

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

WILLIAM H. PAYNE,
Plaintiff - Appellant,
v.

No. 99-2021

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION;
GILBERT CASELLAS; CHARLES BURTNER;
LARRY J. TRUJILLO; RICHARD TRUJILLO;
THOMAS J. SCHLAGETER; NICHOLAS M. INZEO;
A. JACY THURMOND; ALETHA L. BROWN;
THOMAS SPELLMAN, all individually;

DEPARTMENT OF ENERGY; WILLIAM B. RICHARDSON;
SANDRA SCHNEIDER; STEVE DILLINGHAM;
GEORGE BREZNAY; WILLIAM JAMES LEWIS, all individually;

SANDIA NATIONAL LABORATORIES; C. PAUL ROBINSON;
MICHAEL G. ROBLES; LINDA VIGIL LOPEZ; G.H. LIBMAN;
D. B. DAVIS; W.R. GEER; J.D. GIACHINO; A.M. TORNEBY;
C.W. CHILDERS; D.S. MIYOSHI; R.A. POLONCASZ;
M.B. COURTNEY; C.A. SEARLS; R.L. EWING; R.B. CRANER;
E. DUNCKEL; J.J. MCAULIFFE; J.D. MARTIN; R. C. BONNER, all
individually;

AMERICAN TELEPHONE AND TELEGRAPH CORPORATION; LOCKHEED MARTIN
CORPORATION,

Defendants-
Appellees.
Rule of Civ. P. 60(b)(4)

Federal

MOTION TO VACATE JUDGMENTS FOR LACK OF JURISDICTION

I. INTRODUCTION

1 Plaintiff - Appellant Payne filed suit in New Mexico federal court to seek recovery from the false and defaming documents seen at <http://www.prosefights.org/nmlegal/supremecourt/cvpa.htm#gallegos>.

This is CASE #: [1:99-cv-00270-LFG-KEM](#) where LFG stands for magistrate judge Lorenzo F Garcia.

II. BASIS OF MOTION

2 [Docket entry 1](#) shows

03/12/1999 1 COMPLAINT (referred to Magistrate Judge Don J. Svet) (vv) (Entered: 03/17/1999) 03/12/1999
FILING FEE PAID: on 3/12/99 in the amount of \$150.00,
receipt #: 114733. (vv) (Entered: 03/17/1999)

3 Docket entry 3 shows

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

4 Docket entries 104, 106, and 107 show

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)

5 Docket entry 188 shows

01/11/2000 118 NOTICE OF APPEAL by plaintiff William H Payne from Dist. Court decision [117-1] ; Fees \$105.00 - Distribution as required. (cc: all counsel) (pg) (Entered: 01/11/2000)

01/20/2000 ACKNOWLEDGEMENT of receipt of preliminary record in I Volume by USCA on 1/19/00 - USCA Number: 00-2021 (pr) (Entered: 01/21/2000)

6 Docket entry 199 shows

01/03/2001 119 COPY of USCA Order: affirming the decision of the District Court [118-1] (pg) (Entered: 01/03/2001)

III. ISSUES

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

A judgment may not be rendered in violation of constitutional limitations and guaranties.

Therefore Garcia lacked jurisdiction to dismiss paid for jury trial lawsuit [1:99-cv-00270-LFG-KBM](#).

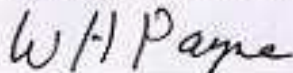
7 Tenth Circuit Court of Appeals judges TACHA, EBEL, and BRISCOE lacked jurisdiction to affirm Garcia's voidable decision in [1:99-cv-00270-LFG-KBM](#) which was rendered in violation of constitutional limitations and guaranties.

IV RELIEF SOUGHT

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

8 Sign attached ORDER vacating Garcia's JUDGMENTS seen at 4 above and TACHA, EBEL, and BRISCOE affirmation seen at <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=155012>

Respectfully submitted,



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 VACATE JUDGMENTS FOR LACK OF JURISDICTION was mailed certified return receipt requested to:

Joan M. Hart
NM Public Defender's Office
200 Third St, NW #740
Albuquerque, NM 87102
(505) 841-6989

Phyllis A. Dow
United States Attorney's Office Civil
P.O. Box 607
Albuquerque, NM 87103
(505) 346-7274
Email: phyllis.dow@usdoj.gov

Susan E Murphy
EEOC Legal Counsel Office
1801 L Street, NW
Washington, DC 20507
(202) 663-4669

Jake J. Chavez
US Department of Energy
National Nuclear Security Admin
PO Box 5400

Albuquerque, NM 87185-5400
(505) 845-5216

Carol Lisa Smith
Bannerman & Williams, P.A.
2201 San Pedro NE Building 2, Suite 207
Albuquerque, NM 87110
505-837-1900
Email: cls@nmcounsel.com

John A. Bannerman
2201 San Pedro, N.E. Bldg. 2 Suite 207
Albuquerque, NM 87110
(505) 837-1900
Email: jab@nmcounsel.com

W.H. Payne
Signed

9/11/07
Date