

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 vacate¹ 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.

²*Pro 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).



CHIEF UNITED STATES DISTRICT JUDGE