

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

WILLIAM H. PAYNE
Plaintiff,

v.

No. CIV 97-266 MCA/LFG

NATIONAL SECURITY AGENCY,
Defendant,

UNITED STATES OF AMERICA,
Gamishor,

and

SANDIA LABORATORY FEDERAL CREDIT
UNION AND ITS SUCCESSORS OR ASSIGNS
ATTENTION: LOSS PREVENTION, Gamishee.

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AUG 01 2008

MATTHEW J. DYKMAN
CLERK

Federal Rule of Civ. P. 60(b)(3), (4) and Rule 59(e)

MOTION TO VOID AND AMEND JUDGMENTS IN
ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS
AND RECOMMENDED DISPOSITION MAILED JULY 14, 2008

1 Armijo writes

THIS MATTER is before the Court on the Magistrate Judge's Findings and Recommended Disposition filed March 27, 2008 [Doc. 150]. In the Findings and Recommended Disposition, the Magistrate Judge recommended that the United States' objections to Payne's and Morales' purported claims of exemption be sustained, that neither Payne nor Morales filed a timely answer or carried his burden of proof to demonstrate applicability of any exemption, and that any purported claims of exemption raised by Payne or Morales be denied.

No rule in Federal Rules of Civil Procedure appears to cover a response to a Finding and Recommended Disposition.

Further, plaintiff cannot find a rule specifying a time to respond to a Finding and Recommended Disposition.

On the other than, Rule 59(e) allows

(e) Motion to Alter or Amend a Judgment. A motion to alter or amend a judgment must be filed no later than 10 days after the entry of the judgment.

Further, Rule Civ. P. 60(b)(3), (4) motion can be filed at any time.

2 Armijo writes

In addition, the Magistrate Judge recommended that this Court authorize issuance of Orders of Garnishment of the funds sought by the United States. Neither Payne nor Morales filed objections to the Magistrate Judge's findings and recommendation, and the deadline for doing so has passed.

This is a false statement in view of title of

CASE NO. CIV 97cv266 MCA/LFG DATE: March 25, 2008

TITLE: William H. Payne and Arthur Morales v. National Security Agency

COURTROOM CLERK: M. Woodward COURT REPORTER: Julie Sanchez

COURT IN SESSION: 9 a.m. COURT IN RECESS: 9:30 a.m TOTAL TIME: 30 min.

TYPE OF PROCEEDING: Hearing on United States' objections to exemptions

seen at

<http://www.prosefights.org/nmlegal/hearing/hearing.htm#hearingminutes>.

Title "Hearing on United States' objections to exemptions" obviates statement "Neither Payne nor Morales filed objections to the Magistrate Judge's findings and recommendation,"

Fact is that magistrate Lorenzo Garcia scheduled hearing when plaintiff Payne was not properly served by assistant US attorney John W Zavitz.

This omission, of course voids all ruling in under rule Civ. P. 60(b)(3), (4).

Plaintiffs objected by not attending kangaroo hearing on March 26, 2008 09:00.

3 Armijo writes

IT IS HEREBY ORDERED that the findings and recommended disposition of the United States Magistrate Judge are adopted by the Court.

must be altered under Rules 59(e) and Civ. P. 60(b)(3), (4) to read

IT IS HEREBY ORDERED that the findings and recommended disposition of the United States Magistrate Judge are not accepted for the reason this Order violates due process and was procured through extrinsic or collateral fraud, is null and void, and is attacked at this time in this court.

4 Armijo writes

IT IS FURTHER ORDERED that:

(1) the United States' objections to Payne's and Morales' purported claims of exemption are sustained;

must be altered to read

IT IS FURTHER ORDERED that:

(1) the United States' objections to Payne's and Morales' purported claims of exemption are dismissed for reason this Order violates due process and was procured through extrinsic or collateral fraud, is null and void, and is attacked at this time in this court;

under Rules 59(e) and Civ. P. 60(b)(3), (4).

5 Armijo writes

(2) Payne's and Morales' answers are deemed untimely;

must be altered to read

(2) Payne's and Morales' answers are deemed untimely is an Order which violates due process and was procured through extrinsic or collateral fraud, is null and void, and is attacked at this time in this court;

under Rules 59(e) and Civ. P. 60(b)(3), (4).

6 Armijo writes

(3) Payne and Morales failed to carry their burden of proof to demonstrate a valid exemption; and

must be altered to read

(3) Payne and Morales failed to carry their burden of proof to demonstrate a valid exemption is an Order which violates due process and was procured through extrinsic or collateral fraud, is null and void, and is attacked at this time in this court.

under Rules 59(e) and Civ. P. 60(b)(3), (4).

6 Armijo writes

(4) any and all purported exemptions raised by Payne or Morales are denied.

0932. For tracking purposes in the Garnishor's accounting system, please print the CDCS number 2007A61842 on the front of the payment instruments.

is an Order which violates due process and was procured through extrinsic or collateral fraud, is null and void, and is attacked at this time in this court.

under Rules 59(e) and Civ. P. 60(b)(3), (4).

M Christina Armijo has committed felony violation of

A New Mexico 30-16-9.

Extortion. Extortion consists of the communication or transmission of any threat to another by any means whatsoever with intent thereby to wrongfully obtain anything of value or to wrongfully compel the person threatened to do or refrain from doing any act against his will. ...

Whoever commits extortion is guilty of a third degree felony.

because the Armijo does not have jurisdiction is acting as a private citizen outside the scope of her judicial jurisdiction.

See

<http://www.prosefight.org/nmlegal/apdstatement/apdstatement.htm#statement2>

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

9 Morales was dismissed as a defendant.

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)

Respectfully submitted,

W H Payne

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing MOTION TO VOID AND AMEND JUDGMENTS IN ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDED DISPOSITION MAILED JULY 14, 2008 was mailed to

JOHN ZAVITZ
Assistant United States Attorney
P.O. Box 607
Albuquerque, New Mexico 87103-0607
E-mail: john.zavitz@usdoj.gov

Sandia Laboratory Federal Credit Union
c/o Kevin D. Hammar
Attorney for Garnishee
1212 Pennsylvania NE,
Albuquerque, New Mexico 87110.

W H Payne

7/21/08

Date

William H Payne
3015 Calle de Sandias NE
Albuquerque, NM 87111

13015

CERTIFIED MAIL™



7008 0150 0002 8425 8123

RETURN RECEIPT
REQUESTED

Matthew J Dykman, Clerk
United States District Court
333 Lomas Blvd. N.W.
Albuquerque New Mexico 87102



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MATTHEW J. DYKMAN
CLERK

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Albuquerque, NM