) (Entered: 06/30/1998)

06/30/1998 ABSTRACT OF JUDGMENT DOCKET issued to defendant in the amount of \$625.00 (mjr) (Entered: 06/30/1998)

12/17/1998 52 COPY of USCA Order: dismissing the appeals for lack of appellate jurisdiction [47-1] and [46-1] (pz) (Entered: 12/17/1998)

01/06/1999 53 APPLICATION by USA for Writ of Garnishment in the amount of \$625.00 (former employee) (Entered: 01/06/1999)

01/06/1999 54 NOTICE (Instructions) to Sandia Corporation, Garnishee regarding the Writ of Garnishment (former employee) (Entered: 01/06/1999)

01/06/1999 WRIT of Garnishment issued to Sandia Corporation in the amount of \$625.00 (former employee) (Entered: 01/06/1999)

01/06/1999 55 CLERK'S NOTICE issued to debtor of post-judgment garnishment and instructions; CLERK/jg (former employee) (Entered: 01/06/1999)

02/02/1999 56 CERTIFICATE by defendant of service of documents on judgment debtor on 2/2/99 (dmw) (Entered: 02/02/1999)

02/17/1999 57 MEMORANDUM, OPINION, AND ORDER: by Senior Judge Santiago E. Campos denying motion to amend the Memorandum Opinion & Order filed 5/28/98 [45-1] by William H Payne (cc: all counsel) (mjr) Modified on 02/19/1999 (Entered: 02/17/1999)

02/17/1999 58 MEMORANDUM, OPINION, AND ORDER: by Senior Judge Santiago E. Campos; the Court's decision on deft's motion to remand of pltf's first FOIA request [50-1] and request for stay of judicial proceedings [50-2] filed on 6/22/98 is deferred; deft shall have fifteen (15) days from the date of this Opinion to submit to the Court a detailed affidavit(s) and any other documents or supporting evidence establishing the reasonableness of the estimated search fee charged pltf for his first FOIA request and the estimated search time underlying that fee; within ten (10) days of deft's submission pltf may respond with detailed affidavits and/or other documentary or supporting evidence; within ten (10) days of

pltf's submission deft may reply with any further documentary or factually supportive evidence (cc: all counsel) (mjr) (Entered: 02/17/1999)

02/22/1999 59 USM RETURN OF SERVICE executed upon Sandia Corporation on 2/17/99 (sl) (Entered: 02/22/1999)

02/23/1999 60 ANSWER of garnishee (dmw) (Entered: 02/23/1999)

03/03/1999 61 NOTICE by defendant of compliance with memorandum opinion and order dated 2/17/99 (dmw) (Entered: 03/04/1999)

03/11/1999 LETTER from Arthur R Morales addressed to John J. Kelly requesting hearing on writ of garnishment re sanctions (msm) Modified on 03/11/1999 (Entered: 03/11/1999)

03/12/1999 62 AFFIDAVIT of William H. Payne in response to order [58-1] (dmw) (Entered: 03/12/1999)

03/24/1999 63 AFFIDAVIT of William H. Payne regarding order [58-1] (mjr) (Entered: 03/29/1999)

03/26/1999 64 REPLY by defendant re affidavit in reponse to Memorandum Opinion and Order [58-1] (mjr) (Entered: 03/29/1999)

03/30/1999 65 MEMORANDUM, OPINION AND ORDER: by Senior Judge Santiago E. Campos partially granting motion to remand pltf's first FOIA to NSA as to its first request [50-1], and denying as moot the motion to stay proceedings [50-2] (cc: all counsel) (former employee) (Entered: 03/30/1999)

03/30/1999 66 ORDER of partial remand to the National Security Agency for processing of Pltf's first FOIA request by Senior Judge Santiago E. Campos re [50-1] (cc: all counsel) (former employee) (Entered: 03/30/1999)

04/20/1999 67 ORDER OF GARNISHMENT by Magistrate Judge Don J. Svet (cc: all counsel) (dmw) (Entered: 04/20/1999)

06/24/1999 68 NOTICE by USA of withdrawal of garnishment proceedings (jrm) (Entered: 06/28/1999)

06/24/1999 69 SATISFACTION OF JUDGMENT as to defendant (jrm) (Entered: 06/28/1999)

07/20/1999 70 NOTICE of hearing setting ex-parte in-camera hearing on 9/20/99 at 1:30 pm before Judge Santiago E Campos in Santa Fe, NM (cc: all counsel, electronically) (dmw) (Entered: 07/20/1999)

09/13/1999 71 MINUTE ORDER: resetting ex parte in-camera hearing on

10/12/99 at 9:30 am before Judge Santiago E Campos [70-1] (cc: all counsel, electronically) (dmw) (Entered: 09/13/1999)

10/27/1999 72 MEMORANDUM, OPINION, AND ORDER: by Senior Judge Santiago E. Campos granting motion for summary judgment [23-2] dismissing case (cc: all counsel) (msm) (Entered: 10/27/1999)

10/27/1999 73 SUMMARY JUDGMENT: by Senior Judge Santiago E. Campos (cc: all counsel) (msm) (Entered: 10/27/1999)

11/09/1999 74 MOTION by plaintiff to alter & amend memorandum opinion & order (dmw) (Entered: 11/10/1999)

11/19/1999 75 OPPOSITION (RESPONSE) by defendant to motion to alter & amend memorandum opinion & order [74-1] (dmw) (Entered: 11/19/1999)

12/01/1999 76 REPLY by plaintiff to response in opposition to motion to alter & amend memorandum opinion & order [74-1] (dmw) (Entered: 12/01/1999)

12/23/1999 77 MEMORANDUM, OPINION, AND ORDER: by Senior Judge Santiago E. Campos denying motion to alter & amend memorandum opinion & order [74-1] by William H Payne (cc: all counsel*) (dmw) (Entered: 12/27/1999)

01/03/2000 78 NOTICE OF APPEAL by pltf William H Payne from Dist. Court decisions [77-1], [73-1], [72-2]; Fees paid - Distribution as required. (cc: all counsel) (pz) (Entered: 01/05/2000)

01/05/2000 RECEIVED re appeal [78-1] fee in amount of \$ 105.00 (Receipt # 100 117097) (notice sent to USCA) (pz) (Entered: 01/05/2000)

01/10/2000 LETTER transmitting PROA/ROA to USCA (former employee) (Entered: 01/10/2000)

01/10/2000 PRELIMINARY RECORD on appeal mailed to USCA in one (1) Volume 1 (former employee) (Entered: 01/10/2000)

01/11/2000 79 NOTICE of correction by plaintiff (dmw) (Entered: 01/11/2000)

01/18/2000 ACKNOWLEDGEMENT of receipt of preliminary record/record on appeal by USCA on 1/14/00 - USCA Number: 00-2019 (former employee) (Entered: 01/18/2000)

12/13/2000 80 COPY of judgment from USCA affirming the decision of the District Court [78-1] (mjr) (Entered: 12/13/2000)

05/16/2007 81 MOTION to Set Aside Judgment by William H Payne, Arthur R Morales. (pz) (Entered: 05/18/2007)

05/16/2007 82 MANDATORY JUDICIAL NOTICE by William H Payne and Arthur R Morales (pz) (Entered: 05/18/2007)

05/29/2007 83 RESPONSE in Opposition re 81 MOTION to Set Aside Judgment filed by National Security Agency. (Mitchell, Jan) (Entered: 05/29/2007)

PACER Service Center

Transaction Receipt

05/30/2007 15:12:54

PACER Login: bp0858 Client Code:

Description: Docket Report Search Criteria: 6:97-cv-00266-SEC-DJS

Billable Pages: 5 Cost: 0.40

From PACER Wednesday May 30, 2007

05/16/2007	81	MOTION to Set Aside Judgment by William H Payne, Arthur R.
05/16/2007	82	MANDATORY JUDICIAL NOTICE by William H Payne and .
05/29/2007	83	RESPONSE in Opposition re 81 MOTION to Set Aside Judgm 05/29/2007)

[mitchell response in pdf.](#)

Friday May 25, 2007 14:00

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#mitchell>

by email

**Jan Michell
Assistant US attorney
jan.mitchell@usdoj.gov,**

Dear Ms Mitchell

**Don't even think of trying to file your response due by 20 days from
[FILED at Santa Fe, NM on May 16,2007](#) in federal court in
[Albuquerque.](#)**

This would be a transparent bad idea.

As you may realize judges [James A Parker](#) and William F Downes have prevented Morales and Payne from filing anything in Albuquerque federal court.

This denial of civil rights earned [Parker and Downes](#) a criminal complaint in Albuquerque Metropolitan court.

Recall that 97-0266 was appealed at the Tenth Circuit: [See docket entry 78, single entry on 01/05/00 and three entries at 01/10/00](#). So the Tenth has jurisdiction as well as federal court in Santa Fe.

We are prepared to immediately file to vacate judgment at the Tenth Circuit court of appeals

Payne v. National Security Agency
2000 10CIR 1264
232 F.3d 902
[Case Number: 00-2019](#)
Decided: 10/19/2000
10th Circuit Court of Appeals

Before TACHA, EBEL, and LUCERO, Circuit Judges.

as well as in Santa Fe federal court under old actions if we don't [promptly settle these unfortunate matters](#).

[Metro court judge Julie Altwies issued another voidable judgment on 5/22/07](#) in attempt to obstruct proper arraignment of your colleague Michael H Hoses.

We believe that Altwies statement is either false or based on, as a lawyer phrased *Bugs Bunny* law.

We are in the the process of investigating [possible inclusion of false statements in the Metropolitan court judicial benchbook](#).

If we are unable to vacate our NSA FOIA visibility lawsuit final judgment at either federal court in Santa Fe or at the [Tenth Circuit](#), then we will be forced to file in another court of law.

US assistant attorneys Dow and Hoses have establish pattern and practice of violating our civil right in violation of 18 USC [§ 241](#) and [§242](#). We will pursue these criminal violation if we do not settle.

We will delay filing our [MOTION TO VACATE JUDGMENT FOR](#)

[LACK OF JURISDICTION](#) until 15:30 on Tuesday May 29, 2007 in hopes were hear postively from you about settlement before that time.

After that time we must deal with obtaining the documents identified in the [recently declassified Gilbert letter](#) from the FBI, NSA, Sandia labs, DOE and DOJ.

We feel that it is best to settlement matters now before we have to proceed to our next *legal steps*.

Morales and Payne

Distribution

USANM.ECFCivil@usdoj.gov;
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djscmecf@nmcourt.fed.us;
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foiofficer@doeal.gov; foialo@nsa.gov

Sensenbrenner@mail.house.gov
arlen_specter@specter.senate.gov

DRAFT
Friday May 25, 2007 10:37

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#tenthvoid>

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

William H. Payne)
Arthur R. Morales)
Appellant Plaintiffs,)
v) 00-2019

)

Lieutenant General Kenneth A. Minihan, USAF)
Director, National Security Agency)
National Security Agency)
Appellee Defendant) Federal Rule of Civ. P.
60(b)(4)

MOTION TO VACATE JUDGMENT FOR LACK OF JURISDICTION

I. INTRODUCTION

Plaintiffs Morales and Payne sued the National Security Agency under the FOIA on March 4, 1997.

Subject of the lawsuit is:

What information was provided to Saddam Hussein exactly? [Answers to this question are currently being sought in a lawsuit against NSA in New Mexico, which has asked to see "all Iranian messages and translations between January 1, 1980 and June 10, 1996".](#) [7]

II. BASIS OF MOTION

1 [Docket entry - , just above docket entry 1](#), shows that plaintiffs paid filing fee of \$150 on 2/28/97.

2 [Docket entry 2](#) shows DEMAND for jury trial filed on March 18, 1997.

3 [Docket entry 73](#) shows late Senior Judge Santiago E Campos granting motion for summary judgment dismissing case.

4 Campos lacked jurisdiction to dismiss DEMANDED jury trial lawsuit guaranteed inviolate by US Constitution.

5 Payne v. National Security Agency, 2000 10CIR 1264,232 F.3d 902, [Case Number: 00-2019](#) was Decided: 10/19/2000 10th Circuit Court of Appeals before TACHA, EBEL, and LUCERO, Circuit Judges.

III. ISSUES

6 Right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#). Therefore Campos lacked jurisdiction to dismiss paid for jury trial lawsuit.

IV RELIEF SOUGHT

7 Return filed stamped copy of this Motion with 10 working days.

8 Sign attached ORDER rescinding Campos 10/27/99 [docket entry 72] which orders settlement or trial by jury within 90 days of entry.

Respectfully submitted,

**William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111**

**Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108**

Date: _____

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to judges TACHA, EBEL, and LUCERO United States Court of Appeals for the Tenth Circuit The Byron White U.S. Court House 1823 Stout Street, Denver, CO 80257, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email this Tuesday May 29, 2007.

DRAFT

Monday May 28, 2007 15:34

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#tenthvoid>

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

**William H. Payne)
Arthur R. Morales)
)
Appellant Plaintiffs,)
)
v) 00-2019
)
Lieutenant General Kenneth A. Minihan, USAF)
Director, National Security Agency)
National Security Agency)**

Appellee Defendant
60(b)(4)

)
) Federal Rule of Civ. P.

**ORDER VACATING Judge Santiago Campos'
10/27/99 MEMORANDUM, OPINION, AND ORDER AND TENTH
CIRCUIT RULING ON 00-2019**

1 Judge Santiago Campos' 10/27/99 MEMORANDUM, OPINION, AND ORDER is void for lack of jurisdiction to dismiss paid for jury trial lawsuit.

Right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#).

2 Void Tenth Circuit ruling on 00-2019 Decided: 10/19/2000 for reason that judges TACHA, EBEL, and LUCERO cannot affirm Santiago Campos' 10/27/99 MEMORANDUM, OPINION, AND ORDER which violates constitutional right to trial by jury.

3 CIV NO 97 0266 is to be settled or proceed to trial by jury within 90 days from entry of this order.

Judge
Tenth Circuit

Date

DRAFT

Friday May 25, 2007 10:46

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#tenthvoidmandatory>

[j]udicial notice may be permissive or mandatory. If it is permissive, then the court may choose to take judicial notice of the fact proffered, or may reject the request and require the party to introduce evidence in support of the point. [If it is mandatory, then the court must take judicial notice of the fact proffered.](#)

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

William H. Payne)
Arthur R. Morales)
)
Appellant Plaintiffs,)
)

v) 00-2019
)
Lieutenant General Kenneth A. Minihan, USAF)
Director, National Security Agency)
National Security Agency)
)
Appellee Defendant)

**MANDATORY JUDICIAL NOTICE AND AUTHORITIES TO VOID
JUDGMENT**

1 COMES NOW, plaintiffs Morales and Payne to place this court on judicial notice of authorities of motion to vacate judgment in CIV NO 97 0266 SC/DJS.

2 To be valid and enforceable, a judgment must be supported by three elements:

- (1) the court must have jurisdiction of the parties;**
- (2) the court must have jurisdiction of the subject matter; and**
- (3) the court or tribunal must have the power of authority to render the particular judgment.**

If the requirements for validity are not met, a judgment may be subject to avoidance.¹

3 Any judgment rendered by a court which lacks jurisdiction, either of the subject matter of the parties, or lacks inherent power to enter the particular judgment, or entered an Order which violated due process or was procured through extrinsic or collateral fraud, is null and void, and can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court.²

4 Such a judgment is void from its inception, incapable of confirmation or ratification, and can never have any legal effect.³

5 A void judgment must be dismissed, regardless of timeliness if jurisdiction is deficient.⁵

6 When rule providing relief from void judgments is applicable, relief is mandatory and is not discretionary.⁴

7 The passage of time, however great, does not affect the validity of a judgment⁶ and cannot render a void judgment valid.⁷

8 The limitations inherent in the requirements of due process of law extend to judicial, as well as political, branches of the government,⁸ so that a judgment may not be rendered in violation of those constitutional limitations and guaranties.⁹

9 A court may not render a judgment which transcends the limits of its authority,¹⁰ and a judgment is void if it is beyond the powers granted to the court by the law of its organization, even where the court has jurisdiction over the parties and the

subject matter.¹¹

1 See *Peduto v. North Wildwood* (DC NJ) 696 F Supp 1004, *affd* (CA3 NJ) 878 F.2d 725; *In re Doe* (NM App) 99 NM 517, 660 P.2d 607; *Tice v. Nationwide Life Ins. Co.*, 284 Pa Super 220, 425 A.2d 782.

2 See U.S.Const.Amdt. V; F.R.Civ.P. 60(b)(4); CR 60(b)(5); Federal cases: *Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985); *Rubin v. Johns*, 109 F.R.D. 174 (D.Virg.Is.1985); *Triad Energy Corp. v. McNell*, 110 F.R.D. 382 (S.D.N.Y. 1986); *Millikan v. Meyer*, 311 US 457, 61 S.Ct. 339, 85 L.Ed.2d 278 (1940); *Long v. Shorebank Development Corp.*, 182 F.3d 548 (CA7 1999).

3 See *Stidham v. Whelchel*, 698 NE2d 1152 (Ind.1998); *Thompson v. Thompson*, 238 SW2d 218 (Tex.Civ.App. 1951); *Lucas v. Estate of Stavos*, 609 NE2d 1114, *rehng.den.*, *trans.den.*, (Ind.App.Dist.1 1993); *Loyd v. Director, Dept. of Public Safety*, 480 So2d 577 (Ala.Civ.App.1985); *In re Marriage of Parks*, 630 NE2d 509 (Ill.App.Dist.4 1991); *Lubben v. Selective Service System Local Bd. No.27*, 453 F.2d 645, 14 A.L.R.Fed. 298 (CA1 1972); *Hobbs v. U.S. Office of Personnel Mgmt.*, 485 F.Supp. 456 (M.D.Fla.1980); *Holstein v. City of Chicago*, 803 F.Supp. 205, *recon.den.*, 149 F.R.D. 147, *aff'd*, 29 F.3d 1145 (N.D.Ill.1992); *City of Los Angeles v. Morgan*, 234 P2d 319 (Cal.App.Dist.2 1951).

4 *Orner v. Shalala*, 30 F.3d 1307 (Colo.1994).

5 See *Mitchell v. Kitsap County*, 59 Wash.App. 177, 180-81, 797 P2d 516 (1990)(*collateral c* *Jaffe and Asher v. Van Brunt*, 158 F.R.D. 278 (S.D.N.Y.1994).

6 See *State ex rel. Smith v. Sixth Judicial Dist. Court*, 63 Nev 249, 167 P.2d 648 (*ovrld in part on other grounds by Poirier v. Board of Dental Examiners*, 81 Nev 384, 404 P.2d 1); *Monroe v. Niven*, 221 NC 362, 20 S.E.2d 311.

7 See *State ex rel. Smith v. Sixth Judicial Dist. Court*, 63 Nev 249, 167 P.2d 648 (*ovrld in part on other grounds by Poirier v. Board of Dental Examiners*, 81 Nev 384, 404 P.2d 1); *Columbus County v. Thompson*, 249 NC 607, 107 S.E.2d 302.

8 As to persons and agencies bound by due process, see 16A Am.Jur.2d, Constitutional Law §§ 742, 821-824.

9 See *Hanson v. Denckla*, 357 US 235, 2 L.Ed.2d 1283, 78 S.Ct. 1228, *reh den* 358 US 858, 3 L.Ed.2d 92, 79 S.Ct. 10; *Ladner v. Siegel*, 298 Pa 487, 148 A 699, 68 ALR 1172.

10 See *Royal Indem. Co. v. Mayor, etc., of Savannah*, 209 Ga 383, 73 S.E.2d 205; *Spencer v. Franks*, 173 Md 73, 195 A 306, 114 ALR 263; *Road Material & Equipment Co. v. McGowan*, 229 Miss 611, 91 So.2d 554, *motion dismd* 229 Miss 630, 92 So.2d 245; *Howle v. Twin States Express, Inc.*, 237 NC 667, 75 S.E.2d 732; *Fitzsimmons v. Oklahoma City*, 192 Okla 248, 135 P.2d 340; *Robertson v. Commonwealth*, 181 Va 520, 25 S.E.2d 352, 146 ALR 966; *Reburg v. Lang*, 239 Wis 381, 1 N.W.2d 759. The courts of a state may render only such judgments as they

are authorized to do under the laws of the state. *Mosely v. Empire Gas & Fuel Co.*, 313 Mo 225, 281 SW 762, 45 ALR 1223.

11 See *People ex rel. Arkansas Valley Sugar Beet & Irrigated Land Co. v. Burke*, 72 Colo 486, 212 P. 837, 30 ALR 1085; *People v. Wade*, 116 Ill 2d 1, 107 Ill Dec 63, 506 N.E.2d 954; *Gray v. Clement*, 296 Mo 497, 246 SW 940; *Ex parte Solberg*, 52 ND 518, 203 NW 898; *Russell v. Fourth Nat'l Bank (Ohio)* 102 Ohio St 248, 131 NE 726; *Hough v. Hough (Okla)* 772 P.2d 920; *Farmers' Nat'l Bank v. Daggett (Tex Com App)* 2 S.W.2d 834; *State v. Turner*, 98 Wash.2d 731, 658 P.2d 658; *Shopper Advertiser, Inc. v. Wisconsin Dep't of Revenue*, 117 Wis 2d 223, 344 N.W.2d 115.

Respectfully submitted,

William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: _____

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to judges TACHA, EBEL, and LUCERO United States Court of Appeals for the Tenth Circuit The Byron White U.S. Court House 1823 Stout Street, Denver, CO 80257, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email this Tuesday May 29, 2007.

Below envelope contained

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE

William H. Payne
Arthur R. Morales
Plaintiffs

v

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

MOTION TO VOID JUDGMENT
FOR LACK OF JURISDICTION
TO DISMISS PAID-FOR JURY
TRIAL LAWSUIT

FILED
at Santa Fe, NM

MAY 18 2007

MATTHEW J. DYKMAN
CLERK

CIV NO 97 0266 SC/DJS

Federal Rule of Civ. P. 60(b)(4)

MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED TO

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE

William H. Payne
Arthur R. Morales
Plaintiffs

v

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

MANDATORY JUDICIAL NOTICE and
authorities for void judgment

FILED
at Santa Fe, NM

MAY 18 2007

MATTHEW J. DYKMAN
CLERK

CIV NO 97 0266 SC/DJS

MANDATORY JUDICIAL NOTICE and authorities for void judgment

1 COMES NOW, plaintiffs Morales and Payne to place this court on judicial notice of authorities of motion to vacate judgment in CIV NO 97 0266 SC/DJS.

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If the requirements for validity are not met, a judgment may be subject to avoidance. ¹

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6 When rule providing relief from void judgments is applicable, relief is mandatory and is not discretionary. ⁴



No stamp cancelation. [Just like envelope from Metro court.](#)

Below envelope contained

Case: 97cv266

William H Payne
13015 Calle de Sandias, NE
Albuquerque, NM 87111

*ATTENTION: For those that have not correctly setup their accounts the court will be printing and mailing, via USPS, copies of the document(s) and the NEF. When filing a document, it is still the responsibility of the filer to serve any persons listed in the section of the NEF labeled (_Notice has been delivered by other means to:_).

***NOTICE: Beginning June 1st, 2007, attorneys who have an active CM/ECF account, but have not entered their primary e-mail address will no longer receive printed copies of documents and the corresponding NEF. The court will only print and mail documents to pro se parties and other individuals exempted from the mandatory e-filing requirements.**

*IMPORTANT: To receive NEFs in all of your cases, you will need to properly enter contact information into your account and update all of your cases. This includes your address, phone and fax numbers as well as your e-mail address.

*First, go to the Utilities Menu and Select Maintain Your E-mail. Enter the appropriate e-mail address(es) and press submit. Please ensure that the e-mail addresses you enter are spelled correctly.

*Next, go to the Utilities menu and click on the Maintain Your Address link. Fill in or correct your information and press submit. The system will ask if you wish to update the information in your cases. Select Update All and continue. This will update the contact and e-mail information for all of your cases, ensuring that you receive NEFs for activity in your cases.

*If you have questions, or need help, please contact our Helpdesk at 505-348-2075 or 1-866-620-6383.

Case: 97cv266

**William H Payne
13015 Calle de Sandias, NE**

Albuquerque, NM 87111

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MIME-Version:1.0
From:cmecfbb@nmcourt.fed.us
To:cmecfto@nmcourt.fed.us
Message-Id:<954305@nmcourt.fed.us>
Bcc:jan.mitchell@usdoj.gov, USANM.ECFCivil@usdoj.gov, craig.larson@usdoj.gov, djscmect@nmcourt.fed.us
Subject:Activity in Case 6:97-cv-00266-SEC-DJS Payne, et al v. Minihan, et al Notice (Other)
Content-Type: text/plain***NOTE TO PUBLIC ACCESS USERS*** You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.U.S. District Court District of New Mexico - Version 3.0

Notice of Electronic Filing

The following transaction was entered on 5/18/2007 1:48 PM MDT and filed on 5/16/2007

Case Name: Payne, et al v. Minihan, et al
Case Number: 6:97-cv-266 <http://ecf.nmd.uscourts.gov/cgi-bin/DktRpt.pl?134863>

Filer: William H Payne
WARNING: CASE CLOSED on 10/27/1999

Document Number: 82
Copy the URL address from the line below into the location bar of your Web browser to view the document: http://ecf.nmd.uscourts.gov/cgi-bin/show_case_doc?82,134863,,MAGIC,,3515742

Docket Text:
MANDATORY JUDICIAL NOTICE by William H Payne and Arthur R Morales (pz)
6:97-cv-266 Notice has been electronically mailed to:
Jan Elizabeth Mitchell jan.mitchell@usdoj.gov, USANM.ECFCivil@usdoj.gov, craig.larson@usdoj.gov

6:97-cv-266 Notice has been delivered by other means to:
William H Payne
13015 Calle de Sandias, NE
Albuquerque, NM 87111

The following document(s) are associated with this transaction:
Document description: Main Document
Original filename: n/a
Electronic document Stamp:
[STAMP doccfStamp_ID=1167529506 [Date=5/18/2007] [FileNumber=954304-0]
[017ab6f0c873cdde7162633152aefa377e30f49e8265a77d5ae5a43b085e92df6d2bcd0f11da54abada5fef415ad6698bb8253

MIME-Version:1.0
From:cmecfbb@nmcourt.fed.us
To:cmecfto@nmcourt.fed.us
Message-Id:<954305@nmcourt.fed.us>
Bcc:jan.mitchell@usdoj.gov, USANM.ECFCivil@usdoj.gov,

**craig.larson@usdoj.gov,
djscmecf@nmcourt.fed.us**

**Subject:Activity in Case 6:97-cv-00266-SEC-DJS Payne, et al v. Minihan, et al
Notice (Other)**

Content-Type: texVplain*NOTE TO PUBLIC ACCESS USERS*** You may
view the filed documents once without charge. To avoid later charges, download a
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bin/show_case_doc?82,134863,,MAGIC,,,3515742](http://ecf.nrnd.uscourts.gov/cgi-bin/show_case_doc?82,134863,,MAGIC,,,3515742)**

Docket Text:

**MANDATORY JUDICIAL NOTICE by William H Payne and Arthur R Morales
(pz)**

6:97-cv-266 Notice has been electronically mailed to:

**Jan Elizabeth Mitchell jan.mitchell@usdoj.gov, USANM.ECFCivil@usdoj.gov,
craig.larson@usdoj.gov**

6:97-cv-266 Notice has been delivered by other means to:

**William H Payne
13015CalledeSandias,NE
Albuquerque, NM87111**

The following document(s) are associated with this transaction:

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Original filename: n/a

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**[STAMP dcecfStamp_ID= 1167529506 [Date=5/18/2007] [FileNumber=954304-0]
[017ab6f0c873cdde7162633152aefa377e30f49e8265a77d5ae5a43b085e92df6d2bced0f
11 da54abada5fef415ad6698bb8253**

**Please note warning that case is closed on 10/27/1999. We, of course will see about
this.**

0

FILED
at Santa Fe, NM

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE

MAY 16 2007

William H. Payne
Arthur R. Morales
Plaintiffs

MATTHEW J. DYKMAN
CLERK

v

CIV NO 97 0266 SC/DJS

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

MANDATORY JUDICIAL NOTICE and
authorities for void judgment

MANDATORY JUDICIAL NOTICE and authorities for void judgment

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2 See U.S. Const. Amdt. V; F.R.Civ.P. 60(b)(4); CR 60(b)(5); State cases: *Lindgren v. Lindgren*, 58 Wash.App. 588, 596, 794 P2d 526 (1990), *rev.den.*, 116 Wash.2d 1009, 805 P2d 813 (1991); *Brenner v. Port of Bellingham*, 53 Wash.App. 182, 188, 765 P2d 1333 (1989) (motions to vacate under CR 60(b)(5) are not barred by the 'reasonable time' or the 1-year requirement of CR 60(b)(5)); *Mid-City Materials, Inc. v. Heater Beaters Custom Fireplaces*, 36 Wash.App. 480, 486, 674 P2d 1271 (1984); *Matter of Marriage of Leslie*, 112 Wash.2d 612, 618-19, 772 P2d 1013 (1989) (doctrine of laches does not bar attack of void judgment) (citing *John Hancock Mut. Life Ins. Co. v. Gooley*, 196 Wash. 357, 370, 83 P2d 221 (1938) (additional cite omitted)); *In re Marriage of Ortiz*, 108 Wash2d 643, 649, 740 P2d 843 (1987); *Dike v. Dike*, 75 Wash.2d 1, 7, 448 P2d 490 (1968); *Bresolin v. Morris*, 86 Wash2d 24, 245, 543 P2d 325 (1975); *Cockerham v. Zikratch*, 619 P2d 739 (Ariz.1980); *State ex rel Turner v. Briggs*, 971 P2d 581 (Wash.App.1999); *Ward v. Terriere*, 386 P2d 352 (Colo. 1963); *Matter of Marriage of Hampshire*, 869 P2d 58 (Kan.1997); *Matter of Marriage of Welliver*, 869 P2d 653 (Kan.1994); *In re Estate of Wells*, 983 P2d 279 (Kan.App.1999); *B & C Investments, Inc. v. F & M Nat'l. Bank & Trust*, 903 P2d 339 (Okla.App.Div.3 1995); *Graff v. Kelly*, 814 P2d 489 (Okla.1991); *Capital Federal Savings Bank v. Bewly*, 795 P2d 1051 (Okla.1990); *Wahl v. Round Valley Bank*, 38 Ariz. 411, 300 P. 955 (1931); *Davidson Chevrolet, Inc. v. City and County of Denver*, 330 P2d 1116, *cert.den.*, 79 S.Ct. 609, 359 US 926, 3 L.Ed.2d 629 (Colo.1958); *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146 P. 203 (1914); *Lange v. Johnson*, 204 NW2d 205 (Minn.1973); *People v. Wade*, 506 N.W2d 954 (Ill.1987); *State v. Blankenship*, 675 NE2d 1303 (Oh.App.Dist.9 1996); *Hays v. Louisiana Dock Co.*, 452 NE2d 1383 (Ill.App.Dist.4 1983); *People v. Rolland*, 581 NE2d 907 (Ill.App.Dist.4 1991); *Eckles v. McNeal*, 628 NE2d 741 (Ill.App.1993); *People v. Sales*, 551 NE2d 1359 (Ill.App.Dist.2 1990); *In re Adoption of E.L.*, 733 NE2d 846 (Ill.App.Dist.1 2000); *Irving v. Rodriguez*, 179 NE2d 145 (Ill.App.Dist.2 1960); *People ex rel Brzica v. Village of Lake Barrington*, 644 NE2d 66 (Ill.App.Dist.2 1994); *Steinfeld v. Haddock*, 513 US 809 (Ill.1994); *Dusenberry v. Dusenberry*, 625 NE2d 458 (Ind.App.Dist.1 1993); *Rook v. Rook*, 353 SE2d 756 (Va.1987); *Mills v. Richardson*, 81 SE2d 409 (N.C.1950); *Henderson v. Henderson*, 59 SE2d 227 (N.C.1950); *State v. Richie*, 20 SW3d 624 (Tenn.2000); *Crockett Oil Co. v. Effie*, 374 SW2d 154 (Mo.App.1964); *State ex rel Dawson v. Bomar*, 354 SW2d 763, *cert.den.*, ___ US ___ (Tenn.1962); *Underwood v. Brown*, 244 SW2d 168 (Tenn.1951); *Richardson v. Mitchell*, 237 SW2d 577 (Tenn.App.1950); *City of Lufkin v. McVicker*, 510 SW2d 141 (Tex.Civ.App.1973); Federal cases: *Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985); *Rubin v. Johns*, 109 F.R.D. 174 (D.Virg.Is.1985); *Triad Energy Corp. v. McNell*, 110 F.R.D. 382 (S.D.N.Y. 1986); *Millikan v. Meyer*, 311 US 457, 61 S.Ct. 339, 85 L.Ed.2d 278 (1940); *Long v. Shorebank Development Corp.*, 182 F.3d 548 (CA7 1999).

3 See *Stidham v. Whelchel*, 698 NE2d 1152 (Ind.1998); *Thompson v. Thompson*, 238 SW2d 218 (Tex.Civ.App. 1951); *Lucas v. Estate of Stavos*, 609 NE2d 1114, *reh'g.den.*, *trans.den.* (Ind.App.Dist.1 1993); *Loyd v. Director, Dept. of Public Safety*, 480 So2d 577 (Ala.Civ.App.1985); *In re Marriage of Parks*, 630 NE2d 509 (Ill.App.Dist.4 1991); *Lubben v. Selective Service System Local Bd. No.27*, 453 F.2d 645, 14 A.L.R.Fed. 298 (CA1 1972); *Hobbs v. U.S. Office of Personnel Mgmt.*, 485 F.Supp. 456 (M.D.Fla.1980); *Holstein v. City of Chicago*, 803 F.Supp. 205, *recon.den.*, 149 F.R.D. 147, *aff'd*, 29 F.3d 1145 (N.D.Ill.1992); *City of Los Angeles v. Morgan*, 234 P2d 319 (Cal.App.Dist.2 1951).

4 See *In re Marriage of Markowski*, 50 Wash.App. 633, 635, 749 P2d 745 (1988); *Brickum Inv. Co. v. Vernham Corp.*, 46 Wash.App. 517, 520, 731 P2d 533 (1987); *Orner v. Shalala*, 30 F.3d 1307 (Colo.1994).

5 See *Mitchell v. Kitsap County*, 59 Wash.App. 177, 180-81, 797 P2d 516 (1990) (collateral challenge to jurisdiction of pro tem judge granting summary judgment properly raised on appeal) (citing *Allied Fidelity Ins. Co. v. Ruth*, 57 Wash.App. 783, 790, 790 P2d 206 (1990)); *Jaffe and Asher v. Van Brunt*, 158 F.R.D. 278 (S.D.N.Y.1994).

6 See State ex rel. Smith v. Sixth Judicial Dist. Court, 63 Nev 249, 167 P.2d 648 (ovrld in part on other grounds by Poirier v. Board of Dental Examiners, 81 Nev 384, 404 P.2d 1); Monroe v. Niven, 221 NC 362, 20 S.E.2d 311.

7 See State ex rel. Smith v. Sixth Judicial Dist. Court, 63 Nev 249, 167 P.2d 648 (ovrld in part on other grounds by Poirier v. Board of Dental Examiners, 81 Nev 384, 404 P.2d 1); Columbus County v. Thompson, 249 NC 607, 107 S.E.2d 302.

8 As to persons and agencies bound by due process, see 16A Am.Jur.2d, Constitutional Law §§ 742, 821-824.

9 See Hanson v. Denckla, 357 US 235, 2 L.Ed.2d 1283, 78 S.Ct. 1228, reh den 358 US 858, 3 L.Ed.2d 92, 79 S.Ct. 10; Ladner v. Siegel, 298 Pa 487, 148 A 699, 68 ALR 1172.

10 See Royal Indem. Co. v. Mayor, etc., of Savannah, 209 Ga 383, 73 S.E.2d 205; Spencer v. Franks, 173 Md 73, 195 A 306, 114 ALR 263; Road Material & Equipment Co. v. McGowan, 229 Miss 611, 91 So.2d 554, motion dismd 229 Miss 630, 92 So.2d 245; Howle v. Twin States Express, Inc., 237 NC 667, 75 S.E.2d 732; Fitzsimmons v. Oklahoma City, 192 Okla 248, 135 P.2d 340; Robertson v. Commonwealth, 181 Va 520, 25 S.E.2d 352, 146 ALR 966; Reburg v. Lang, 239 Wis 381, 1 N.W.2d 759. The courts of a state may render only such judgments as they are authorized to do under the laws of the state. Mosely v. Empire Gas & Fuel Co., 313 Mo 225, 281 SW 762, 45 ALR 1223.

11 See People ex rel. Arkansas Valley Sugar Beet & Irrigated Land Co. v. Burke, 72 Colo 486, 212 P. 837, 30 ALR 1085; People v. Wade, 116 Ill 2d 1, 107 Ill Dec 63, 506 N.E.2d 954; Gray v. Clement, 296 Mo 497, 246 SW 940; Ex parte Solberg, 52 ND 518, 203 NW 898; Russell v. Fourth Nat'l Bank (Ohio) 102 Ohio St 248, 131 NE 726; Hough v. Hough (Okla) 772 P.2d 920; Farmers' Nat'l Bank v. Daggett (Tex Com App) 2 S.W.2d 834; State v. Turner, 98 Wash.2d 731, 658 P.2d 658; Shopper Advertiser, Inc. v. Wisconsin Dep't of Revenue, 117 Wis 2d 223, 344 N.W.2d 115.

Respectfully submitted,


William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

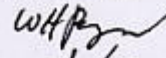

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

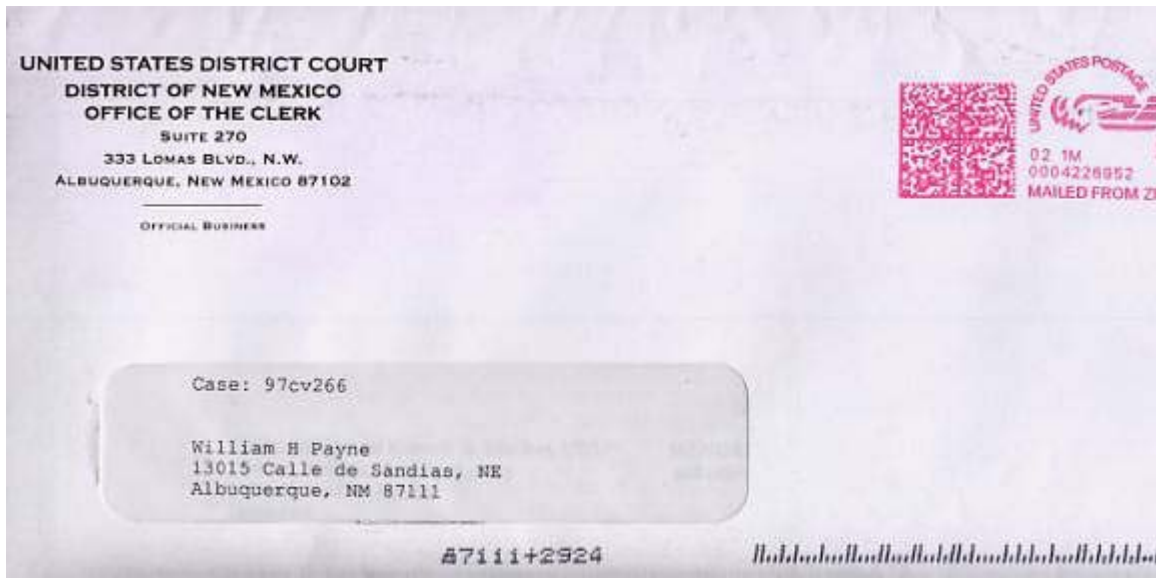
Date: 5/11/07

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to LTG Keith B. Alexander, Director, National Security Agency, 9800 Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email this Friday May 11, 2007.


5/11/07



----- Original Message -----

From: bill payne

To: cmecf@nmcourt.fed.us ; cmecfclasses@nmcourt.fed.us ;
cmecfregistration@nmcourt.fed.us

Cc: art morales

Sent: Thursday, May 24, 2007 8:07 AM

Subject: can't access docket of 97 cv 266

What's my account user name? I recall my old password. often

Thanks in advance.

Links don't work.

regards

[Jan Mitchell is still an assistant us attorney.](#) Wednesday May 9, 2007 14:41.

Jan Mitchell read

To: mvproposedtext@nmcourt.fed.us

Cc: art morales; foialo, foialo ; Mitchell, Jan (USANM)

Subject: void judgment in CIV NO 97 0266 SC/DJS

Sent: Fri, 11 May 2007 15:26:44 -0600

was read on Mon, 14 May 2007 07:43:09 -0600

Note that Michell doesn't answer the phone government style. Note also the long pause while Mitchell likely tried to decide what to do.

Ultimate goal in litigation is settlement. So we need to be conciliatory when talking to the US Attorney's office.

Friday May 11, 2007 we learned on the phoned jan.mitchell@usdoj.gov.

[The Honorable Martha Vázquez](#)

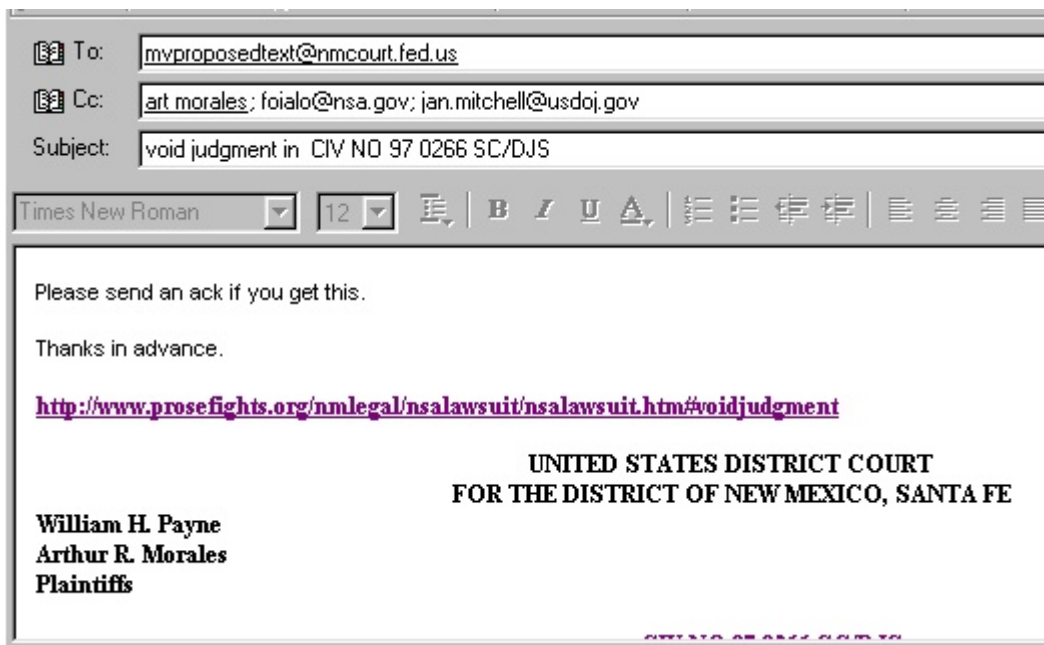
Dig this

Proposed Orders/Text:
mvproposedtext@nmcourt.fed.us

Judges don't want to waste their time writing orders. So naturally we're doing what is asked. Write an order for Vázquez to sign.

----- Original Message -----

From: bill payne
To: mvproposedtext@nmcourt.fed.us
Cc: art morales ; foialo, foialo ; jan.mitchell@usdoj.gov
Sent: Friday, May 11, 2007 2:26 PM
Subject: void judgment in CIV NO 97 0266 SC/DJS



The screenshot shows an email client window. The header fields are: To: mvproposedtext@nmcourt.fed.us; Cc: art morales ; foialo@nsa.gov ; jan.mitchell@usdoj.gov; Subject: void judgment in CIV NO 97 0266 SC/DJS. The body of the email contains the following text: "Please send an ack if you get this. Thanks in advance. <http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#voidjudgment> UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO, SANTA FE William H. Payne Arthur R. Morales Plaintiffs". The email is displayed in a Times New Roman font, size 12.

FINAL

Thursday May 10, 2007 20:39

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#voidjudgment>

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SANTA FE NM 87504

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Restricted Delivery Fee (Endorsement Required)		\$0.00	
Total Postage & Fees	\$	\$5.60	

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 MAY 11 2007

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 Street, Apt. No. or PO Box No. POB 2710
 City, State, ZIP Santa Fe, NM 87501

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) Pat Rowley</p> <p>C. Date of Delivery MAY 15 2007</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
1. Article Addressed to: Clerk POB 2710 Santa Fe, NM 87501	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
2. Article Number (Transfer from service label)	7007 0220 0002 8759 4562

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Label/Receipt Number: 7007 0220 0002 8759 4562

Status: Delivered Your item was delivered at 9:14 AM on May 15, 2007 in SANTA FE, NM 87501.

7007 0220 0002 8759 4548

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Return Receipt Fee (Endorsement Required)		\$1.85	
Restricted Delivery Fee (Endorsement Required)		\$0.00	
Total Postage & Fees	\$	\$4.88	

Sent To *Mr. Focht*
 Street, Apt. No., or PO Box No. *206 JLA Sta*
 City, State, ZIP+4 *Albq, NM 87102*

PS Form 3800, August 2006 See Reverse for Instructions

7007 0220 0002 8759 4555

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For delivery information visit our website at www.usps.com®

FORT GEORGE G MEADE MD 20755

Postage	\$	\$0.63	
Certified Fee		\$2.40	
Return Receipt Fee (Endorsement Required)		\$1.85	
Restricted Delivery Fee (Endorsement Required)		\$0.00	
Total Postage & Fees	\$	\$4.88	

Sent To *A Leonard*
 Street, Apt. No., or PO Box No. *NSA*
 City, State, ZIP+4 *Fort G G Meade MD 20755*

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
1. Article Addressed to:	
<p>Alan Cole 9500 Semmes Ave Ft G Meade, MD 20755</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
2. Article Number (Transfer from service)	7007 0220 0002 8759 4555
PS Form 3811, February 2004 Domestic Return Receipt 10295-02-M-154	

Label/Receipt Number: 7007 0220 0002 8759 4548
Status: Delivered Your item was delivered at 12:16 PM on May 14, 2007 in ALBUQUERQUE, NM 87102.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
1. Article Addressed to:	
<p>Mitchell 201 3rd St NW ALBQ, NM 87102</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
2. Article Number (Transfer from service label)	7007 0220 0002 8759 4548
PS Form 3811, February 2004 Domestic Return Receipt 10295-02-M-154	

Label/Receipt Number: 7007 0220 0002 8759 4555
Status: Delivered Your item was delivered at 1:06 PM on May 14, 2007 in FORT GEORGE G MEADE, MD 20755.

**UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEW MEXICO, SANTA FE**

**William H. Payne
 Arthur R. Morales
 Plaintiffs**

v

CIV NO 97 0266 SC/DJS

**Lieutenant General Kenneth A. Minihan, USAF
 JUDGMENT
 Director, National Security Agency
 JURISDICTION**

**MOTION TO VOID
 FOR LACK OF**

National Security Agency
JURY
Defendant

TO DISMISS PAID-FOR
TRIAL LAWSUIT
Federal Rule of Civ. P.

60(b)(4)

MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION DIRECTED
TO DISTRICT OF NEW MEXICO, SANTA FE CHIEF JUDGE MARTHA
VAZQUEZ

I. INTRODUCTION

Plaintiffs Morales and Payne sued the National Security Agency under the FOIA on March 4, 1997.

Subject of the lawsuit is:

What information was provided to Saddam Hussein exactly? [Answers to this question are currently being sought in a lawsuit against NSA in New Mexico, which has asked to see "all Iranian messages and translations between January 1, 1980 and June 10, 1996".](#) [7]

II. BASIS OF MOTION

1 [Docket entry - , just above docket entry 1](#), shows that plaintiffs paid filing fee of \$150 on 2/28/97.

2 [Docket entry 2](#) shows DEMAND for jury trial filed on March 18, 1997.

3 [Docket entry 73](#) shows late Senior Judge Santiago E Campos granting motion for summary judgment dismissing case.

4 Campos lacked jurisdiction to dismiss DEMANDED jury trial lawsuit guaranteed inviolate by US Constitution.

III. ISSUES

5 Right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#). Therefore Campos lacked jurisdiction to dismiss paid for jury trial lawsuit.

IV RELIEF SOUGHT

6 Return filed stamped copy of this Motion with 10 working days.

7 Sign attached ORDER rescinding Campos 10/27/99 [docket entry 72] which orders settlement or trial by jury within 90 days of entry.

Respectfully submitted,

William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: _____

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to [LTG Keith B. Alexander, Director, National Security Agency](#), 9800 Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email this Friday May 11, 2007.

III. ISSUES

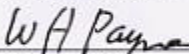
5 Right of jury trial is guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#). Therefore Campos lacked jurisdiction to dismiss paid for jury trial lawsuit.

IV RELIEF SOUGHT


6 Return filed stamped copy of this Motion with 10 working days.

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Respectfully submitted,



William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111



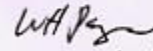
Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: 5/11/07

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to [LTG Keith B. Alexander, Director, National Security Agency](#), 9800, Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email this Friday May 11, 2007.


5/11/07

FOR THE DISTRICT OF NEW MEXICO, SANTA FE

William H. Payne
Arthur R. Morales
Plaintiffs

v
0266 SC/DJS

CIV NO 97

Lieutenant General Kenneth A. Minihan, USAF
VOID JUDGMENT
Director, National Security Agency
JURISDICTION
National Security Agency
FOR JURY
Defendant

MOTION TO
FOR LACK OF
TO DISMISS PAID-
TRIAL LAWSUIT
Federal Rule of Civ.

P. 60(b)(4)

ORDER VACATING Judge Santiago Campos'
10/27/99 MEMORANDUM, OPINION, AND ORDER

1 Judge Santiago Campos' 10/27/99 MEMORANDUM, OPINION, AND ORDER is void for lack of jurisdiction to dismiss paid for jury trial lawsuit.

Right of jury trial is guaranteed inviolate by 7th Amendment to US Constitution and 28 USC Rule 38.

2 CIV NO 97 0266 is to be settled or proceed to trial by jury within 90 days from entry of this order.

Judge

Martha Vázquez
Chief United States District

Date

FINAL

Thursday May 10, 2007 20:45

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#voidjudgmentnotice>

[j]udicial notice may be permissive or mandatory. If it is permissive, then the court

may choose to take judicial notice of the fact proffered, or may reject the request and require the party to introduce evidence in support of the point. If it is mandatory, then the court must take judicial notice of the fact proffered.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO, SANTA FE

William H. Payne
Arthur R. Morales
Plaintiffs

v

CIV NO 97 0266 SC/DJS

Lieutenant General Kenneth A. Minihan, USAF
NOTICE and
Director, National Security Agency
National Security Agency
Defendant

MANDATORY JUDICIAL
authorities for void judgment

MANDATORY JUDICIAL NOTICE and authorities for void judgment

1 COMES NOW, plaintiffs Morales and Payne to place this court on judicial notice of authorities of motion to vacate judgment in CIV NO 97 0266 SC/DJS.

2 To be valid and enforceable, a judgment must be supported by three elements:

- (1) the court must have jurisdiction of the parties;**
- (2) the court must have jurisdiction of the subject matter; and**
- (3) the court or tribunal must have the power of authority to render the particular judgment.**

If the requirements for validity are not met, a judgment may be subject to avoidance.¹

3 Any judgment rendered by a court which lacks jurisdiction, either of the subject matter of the parties, or lacks inherent power to enter the particular judgment, or entered an Order which violated due process or was procured through extrinsic or collateral fraud, is null and void, and can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court.²

4 Such a judgment is void from its inception, incapable of confirmation or ratification, and can never have any legal effect.³

5 A void judgment must be dismissed, regardless of timeliness if jurisdiction is deficient.⁵

6 When rule providing relief from void judgments is applicable, relief is mandatory and is not discretionary.⁴

7 The passage of time, however great, does not affect the validity of a judgment⁶ and cannot render a void judgment valid.⁷

8 The limitations inherent in the requirements of due process of law extend to judicial, as well as political, branches of the government,⁸ so that a judgment may not be rendered in violation of those constitutional limitations and guaranties.⁹

9 A court may not render a judgment which transcends the limits of its authority,¹⁰ and a judgment is void if it is beyond the powers granted to the court by the law of its organization, even where the court has jurisdiction over the parties and the subject matter.¹¹

1 See *Peduto v. North Wildwood* (DC NJ) 696 F Supp 1004, *affd* (CA3 NJ) 878 F.2d 725; *In re Doe* (NM App) 99 NM 517, 660 P.2d 607; *Tice v. Nationwide Life Ins. Co.*, 284 Pa Super 220, 425 A.2d 782.

2 See U.S.Const.Amdt. V; F.R.Civ.P. 60(b)(4); CR 60(b)(5); State cases: *Lindgren v. Lindgren*, 58 Wash.App. 588, 596, 794 P2d 526 (1990), *rev.den.*, 116 Wash.2d 1009, 805 P2d 813 (1991); *Brenner v. Port of Bellingham*, 53 Wash.App. 182, 188, 765 P2d 1333 (1989) (motions to vacate under CR 60(b)(5) are not barred by the ‘reasonable time’ or the 1-year requirement of CR 60(b)’); *Mid-City Materials, Inc. v. Heater Beaters Custom Fireplaces*, 36 Wash.App. 480, 486, 674 P2d 1271 (1984); *Matter of Marriage of Leslie*, 112 Wash.2d 612, 618-19, 772 P2d 1013 (1989)(doctrine of laches does not bar attack of void judgment)(citing *John Hancock Mut. Life. ins. Co. v. Gooley*, 196 Wash. 357, 370, 83 P2d 221 (1938)(additional cite omitted); *In re Marriage of Ortiz*, 108 Wash2d 643, 649, 740 P2d 843 (1987); *Dike v. Dike*, 75 Wash.2d 1, 7, 448 P2d 490 (1968); *Bresolin v. Morris*, 86 Wash2d 24, 245, 543 P2d 325 (1975); *Cockerham v. Zikratch*, 619 P2d 739 (Ariz.1980); *State ex rel Turner v. Briggs*, 971 P2d 581 (Wash.App.1999); *Ward v. Terriere*, 386 P2d 352 (Colo. 1963); *Matter of Marriage of Hampshire*, 869 P2d 58 (Kan.1997); *Matter of Marriage of Welliver*, 869 P2d 653 (Kan.1994); *In re Estate of Wells*, 983 P2d 279 (Kan.App.1999); *B & C Investments, Inc. v. F & M Nat’l. Bank & Trust*, 903 P2d 339 (Okla.App.Div.3 1995); *Graff v. Kelly*, 814 P2d 489 (Okl.1991); *Capital Federal Savings Bank v. Bewly*, 795 P2d 1051 (Okl.1990); *Wahl v. Round Valley Bank*, 38 Ariz. 411, 300 P. 955 (1931); *Davidson Chevrolet, Inc. v. City and County of Denver*, 330 P2d 1116, *cert.den.*, 79 S.Ct. 609, 359 US 926, 3 L.Ed.2d 629 (Colo.1958); *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146 P. 203 (1914); *Lange v. Johnson*, 204 NW2d 205 (Minn.1973); *People v. Wade*, 506 N.W2d 954 (Ill.1987); *State v. Blankenship*, 675 NE2d 1303 (Oh.App.Dist.9 1996); *Hays v. Louisiana Dock Co.*, 452 NE2d 1383 (Ill.App.Dist.4 1983); *People v. Rolland*, 581 NE2d 907 (Ill.App.Dist.4 1991); *Eckles v. McNeal*, 628 NE2d 741 (Ill.App.1993); *People v. Sales*, 551 NE2d 1359 (Ill.App.Dist.2 1990); *In re Adoption of E.L.*, 733 NE2d 846 (Ill.App.Dist.1 2000); *Irving v. Rodriguez*, 179 NE2d 145 (Ill.App.Dist.2 1960); *People ex rel Brzica v. Village of lake Barrington*, 644 NE2d 66 (Ill.App.Dist.2 1994); *Steinfeld v. Haddock*, 513 US 809 (Ill.1994); *Dusenberry v. Dusenberry*, 625 NE2d 458 (Ind.App.Dist.1 1993); *Rook v. Rook*, 353 SE2d 756 (Va.1987); *Mills v. Richardson*, 81 SE2d 409 (N.C.1950); *Henderson v. Henderson*, 59 SE2d 227 (N.C.1950); *State v. Richie*, 20 SW3d 624 (Tenn.2000); *Crockett Oil Co. v. Effie*, 374 SW2d 154 (Mo.App.1964); *State ex rel Dawson v. Bomar*, 354 SW2d 763, *cert.den.*, ___ US ___ (Tenn.1962); *Underwood. v. Brown*, 244 SW2d 168 (Tenn.1951); *Richardson v. Mitchell*, 237 SW2d 577 (Tenn.App.1950); *City of Lufkin v.*

McVicker, 510 SW2d 141 (Tex.Civ.App.1973); Federal cases: Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985); Rubin v. Johns, 109 F.R.D. 174 (D.Virg.Is.1985); Triad Energy Corp. v. McNell, 110 F.R.D. 382 (S.D.N.Y. 1986); Millikan v. Meyer, 311 US 457, 61 S.Ct. 339, 85 L.Ed.2d 278 (1940); Long v. Shorebank Development Corp., 182 F.3d 548 (CA7 1999).

3 See Stidham v. Whelchel, 698 NE2d 1152 (Ind.1998); Thompson v. Thompson, 238 SW2d 218 (Tex.Civ.App. 1951); Lucas v. Estate of Stavos, 609 NE2d 1114, rehng.den., trans.den, (Ind.App.Dist.1 1993); Loyd v. Director, Dept. of Public Safety, 480 So2d 577 (Ala.Civ.App.1985); In re Marriage of Parks, 630 NE2d 509 (Ill.App.Dist.4 1991); Lubben v. Selective Service System Local Bd. No.27, 453 F.2d 645, 14 A.L.R.Fed. 298 (CA1 1972); Hobbs v. U.S. Office of Personnel Mgmt., 485 F.Supp. 456 (M.D.Fla.1980); Holstein v. City of Chicago, 803 F.Supp. 205, recon.den., 149 F.R.D. 147, aff'd, 29 F.3d 1145 (N.D.Ill.1992); City of Los Angeles v. Morgan, 234 P2d 319 (Cal.App.Dist.2 1951).

4 See In re Marriage of Markowski, 50 Wash.App. 633, 635, 749 P2d 745 (1988); Brickum Inv. Co. v. Vernham Corp., 46 Wash.App. 517, 520, 731 P2d 533 (1987); Orner v. Shalala, 30 F.3d 1307 (Colo.1994).

5 See Mitchell v. Kitsap County, 59 Wash.App. 177, 180-81, 797 P2d 516 (1990)(collateral challenge to jurisdiction of pro tem judge granting summary judgment properly raised on appeal)(citing Allied Fidelity Ins. Co. v. Ruth, 57 Wash.App. 783, 790, 790 P2d 206 (1990)); Jaffe and Asher v. Van Brunt, 158 F.R.D. 278 (S.D.N.Y.1994).

6 See State ex rel. Smith v. Sixth Judicial Dist. Court, 63 Nev 249, 167 P.2d 648 (ovrld in part on other grounds by Poirier v. Board of Dental Examiners, 81 Nev 384, 404 P.2d 1); Monroe v. Niven, 221 NC 362, 20 S.E.2d 311.

7 See State ex rel. Smith v. Sixth Judicial Dist. Court, 63 Nev 249, 167 P.2d 648 (ovrld in part on other grounds by Poirier v. Board of Dental Examiners, 81 Nev 384, 404 P.2d 1); Columbus County v. Thompson, 249 NC 607, 107 S.E.2d 302.

8 As to persons and agencies bound by due process, see 16A Am.Jur.2d, Constitutional Law §§ 742, 821-824.

9 See Hanson v. Denckla, 357 US 235, 2 L.Ed.2d 1283, 78 S.Ct. 1228, reh den 358 US 858, 3 L.Ed.2d 92, 79 S.Ct. 10; Ladner v. Siegel, 298 Pa 487, 148 A 699, 68 ALR 1172.

10 See Royal Indem. Co. v. Mayor, etc., of Savannah, 209 Ga 383, 73 S.E.2d 205; Spencer v. Franks, 173 Md 73, 195 A 306, 114 ALR 263; Road Material & Equipment Co. v. McGowan, 229 Miss 611, 91 So.2d 554, motion dismd 229 Miss 630, 92 So.2d 245; Howle v. Twin States Express, Inc., 237 NC 667, 75 S.E.2d 732; Fitzsimmons v. Oklahoma City, 192 Okla 248, 135 P.2d 340; Robertson v. Commonwealth, 181 Va 520, 25 S.E.2d 352, 146 ALR 966; Reburg v. Lang, 239 Wis 381, 1 N.W.2d 759. The courts of a state may render only such judgments as they are authorized to do under the laws of the state. Mosely v. Empire Gas & Fuel Co.,

313 Mo 225, 281 SW 762, 45 ALR 1223.

11 See People ex rel. Arkansas Valley Sugar Beet & Irrigated Land Co. v. Burke, 72 Colo 486, 212 P. 837, 30 ALR 1085; People v. Wade, 116 Ill 2d 1, 107 Ill Dec 63, 506 N.E.2d 954; Gray v. Clement, 296 Mo 497, 246 SW 940; Ex parte Solberg, 52 ND 518, 203 NW 898; Russell v. Fourth Nat'l Bank (Ohio) 102 Ohio St 248, 131 NE 726; Hough v. Hough (Okla) 772 P.2d 920; Farmers' Nat'l Bank v. Daggett (Tex Com App) 2 S.W.2d 834; State v. Turner, 98 Wash.2d 731, 658 P.2d 658; Shopper Advertiser, Inc. v. Wisconsin Dep't of Revenue, 117 Wis 2d 223, 344 N.W.2d 115.

Respectfully submitted,

William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: _____

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to [LTG Keith B. Alexander, Director, National Security Agency](#), 9800 Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email this Friday May 11, 2007.

6 See State ex rel. Smith v. Sixth Judicial Dist. Court, 63 Nev 249, 167 P.2d 648 (ovrld in part on other grounds by Poirier v. Board of Dental Examiners, 81 Nev 384, 404 P.2d 1); Monroe v. Niven, 221 NC 362, 20 S.E.2d 311.

7 See State ex rel. Smith v. Sixth Judicial Dist. Court, 63 Nev 249, 167 P.2d 648 (ovrld in part on other grounds by Poirier v. Board of Dental Examiners, 81 Nev 384, 404 P.2d 1); Columbus County v. Thompson, 249 NC 607, 107 S.E.2d 302.

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10 See Royal Indem. Co. v. Mayor, etc., of Savannah, 209 Ga 383, 73 S.E.2d 205; Spencer v. Franks, 173 Md 73, 195 A 306, 114 ALR 263; Road Material & Equipment Co. v. McGowan, 229 Miss 611, 91 So.2d 554, motion dismd 229 Miss 630, 92 So.2d 245; Howle v. Twin States Express, Inc., 237 NC 667, 75 S.E.2d 732; Fitzsimmons v. Oklahoma City, 192 Okla 248, 135 P.2d 340; Robertson v. Commonwealth, 181 Va 520, 25 S.E.2d 352, 146 ALR 966; Reburg v. Lang, 239 Wis 381, 1 N.W.2d 759. The courts of a state may render only such judgments as they are authorized to do under the laws of the state. Mosely v. Empire Gas & Fuel Co., 313 Mo 225, 281 SW 762, 45 ALR 1223.

11 See People ex rel. Arkansas Valley Sugar Beet & Irrigated Land Co. v. Burke, 72 Colo 486, 212 P. 837, 30 ALR 1085; People v. Wade, 116 Ill 2d 1, 107 Ill Dec 63, 506 N.E.2d 954; Gray v. Clement, 296 Mo 497, 246 SW 940; Ex parte Solberg, 52 ND 518, 203 NW 898; Russell v. Fourth Nat'l Bank (Ohio) 102 Ohio St 248, 131 NE 726; Hough v. Hough (Okla) 772 P.2d 920; Farmers' Nat'l Bank v. Daggett (Tex Com App) 2 S.W.2d 834; State v. Turner, 98 Wash.2d 731, 658 P.2d 658; Shopper Advertiser, Inc. v. Wisconsin Dep't of Revenue, 117 Wis 2d 223, 344 N.W.2d 115.

Respectfully submitted,


William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

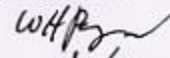

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: 5/11/07

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to LTG Keith B. Alexander, Director, National Security Agency, 9800 Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email this Friday May 11, 2007.


5/11/07

<http://www.prosefights.org/nmlegal/nsalawsuit/>

Note \$150 filing fee paid on 3/4/97 and, of course Morales and Payne filed DEMAND for jury trial guaranteed inviolate by 7th Amendment to [US Constitution](#) and [28 USC Rule 38](#).

04/01/97	04/01/97	4	ORDER by Senior Judge Santiago E. Campos granting deft's request (motion) for extension of time to answer until 4/4/97 [3-1] (cc: all counsel) (mk) Re: CONFIRMATION [3]	
04/01/97	04/01/97	3	CONFIRMATION (MOTION) for Extension by plaintiff William H Payne to respond to complaint until plaintiff has returned from business trip on 4/7/97 & notification of business travel (dmw) Re: ORDER [4]	
03/17/97	03/18/97	2	DEMAND for jury trial by plaintiffs (dmw)	
03/04/97	03/04/97	-	FILING FEE PAID: on 2/28/97 in the amount of \$150.00, receipt #: 100105110. (pz)	
02/28/97	03/04/97	1	COMPLAINT (referred to Magistrate Don J. Svet) (pz) Re: ANSWER [60] ANSWER [5]	

Judge Santiago Campos [dead from cancer] did not have jurisdiction to for docket entries 71 and 72.

Docket Report for: Payne et al. v. Minihan et al.**Case Number:** 97cv00266

File Date	EOD	Num	Description	Ref
12/23/99	12/27/99	77	MEMORANDUM, OPINION, AND ORDER: by Senior Judge Santiago E. Campos denying motion to alter & amend memorandum opinion & order [74-1] by William H Payne (cc: all counsel*) (dmw) (15k) Re: MOTION to alter & amend memorandum opinion & order [74]	dfs
12/01/99	12/01/99	76	REPLY by plaintiff to response in opposition to motion to alter & amend memorandum opinion & order [74-1] (dmw) Re: MOTION to alter & amend memorandum opinion & order [74]	
11/19/99	11/19/99	75	OPPOSITION (RESPONSE) by defendant to motion to alter & amend memorandum opinion & order [74-1] (dmw) Re: MOTION to alter & amend memorandum opinion & order [74]	
11/09/99	11/10/99	74	MOTION by plaintiff to alter & amend memorandum opinion & order (dmw) Re: MEMORANDUM, OPINION, AND ORDER [77] REPLY [76] OPPOSITION [75]	
10/27/99	10/27/99	73	SUMMARY JUDGMENT: by Senior Judge Santiago E. Campos (cc: all counsel) (msm)	
10/27/99	10/27/99	72	MEMORANDUM, OPINION, AND ORDER: by Senior Judge Santiago E. Campos granting motion for summary judgment [23-2] [dismissing case] (cc: all counsel) (msm) Re: MOTION for partial dismissal [23]	
09/13/99	09/13/99	71	MINUTE ORDER: resetting ex parte in-camera hearing on 10/12/99 at 9:30 am before Judge Santiago E Campos [70-1] (cc: all counsel, electronically) (dmw) (11k) Re: NOTICE [70]	dfs
07/20/99	07/20/99	70	NOTICE of hearing setting ex-parte in-camera hearing on 9/20/99 at 1:30 pm before Judge Santiago E Campos in Santa Fe, NM (cc: all counsel, electronically) (dmw) (12k) Re: MINUTE ORDER [71]	dfs
06/24/99	06/28/99	69	SATISFACTION OF JUDGMENT as to defendant (jrm)	
06/24/99	06/28/99	68	NOTICE by USA of withdrawal of garnishment proceedings (jrm)	
04/20/99	04/20/99	67	ORDER OF GARNISHMENT by Magistrate Judge Don J. Svet (cc: all counsel) (dmw)	

Judgment must be voided ... providing we don't promptly settle, of course.

Docket Report for: Payne et al. v. Minihan et al.

Case Number: 97cv00266

File Date	EOD	Num	Description
01/11/00	01/11/00	79	NOTICE of correction by plaintiff (dmw)
01/10/00	01/10/00	-	PRELIMINARY RECORD on appeal mailed to USCA Volume 1 (jg) Re: NOTICE OF APPEAL [78]
01/10/00	01/10/00	-	LETTER transmitting PROA/ROA to USCA (jg)
01/05/00	01/05/00	-	RECEIVED re appeal [78-1] fee in amount of \$ 1000.00 (notice sent to USCA) (pz) Re: NOTICE OF APPEAL [78]
01/03/00	01/05/00	78	NOTICE OF APPEAL by pltf William H Payne from decisions [77-1], [73-1], [72-2]; Fees paid - Distribute to all counsel) (pz) Re: PRELIMINARY RECORD RECEIVED MEMORANDUM, OPINION, AND ORDER SUMMARY JUDGMENT [73] MEMORANDUM, OPINION, AND ORDER

Thursday May 10, 2007 19:33

**Clerk
United States District Court
Post Office Box 2710
Santa Fe, New Mexico 87504**

Dear Clerk:

Enclosed are an original and two copies of a motion to void judgment, MANDATORY JUDICIAL NOTICE and authorities for void judgment and a self addressed stamped envelope.

Please return a file stamped copies to us.

Thank you in advance.

Sincerely

Payne and Morales

----- Original Message -----

From: foialo, foialo
To: bill payne
Sent: Tuesday, May 15, 2007 7:03 AM
Subject: RE: void judgment in CIV NO
97 0266 SC/DJS

Received.

Pamela N. Phillips
Chief FOIA Public Liaison Officer
National Security Agency
(301) 688-6527

----- Original Message -----

From: bill payne
To: foialo, foialo
Cc: art morales ;
Jean.Kornblut@usdoj.gov ;
Jim.Kovakas@usdoj.gov ;
the.secretary@hq.doe.gov ;
julia.eichhorst@ic.fbi.gov ;
iscap@nara.gov ; bill.leonard@nara.gov
; AskDOJ@usdoj.gov ; Schwartz,
William ; Apodaca, Terry ;
foiofficer@doeal.gov
Sent: Thursday, May 10, 2007 4:56 PM
Subject: Settlement or another jury trial
lawsuit?

Thursday May 10, 2007 14:41

Pamela N. Phillips
NSA Chief FOIA Public Liaison
Officer/DJ4
9800 Savage Road, Suite 6248
Ft. George G. Meade, MD 20755-6248
Telephone: (301) 688-6527

Fax: (301) 688-4762
Email: foialo@nsa.gov

Ms phillips,

We enclose a page address containing [a motion to void judgment in our visible 1997 NSA FOIA lawsuit.](#)

The FBI Gilbert letter reveals that Sandia Labs, the FBI, and NSA withheld documents, without acknowledging their existence, requested under the FOIA/PA.

[I'm hoping that Ms Becknell is successful at sending me these documents by May 25, 2007.](#) If not, I can do another jury trial DEMAND FOIA/PA lawsuit at the DC circuit.

We really feel that we should get matter settled.

We ask for your help to get these unfortunate matters settled before they get worse.

Here's our settlement proposal:

1 We ask that NSA post on its website the documents requested in our 1997 FOIA lawsuit

What information was provided to Saddam Hussein exactly? [Answers to this question are currently being sought in a lawsuit against NSA in New Mexico, which has asked to see "all Iranian messages and translations between January 1, 1980 and June 10, 1996".](#) [7]

2 The FOIA allows monetary compensation for a successful lawsuit. Therefore, we ask for payment of \$1,000 per docket entry line - of which there are currently 77 entries.

We ask that you forward by email our settlement proposal to those in power to settle.

Please give us an ack if you get this email.

Thanks in advance.

Bill and Art

DRAFT

Saturday June 2, 2007 18:07

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#historynotice>

When we finish

JUDICIAL NOTICE

NEW MEXICO NSA FOIA LAWSUIT HISTORY

let's send a email link to

	
To(به):	dr-ahmadinejad@president.ir
Your Email(از):	bpayne37@comcast.net
Your Name(نام):	bill payne
Subject (موضوع):	Note: Please select the subject from below list, or enter your specified subject. توجه: کاربران محترم لطفا قبل از ارسال نامه خود، موضوع آنرا از لیست زیر انتخاب نمایید. موضوع دسته بندی شده Constructive Issues----- مسائل عمرانی
Priority (اولویت):	Normal(عادی)
Message Body (متن اصلی نامه):	Note: Please limit your message to ensure fast process and response. توجه: از کاربران تقاضا میشود تنها به ذکر نکته اصلی خود بپردازید Dr Nejad Let's all hope for peaceful settlement of these unfortunate matters. http://www.prosefights.org/nmlegal/nsalawsuit/brezezinskiaffidavit.jpg http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm#reply Dr Payne http://www.prosefights.org/muxnumber/numberconversion/numberconversions.htm

پست الکترونیکی فارسی Farsi Email

سیستم ارسال پست الکترونیکی فارسی به ریاست جمهوری منتخب

<http://www.president.ir/email/>

نامه ارسالی شما فرستاده شد Your Message Has been sent

[بازگشت Back](#)

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO, SANTA FE

William H. Payne
Arthur R. Morales
Plaintiffs

v

[CIV NO 97 0266 SC/DJS](#)

Lieutenant General Kenneth A. Minihan, USAF
Director, National Security Agency
National Security Agency
Defendant

JUDICIAL NOTICE NEW MEXICO NSA FOIA LAWSUIT HISTORY

1

While a Muslim himself, the Shah gradually lost support with the Shi'a clergy of Iran, particularly due to his strong policy of Westernization and recognition of Israel. Clashes with the religious right, increased communist activity, Western interference in the economy, and a 1953 period of political disagreements with Mohammad Mossadegh (in which each side accused the other of staging a coup, eventually leading to Mossadegh's downfall) would cause an increasingly autocratic rule. Various controversial policies were enacted, including the banning of the Tudeh Party and the oppression of dissent by Iran's intelligence agency, SAVAK; Amnesty International reported that Iran had as many as 2,200 political prisoners in 1978. By 1979, the political unrest had transformed into a revolution which, on January 16, forced the Shah to leave Iran after 37 years of rule. Soon thereafter, the revolutionary forces transformed the government into an Islamic republic.

2

The Iran hostage crisis was a diplomatic crisis between Iran and the United States that was triggered by a group of militant university students who took over the American diplomatic mission in Tehran, Iran on November 4, 1979. The students were supported by Iran's post-revolution Islamic regime that was in the midst of solidifying power. The students objected to U.S. influence in Iran and its support of

the recently fallen Shah of Iran, Mohammad Reza Pahlavi. [They held 63 U.S. diplomats and three other U.S. citizens hostage until January 20, 1981.](#) Of those captured, 52 were held hostage until the conclusion of the crisis 444 days later.

3 Below Wikipedia text removed.

Nojeh Coup

In July 1980, [Zbigniew Brzezinski](#) of the United States met [Jordan's King Hussein in Amman](#) to discuss detailed plans for Saddam Hussein to sponsor a coup in Iran against Khomeini. King Hussein was Saddam's closest confidant in the Arab world, and served as an intermediary during the planning. The Iraqi invasion of Iran would be launched under the pretext of a call for aid from Iranian loyalist officers plotting their own uprising on July 9, 1980 (codenamed Nojeh, after Shahrokhi/Nojeh air base in Hamedan). The Iranian officers were organized by [Shapour Bakhtiar](#), who had fled to France when Khomeini seized power, but was operating from Baghdad and Sulimaniyah at the time of Brzezinski's meeting with Hussein. However, [Khomeini](#) learned of the Nojeh Coup plan from Soviet agents in France and Latin America. Shortly after Brzezinski's meeting with Hussein, the President of Iran, [Abolhassan Bani-Sadr](#) quietly rounded up 600 of the loyalist plotters within Iran, putting an effective end to the Nojeh Coup.[5] Saddam decided to invade without the Iranian officers' assistance, beginning the Iran-Iraq war on 22 September 1980.

4 Shapour Bakhtiar and his secretary Soroush Katibeh were executed on August 7, 1991 by [Ali Vakili Rad and Massoud Seyed Hendi in Paris.](#)

5

[A senior member of Sandia's technical staff since 1980](#) and the author of three computer texts, Payne was stripped of his security clearance badges on July 17. [1992]

6 Sandia labs employee James Gosler and Gus Simmons brag about their *convert channel* work to Payne and others at Sandia labs.

Gosler is funded by NSA.

7

Keep in mind that Persians are fluent in all languages in the world. [Like Spanish.](#)

They do well in Japanese, German and English, *of course.*

Khatami has a bachelor's degree in Western philosophy from Isfahan University, but he left the academic education while he was studying for a master's degree in Educational Sciences at Tehran University and went to Qom to complete his previous studies in Islamic sciences. He studied there for seven years and completed

the courses to the highest level, Ijtihad. After that, he went to Germany to chair the Islamic Centre in Hamburg, where he stayed until the Iranian revolution.

Besides his native language Persian, he speaks Arabic, English and German.

Mr. Mohammad Khatami,
The Presidency,
Palestine Avenue,
Azerbaijan Intersection,
Tehran, Iran.
Email: khatami@president.ir
Fax: 0098- 216 464 443

Then, of course, there is their expertise in algebra and algorithms.

Without Zirakzadeh's higher algebra course in 1958 this tutorial would likely never been written.

Verschlüsselt

Der Fall Hans Bühler



PRISONER

IRAN

ایران

زندانی

WERDVERLAG

Res Strehle

The guy pictured above wrote the below.

Hans Buehler
Immenweg 15
8050 Zurich
Switzerland

Zurich, 3 January 1994

Tel. & Fax: 1-312-49'50

William H. Payne
13015 Calle de Sandias NE
Albuquerque NM 87111
U.S.A.

Dear Bill

I am sending you herewith the following:

- a) 7 pages of REUTERS newsreports
- b) 5 pages of a Summary of things
- c) 27 pages of the "story" with more details ...
- d) 1 book, entitled "Verschlüsselt" (Verschlüsselt means: Ciphred),
Der Fall Hans Bühler (The case Hans Buehler)

Will talk with each other to elaborate ...

Regards,

Hans
Hans

Received
F1/13/95

6

501 North Calvert Street
PO Box 1377
Baltimore, Maryland 21278-0001

Stone/news



Bill Payne
P.O. Box 14838
Albuquerque, NM 87119





501 North Calvert Street
P.O. Box 1377
Baltimore, Maryland 21278-0001
410 332-6000

Dear Bill -

7/19

Here at last is check
for your costs in sending
the material to me:

3.00	postage
2.80	photocopy
1.20	disks
<hr/>	
\$7.00	

Thanks again for your
help + stay in touch.

- Scott Shane

800-829-8000
ext: 1+6174

ATimes Mirror
Newspaper

Payne didn't know what Shane was up to until he read

DATAPORT

By Loring Wirbel

State-sanctioned paranoia



I finished this column just before leaving for the RSA Data Security Conference in San Francisco. RSA (Redwood City, Calif.), as you may know, is the company responsible for implementing and licensing many public-key cryptography patents. RSA president Jim Bidzos thumbs his nose at the National Security Agency, insisting that private industry should not follow the security lead of the intelligence community.

I went to RSA in a very anti-feds mood. The recent information that has crossed my desk on Energy Department and Defense Department shenanigans makes the budget-deficit debate look like an inconsequential sideshow.

First, an update on Albuquerque, N.M., engineer Bill Payne. Payne, you may remember, was fired from Sandia National Labs for refusing to do spook work for NSA on Sandia time. Payne has gotten the runaround from the U.S. District Court and 10th Circuit Court, even as top Sandia executives have been drowning in allegations of fraud and sexual harassment. But the snubbing has made Payne more determined than ever, as he writes letters and files new charges against government officials at multiple levels.

In November, DOE Secretary Hazel O'Leary paid \$225,000 to the National Academy of Public Administration to investigate the possibility of settling outstanding suits brought by Payne and several other DOE whistleblowers. But the NAPA effort may come to naught, given O'Leary's current problems. It's true that O'Leary has played fast and loose with funds at times, but Washington insiders are united in their belief that the DOE old guard is leaking anti-O'Leary stories to the media because they want to crush whistleblowers, not settle with them.

Next in my in-basket was a set of reprints from the *Baltimore Sun* from the paper's NSA series, which ran in early December. The series reveals the setup by the NSA and CIA of a new covert collection agency, the Special Collection Service, and details the case of Hans Buehler, an employee of Crypto A.G. who was thrown into an Iranian prison after getting snared in a Crypto/NSA sting against that country.

The NSA series looks mild next to the new book from Jeane Manning and Nick Begich, *Angels Don't Play This HAARP* (Earthquake Press, Anchorage, Alaska). The authors dissect the High-frequency Active Auroral Research Program run by the Air Force's Hanscom and Philips Labs at the Poker Flats Range, near Gakona, Alaska. While the book was rushed into print with typos and factual errors, the authors do a good job separating the public Haarp story from the facts.

Haarp is an array of dipole antennas that send a focused GW beam to the ionospheric layer for mostly nefarious purposes. The Air Force likes to point to defensive uses of Haarp, such as replacement of ELF communication transmitters in Wisconsin and updates on over-the-horizon backscatter radar. But Manning and Begich cite patents held by Haarp contractors that indicate the site would be far more useful as a large-scale beam weapon and a long-distance-signals intelligence platform.

You won't hear about this in the press. Haarp was one of Sonoma State University's Project Censored winners last year for blacked-out news. And journalists who should know better appear to be buying the Air Force's cover stories on Haarp.

My government has done little in recent months to make me proud. Maybe Newt's threats to keep things closed until November would have a positive effect—except that the DOD, DOE and intelligence community, for reasons of "national security," would not be subject to the shutdown.

[Next, this leak was compounded by the U.S. demonstration that it was also reading secret Iranian communications. As reported in Switzerland's Neue Zurcher Zeitung, the U.S. provided the contents of encrypted Iranian messages to France to assist in the conviction of Ali Vakili Rad and Massoud Hendi for the stabbing death in the Paris suburb of Suresnes of the former Iranian prime minister Shahpour Bakhtiar and his personal secretary Katibeh Fallouch. \[2\]](#)

"Neue Zuercher Zeitung", Wednesday 7 December 1994

"High prison sentences in the murder trial of Bakhtiar".

Paris, (Tuesday), 6 December 1994

Because of the killing of the previous Iranian Prime Minister Schapur Bakhtiar, a French Court has, on Tuesday (6 December 94), convicted the 35 year old main-suspect, Ali Vakili-Rad, to a sentence of life imprisonment.

His accomplice, the 47 year old businessman Massur HENDI, received a 10 year prison sentence.

Hendi worked for the IRIB (Iranian Radio & TV office) in Paris, which was considered the coordinating office for the preparation of the murder.

Another accused, the 28 year old Zeynol Abedine SARHADI, was acquitted..

"Neue Zuercher Zeitung", 8 December 1994

Indications, but no proofs for Iranian State-Terrorism.

Open questions, at the end of the Bakhtiar trial

excerpts of the newspaper article:

... the 28 year old Sarhadi was acquitted.

The widow of Bakhtiar, (Bakhtiar was murdered on 6 August 1994 in his house in Suresnes near Paris), called the verdict deplorable. Mrs. Bakhtiar said: "Reason of or for the State, (France), was the reason for his acquittal."

"Sarhadi is a nephew of the Iranian President Rafsandjani. France by its verdict for acquittal for Sarhadi has thus covered an act of Terrorism of the Iranian State", she was quoted as saying.

[Sarhadi was acquitted.](#)

[Wednesday, October 25, 2006; 7:54 PM](#)

BUENOS AIRES, Argentina -- Argentine prosecutors asked a federal judge on Wednesday to order the arrest of former Iranian President Hashemi Rafsanjani and seven others for the 1994 bombing of a Jewish cultural center that killed scores of people.

Remarks: Sarhadi was arrested in Berne by the Swiss Federal Police on 23 December 1991 and extradited to France. According to the French investigation authorities, Sarhadi was active in the preparation for the escape of the Iranian murderers of Bakhtiar, namely Sarhadi was to reserve Hotel rooms in Geneva/Switzerland.

Sarhadi however submitted evidence that he was not in Switzerland at the time of the murder in Paris, he submitted invoices of purchases of goods he had made in Teheran, where he claimed he was at that time. Invoices which showed the dates to prove his absence from Europe.

Right or not, Sarhadi has spent 5 months in prisons in Switzerland and 2-1/2 years in France, undergoing pre-trial questioning. It can only be speculated that even if Sarhadi had been convicted, his prison sentence would probably not have been more than 3 years, for "only" having "helped" a little bit, namely to reserve Hotel rooms in Geneva for the escaping murderers of Bakhtiar from France to Switzerland and "onward" to Tehran.

It should hardly be probable, that although ciphered messages sent by the Iranian secret service VEVAK to Iranian contacts in Paris, that the Iranians had mentioned the name of Sarhadi in Switzerland as a "helper" in the escape route.

So, Sarhadi's possible implication in the mission of the Iranians in Paris is not liable to stem from intercepted and "easily" decrypted messages of manipulated ciphering equipment that the Iranians might have had in use.

At least so it appears at the first glance

If on the other hand Sarhadi's name did appear in "decrypted" messages of the Iranians, then such evidence against him might not have been admitted in court, in order to avoid blowing officially the fact that Western intelligence were able to read Iranian secret ciphered communication.

Using hindsight, one could of course speculate, that based on the "EXPRESS" article, the Iranians were suspicious on the integrity of the used cipher system.

What make of cipher system was used is not clear, but because Crypto AG had sold so many cipher systems to so many different Iranian Government Agencies, the Iranians might well have thought it a good idea to question Buehler.

An official of Crypto AG had stated, that the ciphered communication of the Iranians had probably been made by simple manual cipher processes.

Whatever, it is interesting how this official of Crypto AG could have known what cipher process the Iranians were using for these communications ...

Of course not arresting Buehler officially under the clear cut pretext of him having sold manipulated cipher equipment, but under the noncommittal accusation of "espionage".

One thing is clear, that Crypto AG's Director for Marketing and Sale, Mr. J. Schnetzer stated 2 weeks after the arrest of Hans Buehler "that the arrest of Hans Buehler had no connection with the activity of the Sales Engineer in Iran, but was a reaction on the Sarhadi case."

(See newspaper article dated 2 April 1992 "Neue Zürcher Zeitung", page 157 in the book "Verschlüsselt").

The arrest of Sarhadi in Switzerland on 23 December 91, and of Buehler on 18 March 92 in Teheran could indicate that Crypto AG was scared to death and thus immediately let people believe that it was only a political (hostatge) case.

British and American specialists had decrypted Iranian VEVAK (secret service) messages

in connection with Bakhtiar's murder. The Iranians asked for confirmation that Bakhtiar was dead 1 day after his assassination, whereas his body was only discovered 2 days after the assassination!

This was published in the French newsmagazine "EXPRESS", thus blowing the decryption possibility anyway.

NOTES:

- Bakhtiar was killed in Paris on 6 August 1991
- The Iranian secret service VEVAK asks on 7 August 91 by ciphered communication if Bakhtiar is dead. This communication is „decrypted“ by British and American Specialists according to the French newsmagazine „EXPRESS“.
- The dead body of Bakhtiar is found on 8 August 1991
- One of the suspected murders of Bakhtiar, Ali Vakili Rad is arrested in Geneva/Switzerland on 20 August 1991.
- Ali Vakili Rad is extradited by Switzerland to France on 27 August 91 following a request of France

(Ali Vakili Rad does not protest to the extradition, on the contrary, he agrees to it ...) he probably expects an „easier“ trial by the French in view of their political attitude with Iran ...
- Sarhadi is arrested in Berne on 23 December 91
- France asks for his extradition on 31 December 91
- ((Ali Vakili Rad is sentenced to life-imprisonment on 6 December 1994 in France, Sarhadi is acquitted on 6 December 1994 in France due to lack of proofs))
- Hans Buehler is arrested in Teheran on 18 March 92
- Crypto AG's Director Josef Schnetzer receives communication on 8 May 92 verbally and in writing on 10 May 92 from Teheran that Hans Buchler will be released against payment of 1 Million Dollars. Crypto AG does not even inform of this possibility to free Buchler the Swiss Ministry of Foreign Affairs nor the family of Hans Buehler. (Document on page 160 of the book „Verschluesselt“).
- Sarhadi is extradited to France on 26 Mai 92.

The Ministry of Foreign Affairs in Switzerland is advised at the same time from Teheran that Hans Buehler could be held prisoner for many years in order to punish Switzerland.

- 6 September 1992: Crypto AG is formally advised in writing that the Iranian Military will release Hans Buehler upon payment of 1 Million Dollars bail.

A lawyer of Crypto AG advises the wife of Hans Buehler to pay \$ 50'000.- This being the necessary money to release Hans Buehler. (The \$ 50'000.- was the counter-offer of Director Schnetzer to the Iranians for the release of Buehler, 1 Million Dollars would be out of the question, but even those \$ 50'000.- would have had to be paid by Buehlers family).

Schnetzer also offered a bank guarantee for \$ 250'000.- payable if Buehler did not show up again in Teheran's court after 6 months. The Iranians refused.

15 September 92: Buehler's wife speaks with the Swiss Ministry of Foreign Affairs. She is advised to take a lawyer, what she does.

16 September 92: A trustee of Crypto AG in Teheran advises Crypto AG that with the black market exchange rate of Iranian currency (Rial), these \$ 50'000.- would become „1 Million“. But Iran asks for 1 Million hard-Dollars cash, not „upgraded“ black-market Dollars.

End of September 92: Crypto AG addresses the income tax returns of Buehler and his family members to Teheran, stating that they show that Buehler does not have 1 Million Dollars. Also Crypto AG states that Buehler will lose his job if he doesn't return to Switzerland in the very near future. They suggest, that a possible prison sentence to be served at a later time could be negotiated with the employer and is less of a problem than several more months in Iran. (page 166 of the book "Verschluesselt").

23 December 92: The Managing Director of Crypto AG, Michael Grupe informs the lawyer of Buehlers wife that Crypto AG will only pay the bail if Hans Buehler signs a statement that he owns the 1 Million Dollar bail to Crypto AG. Also, that the bail will only be paid when the court in Tehran has concluded the case. The Swiss Ministry of Foreign Affairs in Berne receives these news with consternation. (See page 169 of the book „Verschlüsselt“.

- Under pressure from the family of Hans Buehler, Crypto AG pays 1 Million Dollar Bail to Iran on 3rd January 93, through the Swiss Embassy in Tehran.

Buehler's wife told the Managing Director of Crypto AG, Michael Grupe on 26 December 92 that if he was not going to pay the bail, that she would go „further“. Grupe must have speculated that Buehlers wife knew more about the deeper insides of Crypto AG through her research of the past 9 months that Hans Buehler was in prison and the reluctance of Crypto AG to really help Hans, or that she was going to raise hell in the press for the outrage that was happening to Hans.

- Hans Buehler is released on 4 January 93 and returns to Switzerland on January 5th 93.

- Crypto AG fires Hans Buehler on 25 February 93, telling him in the letter of dismissal that he owns Crypto AG 1 Million Dollar bail and all expenses that went with his case.

Respectfully submitted,

William H. Payne
13015 Calle de Sandias NE
Albuquerque, NM 87111

Arthur R. Morales
465 Washington St SE
Albuquerque, NM 87108

Date: _____

Pro se litigants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID JUDGMENT FOR LACK OF JURISDICTION was mailed to [LTG Keith B. Alexander, Director, National Security Agency](#), 9800 Savage Road, Fort George G. Meade, MD 20755-6000, Jan Elizabeth Mitchell, Assistant US Attorney, 201 3rd ST NW, ABQ, NM 87102 and foialo@nsa.gov by email.

Date

Another timing coincidence.

----- Original Message -----

From: larryeverest@hotmail.com

To: bpayne37@comcast.net

Sent: Monday, June 04, 2007 11:41 AM

Subject: Dangerous times demand courageous voices.

Dear Friends,

Dangerous times indeed demand courageous voices. And I feel Bob Avakian is such a voice.

"Avakian combines an unsparing critique of the history and current direction of American society with a sweeping view of world history and the potential for humanity. He has brought forth a fresh, relevant and compelling approach to Marxism, deeply analyzing the history of the Communist movement and the socialist revolutions and upholds their achievements. At the same time, he honestly confronts and criticizes what he views as their shortcomings, opening up new paths of inquiry in the process and initiating dialog with people who hold a wide range of views."

I wholeheartedly encourage you to go to [Engage!](#) and read the entire statement, sign it, forward it, and/or financially support its

wide publication.

People who have signed (Cornel West, Kenny Leon, Chuck D, Rickie Lee Jones, Saul Williams and many others) don't necessarily agree with all of Avakian's views, but feel "his revolutionary analysis and solutions to be an important and necessary part of the ferment and discourse required in this society and the world in this dark time" and that his voice should not be the object of suppression or repression.

"In several days, the Engage! statement will appear in The Nation in print and on-line, The Amsterdam News, and [The Black Commentator](#)," the Engage Committee writes. "But to accomplish this, we still need to raise almost \$6,000 in the next few days (\$3,000 by Tuesday and another \$2,950 by Thursday). An additional \$3,500 is needed by the end of the month. Your help is urgently needed to meet this important goal.... This will help bring in fresh air to this stifling and dangerous atmosphere."

You can donate on-line via PayPal at Engage! online or send a check, made payable to Engage! 70A Greenwich Avenue, #434, New York, NY 10011. Email info@engagewithbobavakian.org with questions or to let them know if you're mailing a check. If you're not able to donate a large amount but are able to give a short-term loan, please email the Engage! Committee.

Several weeks ago, [Revolution newspaper](#) (for whom I write), published "[The Crossroads We Face The Leadership We Need](#)", a special issue on Bob Avakian. With the help of 3,000 volunteers, more than 500,000 copies were distributed nationwide.

While Revolution is distinct from the Engage! Project, the issue succinctly summed up the importance of Avakian's work, and why - when the world cries out for fundamental change - it's critical that his voice be part of the conversation on how we've gotten to this point and what must be done to change it.

Best, Larry Everest

PS. My latest articles on the Middle East and danger of ongoing war, including possibly with Iran, can be found at [my website](#).

Payne watched a CSPAN interview with Everest. He's a communist.

<http://www.prosefights.org/nmlegal/nsalawsuit/nsalawsuit.htm>