CASE NO.

104

NORTHERN DISTRICT

SAN ANTONIO O' EL PESCADERO GRANT

JUAN JOSE GONZALES

CLAIMANT

LAND CASE 104 ND 186 pages

Grant ordinário

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 336

Juan José Gonzalez CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

San Antonio ó el Pescadero

/

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PAGE 2

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, *that on this* seventh *day of* February, *Anno Domini One Thousand Eight Hundred and Fifty-*Two, *before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;*

The Petition of Juan José Gonzales *for the Place named* "San Antonio ó El Pescadero" *was presented, and ordered to be filed and docketed with No.* 336 *and is as follows, to wit;*

(Vide page 3 *of this Transcript.)*

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

San Francisco January 26th, 1853

In Case No. 336 Juan José Gonzalez for the place named "San Antonio ó El Pescadero" the deposition of Manuel Jimeno, a witness in behalf of the claimant, taken before Commissioner Harry I. Thornton was filed;

(Vide page 4 of this Transcript)

San Francisco April 1st, 1853

In the same Case the deposition of David Spence a witness in behalf of the claimant, taken before Commissioner Harry I. Thornton was filed;

(Vide page 4 of this Transcript)

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San Francisco Sept. 23d 1853.
Case No. 336 called; Submitted on Briefs on both sides and taken under advisement.

San Francisco January 31st 1854.
In Case No 336 Juan José Gonzales for the place named "San Antonio ó El Pescadero" commissioner Robert A. Thompson delivered the opinion of the Board confirming the claim;
(Vide page 37 of this Transcript)

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To the Honorable Commissioners to settle private Land Claims in California.

Petition.

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The petitioner Juan José Gonzalez, respectfully represents:

That on the 24th day of December A.D. 1833. José Figueroa, Governor of California, by virtue of authority in him vested, granted to the petitioner the tract of land called San Antonio or El Berendero, situate in the present County of Santa Cruz, containing three fourths of a square league, as shown in the title & corresponding map, which original title is submitted herewith marked A. with a translation marked B. That the said grant of land was duly approved by & the possession of it duly given to this petitioner — That he has been for about 20 years & now is in the quiet & peaceful occupation of said land —

That he knows of no conflicting claim. That he asks for confirmation of title upon the original papers submitted herewith, upon the minutes & archives records in the archives of the former government of California & upon such other & further proofs as he may be advised are necessary —

Wherefore he prays the Commissioners to confirm to him the aforementioned tract of land.

By his Attys
Halleck, Peachy & Billings.

Filed in Office Sept 11th 1852.
Geo: Fisher.
Secy.

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PAGE 5

San Francisco Jany 27/1853.

On this day before Comr Harry I. Thornton, came Manuel Simeno, a witness in behalf of the claimant Juan José Gonzalez, petition No 336, & was duly sworn. his evidence being interpreted by the Secretary.

In answer to questions propounded by Claimant's counsel the witness testifies as follows —

Deposition of Manuel Simeno.

My name is Manuel Simeno, my age is 49 years, I have lived in California 24 years — I know the ranche called Sayo Antonio, in the county of Santa Cruz — Juan José Gonzalez has to my knowledged occupied this land since 1833, he has had a house, cattle & horse on it, & sowings. He lives on it now.

Manl Simeno.

U. S. Law Agent present —
Sworn to & subscribed before me this 27th of Jany 1853.

Harry I. Thornton.
Comr &c

Filed in Office Jany 27/1853.
Geo. Fisher Secy.

Deposition of David Spence.

San Francisco, April 1st 1853.

On this day before Comr Harry I. Thornton, came David Spence a witness on behalf of the claimant Juan José Gonzalez, petition No 336, & was duly sworn, his evidence being given in English —

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In answer to enquiries by Counsel for the claimant the witness testified as follows —

My name is David Spence, my age is nearly 53 years, I reside in Monterey, & have lived in California 29 years —

I am acquainted with the hand writing of José Figueroa, & Agustin V. Zamorano, having often seen them write, their signatures to paper marked Exhibit No 1. & filed with this deposition, are their genuine signatures.

U. S. Law Agent present — D. Spence.

Sworn to & subscribed before me
this 1st of April 1853.

Harry S. Thornton.
Comr &c.

Filed in Office April 1st 1853.

Geo: Fisher.
Secy.

Communication from office of U. S. Surveyor General.

Surveyor General's Office
San Francisco, Calª
2nd Sept 1852.

Gentlemen —

At the request of the Counsel for the claimant I enclose herewith a certified copy of Espediente sobre el sitio mandado Sr Antonio Cafel Barcadero solicitado por Juan José Gonzales. 23ª

Very Respectfully

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4/336

Your Obt Svt-
Sam D. King
Jr Gen

The Board of
California Land Comrs
Los Angeles
Cal.

Filed in Office Sept 13th 1852.
Geo: Fisher
Secy.

7

Sello Segundo Doce Reales
Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ochocientos treinta y dos y mil ochocientos treinta y tres
Figueroa Rafael Gonzales.

A.
San Antonio.

Title

32

José Figueroa Gen.l de Brigada de los Egercitos Nacionales Mejicanos Com.te Gen.l Gnp.r y Gefe Sup.r Político de la Alta California

Por cuanto Juan José Gonzales Mejicano por nacimiento ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de San Antonio (o) el pescadero colindante con el rancho de Antonino Buelna, la Sierra, la Costa, y arroyo del Butano: practicadas previamente las diligencias y averiguaciones concernientes, segun lo dispuesto por leyes y reglamentos: usando de las facultades q.e me son conferidas, en decreto de diez y siete del Comite á nombre de la Nacion Mejicana he venido en concederle el terreno mencionado declarandole la propiedad de él por las presentes letras entendiendose dicha concesion con entera conformidad á lo dispuesto por las leyes a reserva de la aprovacion ó desaprovacion de la Exma. Diputacion Territorial y del Supremo Gobierno bajo las condiciones siguientes:

33

1.a= Que se sometera á las q.e establecieren el Reglamento q.e se ha de formar para la distribucion de Terrenos baldios y q.e entretanto ni el agraciado ni sus herederos podran dividir, ni enagenar el q.e se le adjudica: imponer censo, vinculo, prenza, hipoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo á manos muertas.

2ª Podra cercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutara libre y exclusivamente destinandolo al uso ó cultivo q. mas le acomode pero dentro de un año á lo mas fabricará 34
casa y estara habitada.

3ª Cuando se le confirme la propiedad solicitará del Juez respectivo q. le dé posesion juridica en virtud de este Despacho por el cual se demarcaran los linderos en cuyos limites pondrá á mas de las mohoneras algunos arboles frutales ó silvestres de alguna utilidad.

4ª El Terreno de q. se le hace donacion es de una legua de longitud, por tres cuartos de leguas de latitud poco mas ó menos segun esplica el diseño q. corre en el espediente; el
35 Juez q. dire la posesion lo hara medir conforme á ordenanza para señalar los linderos quedando el sobrante q. resulte á la nacion para los usos convenientes

5ª Si contraviniere á estas condiciones perderá su derecho al Terreno y será denunciable por otro.

En consecuencia mando q. sirviendole de titulo el presente y teniendose por firme y valedero se tome razon en el libro á q. corresponde y se entregue al interesado. Dado en Monterrey á veinte
36 y cuatro de Diciembre de mil ochocientos treinta y tres.

Jose Figueroa Agustin V. Zamorano
Srio

Fue tomada razon en el libro de asientos de Titulos sobre adjudicacion de terrenos á fojas veinte y una numero diez y nueve q. obra en el archivo de la Secretaria de mi cargo. Monterrey Diciembre veinte y cuatro de mil ochocientos treinta y tres. Zamorano

37 Filed in Office Sept. 11th 1852 Geo. Fisher
Secy

9

Stamp Second, Twelve Reales —
Provisionally authorized by the administration of the maritime Custom House of Monterey for the years 1832 & 1833.
Figueroa, Rafael Gonzalez.

B. Translation of Title.

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José Figueroa, General of Brigade of the National armies of Mexico, Commanding General, Inspector & Superior Political Chief of this for California —

Whereas Juan José Gonzalez, a Mexican by birth has for his own personal benefit & that of his family petitioned for the land known by the name of San Antonio or El Pescadero, bounded by the ranchos of Antonio Buelna, Sierra, the coast, & the arroyo of Bolsano, the proper measures & examinations being previously made as required by laws & regulations, using the power which are conferred on me, in decree of the seventh of this month in the name of the Mexican Nation, I have granted him the aforesaid land, declaring to him the ownership of it by these presents, said grant being understood to be in entire conformity with the provisions of the laws, subject to the approval or disapproval of the most Excellent Territorial Deputation & of the Supreme Government, under the following conditions.

1st That he will submit to those which may be established by the regulations which is to be made for the distribution of vacant lands, & in the meantime neither the grantee, nor his heirs can divide or alienate that which is granted to them, subject it to any tax, entail, pledge, mortgage or other incumbrance, even for pious purposes, nor convey it in mortmain.

2nd. He may enclose it without prejudice to the crossings, roads & servitudes, he will enjoy it fully and exclusively, making such use or cultivation of it which as may best suit him, but within one year at furthest

340

he shall build a house & it shall be inhabited —
3rd When the ownership is confirmed to him, he will re-
-quest the proper magistrate to give him juridical posse-
-sion in virtue of this title, by whom the boundaries will
be marked out, in which besides the bounds, he will
place some fruit or forest trees of useful character —
4th The land of which donation is made him is one league
in length, by three quarters of a league in breadth, a little
more or less, as shown by the map which goes in the expedi-
-ente; the magistrate who may give the possession will
cause it to be measured in conformity with the ordinance
in order to mark out the boundaries, leaving the surplus
which may result to the nation for its convenient use —
5th If he contravene these conditions, he will lose his
right to the land & it will be subject to denouncement
by another person.

In consequence I order, that the present serving
him for a title, & being held as firm & valid, note be made
of it in the corresponding book & it be delivered to the person
interested.

Given in Monterey on the twenty fourth of De-
-cember, one thousand eight hundred & thirty three.

(Signed) José Figueroa

(Signed) Agustin V. Zamorano.
Secretary.

Note has been made in the book of entries of titles of grants
of lands, on folio 21, number 19. which exists in the ar-
-chives of the Secretary's Office in my charge —
Monterey December 24th 1833.

(Signed) Zamorano.

Filed in Office Sept 11th 1852.
Geo: Fisher. Secy —

300

11

1 S.D.K.

Jurisdiccion de Brancifoste N. 19 21 Año de 1833

Espediente

Sobre el parage nombrado S.n Antonio (a) el Pescadero solicitado por Juan José Gonzales

23

Sello Tercero Dos Reales

Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro

Figueroa José Rafael Gonzales

Sor. Comte Gral.

C.

1 Espediente

Monterey Nov. 29 de 1833

De conformidad con las leyes de la materia informe el ayuntamto de la villa de Branciforte si el interesado en esta instancia obtiene los requisitos prevenidos para ser atendido en su solicitud, si el terreno que pretende está comprendido en las 20 leguas limitrofes ó lo litorales que espresa la ley de 18 de Agosto de 1824, si es de regadio temporal o abrevadero, si pertenece á propiedad particular corporacion

El Ciudo. Juan José Gonzales, nativo en la Mision de Sta. Cruz vecino de la villa de Branciforte, residente, y empleado en dha Mision de Sta. Cruz y Mayordomo, de la Misma; casado; con 13 personas de familia, haviendo servido á la Nacion 8 aos 2 meses de soldado, y habiendo obtenido mi licencia del Sor. Comte Gral Dn. Manuel Victoria, con la condicion de un Recluta que puse á mi costa; y ayandome con 500 cabezas de ganado mayor en propiedad, una manada de 30 yeguas y no teniendo un sitio ni parage donde radicarme, cansado ya de las molestias de estar en errenon, en la misma villa donde no espodido ni puedo progresar, a causa de la misma

2

13

3 o Pueblo, con todo
lo demas que sea
consumente a ilus-
trar la materia
Evacuado que sea
pasara este es-
pediente al R.
P. Ministro de la
Mision de San-
ta Cruz para
q.e informe lo
que le ocurra
en el particu-
lar. El Sor.
4 D.n Jose Figue-
roa General
de Brigada y
Comandante Gnl.
General y Gefe Sup.
Politico del Ter-
torio asi lo man-
do decreto y fir-
mó de que doy
fe.

Figueroa

Agustin V. Zamorano
Srio.

5

reunion donde he notado gran
demerito, en el pie que pase
de 12 a.s a esta parte; y aya-
dome aora en la actualidad, fa-
vorecido de la misma nacion
de S.ta Cruz donde se sacrifi-
co mi difunto padre 2 oat. y
donde yo sirbo en su lugar,
siendo y aviendo sido los sa-
larios muy baxos, baxo deste
supuesto, el Ministro q.e sir-
ve en la actualida en la mis-
ma Mision (que es Fr. Ant.o
Real) quien satisfecho,
de mis servicios, y de los
del difunto mi Padre, me
a querido favorecer asignan-
dome el rancho de San An-
tonio anteriorm.te y amado
el pescadero Ecalengo o deso-
cupado de la misma Mi-
sion, esta a distancia, de
12 leguas al Norueste co-
lindando con el rancho
de S. Gregorio, cuyo sitio
ba delineado, en el papel
que acompaño, abrasando
en cuadro como cuatro
leguas, colindando de la
Costa a la Sierra, y de S.n Gregorio (a ran-
cho que ocupa el ciud.o Antonio Bulna)
al rancho de la punta de año nuebo, que
es el ultimo, que ocupa la Mision, y
deseando una seguridad, ó afiance en
el mismo sitio (con anuencia del mismo Ministro)

ocurro a V.ª con el debido respeto, suplicandole se sirva darme en propios, el ya citado sitio, atendiendo a mi crecida familia.

Y sera en lo que recibe merce y fabor su mas adicto subdito y S.S. q.e le desea m.s a.s de vida y alento S. M. B.

Sta. Cruz Nbre 26 de 1833

Juan Gonzales

En cumplimiento a lo q.e V. S. ordena a este Ayuntamiento de su mando en su decreto de 29 de Nobiembre de 1833 en q.e informe si el interesado en esta instancia tiene los requisitos prebenidos para ser atendido en su solicitud, y si el terreno q.e pretende esta comprendido en la materia q.e espresa la ley.

El terreno q.e pretende el contenido en esta instancia en el dia — 1 Sello tercero dos Reales. — Habilitado provisionalmente por la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y tres y mil ochocientos treinta y cuatro, Figueroa

Jose Rafael Gonzalez

= Se le puede conceder pues tiene todas las circunstancias prebenidas para ser atendido en su solicitud y es acreedor a el, es hun paraje desocupado no tiene tierras de regadio de temporal si tiene, se a recivido por propiedad de la Mision de Santa Cruz, y para los fines q.e combengan firmo este informe lo, y el segundo Regidor por ausencia de el primero en la Casa Consistorial de la Villa de Branciforte 29 de Diciembre de 1833

José Ant.o Robles José M.a Salazar

4 S. D.R.

Soy conforme, a q.e se le conceda al pretenso Juan Gonzales, el sitio q.e pretende, pues es un paraje q.e esta Mision, no ocupa en la actualidad, ni se juzga necesario en su posicion de q.e p.a sus cortos ganados tiene tierras suficientes, y q.e ayandose desocupado, se juzga realengo a mas de q.e cuando la Mision lo ocupo, fue en abundancia de los mismos ganados, y a causa de escasez de pastos y aguas, en los años subsecuentes los ganados an muerto y deteriorados ya no necesitan del tal terreno los pocos q.e quedan; el sugeto es de Merito, y la Mision le dive ante poner a cualquiera otro, tiene todas las circunstancias y es acreedor y p.a q.e conste lo firmo a 7 de Dbre de 1833

Fr. Ant.o de Real
M.ro de S.ta Cruz

S.S.Dr. Monterrey Diciembre 10 de 1833

10 Pase al Alcalde de esta Capital ante q.n la parte producirá una informacion de tres testigos idoneos q.e sean interrogados sobre los puntos siguientes, 1.o Si el solicitante es Mejicano por nacimiento, si ha servido en la carrera militar, si es casado y tiene hijos, si es de buena conducta 2.o Si el terreno q.e pretende es de la propiedad de alguna particular Corporacion ó Pueblo; si es de Egadio, temporal y abrevadero, y q.e extension tendrá. 3.o Si tiene vienes de Campo con q.e poblarlo ó posibilidad de
11 adquirirlos. Practicada esta diligencia

16

buelva el espediente para su reduccion. El Sr. Gefe Político Comandante Gral. Ynsp.r y Gral. de Brigada Don José Figueroa así lo mando decreto y firmo de q.e doy fe.

José Figueroa

Agustin V. Zamorano

Monterrey-

Alex Forster

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19 7 S. Dk. Sello Tercero Dos Reales

Habilitado provisionalmente por la Administracion de la Aduana Marítima de Monterey, para los años de mil ochocientos treinta y tres y mil ochocientos treinta y cuatro

335-1 Figueroa Jose Rafael Gonzalez

= Terrey Diciembre 13 de 1833

12 Dto. 3 p.

Notifíquese al interesado en este expediente presente los testigos q. se han de examinar sobre los puntos que comprehende el superior decreto que antecede de lo del presente q. antecede. Así yo el Alcalde lo decreté mandé y firme con los testigos de asistencia en la forma establecida.

F. Marcelino Escobar

De asn.a De asn.a

Jose Ma. Maldonado José Antonio Romero

En el mismo dia presente Juan Jose Gonzalez se le notificó el auto q. antecede y entendido Dijo: lo oye y q. presenta a

13 los ciud.s Salvio Pacheco, Manuel Lanes y Felipe Hernandez, y lo firmó Conmigo y los testigos de asistencia.

Escobar Juan Gonzalez

De asn.a De asn.a

José Maria Maldonado José Antonio Romero

En el Puerto de Monterey á los trece

8 S. Dk. dias del mes de Diciembre de mil ochocientos treinta y tres, presente el C. Salvio Pacheco testigo presentado p.r la parte del interesado, se le recivio juramento en forma de dho por el cual ofreció decir verdad en lo que

14 supiere y fuere preguntado, y siendo por su nombre estado, edad, patria y religion Dijo, llamarse como queda dho, q. es casado, de edad de treinta y ocho años, natural de esta Capital y C. A. R.

Preguntado. Por el interrogatorio q. se advierte en el superior decreto que antecede Dijo. A lo primero que el solicitante es Mejicano por nacimiento que ha servido en la carrera militar en la Compañia de Caballeria del puerto de San Francisco que es casado y tiene tres hijos que le conoce q. la conducta q. le ha observado es buena y nunca se le ha reprendido.

15 A lo segundo Dijo que el terreno que solicita no sabe que pertenezca á propiedad alguna de particulares y solo sabe por dicerse que pertenece á la mision de Sta. Cruz que tiene el dho terreno mas de temporal q. abrevadero q. de regadio por no estar impuesto muy bien de el y q. la extencion q. tiene á su vez sera de una y media legua de Oriente a Poniente y de Sur á Norte no sabe con certeza lo q. tendrá por ser un cañon q. toca hasta el rancho de C. Antonino Buelna.

16 A lo tercero Dijo que las reses de campo q. le conoce sera un numero de doscientas reses y una manada de yeguas y caballada manza con lo que cree pueda pasar que lo dicho es la verdad a cargo del juramento que =

9.5.DR Sello Tercero Dos Reales = Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ochocientos treinta y tres y mil ochocientos

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PAGE 20

treinta y cuatro=

Riguerva Jose Rafael Gonzales

=Tiene hecho en el que se afirmo y ratifico leida que le fue esta su declaracion y lo firmo Conmigo y los de asistencia

M. Escobar

De anº De arza

Salvio Pacheco José Antonio Romero

José Maria Maldonado

En la misma fha presente el C. Manuel Sainz se le recivio juramento en forma de dro por el cual oficio decir verdad en lo que supiere y fuere preguntado y siendole por su nombre estado edad patria y religion. Dijo llamarse como queda referido que es Casado de treinta y cinco años natural del Pueblo de San Jose y C. A. R.

Preguntado en los mismos terminos

18 que lo fue el primer testigo Dijo

A lo primero que es mejicano por nacimiento, que ha servido en la carrera militar en la Compa. de Caballeria en el Puerto de Sta Franco que es casado y tiene hijos y que la conducta q. tiene es muy buena,

A lo segundo Dijo: Que el terreno que solicita no sabe mas que pertenece a la Mision de Sta. Cruz; pero que tambien sabe se lo ha sedido el Padre

19 SOLDR. Ministro de ella que el paraje dho. es de temporal y abrevadero y que con cultivo y trabajo puede tener algunas partes de regadio, que la extencion que

sea de una legua ó mas de ancho y dos de la playa á las lomas.

A lo tercero Responde que tiene veinte de campo en que pastiado así como caballada q.e lo q.e tiene dicho es la verdad á cargo del juramento q.e tiene hecho en el q.e se afirmo y ratifico leida q.e le fue esta su declaracion y no firmo pr. q.e dijo no saber, lo hice yo y los de asistencia.

20 M. Cevbas

De asn.o

Jose Maria Maldonado

De asn.o

Jose Ant.o Romero

En la misma fha. presente el C. Felipe Hernandez se le recibio el juramento en forma de derecho por el cual ofrecio decir verdad en lo q.e supiere y fuere preguntado, y siendolo por su nombre, estado, edad, patria y religion Dijo llamarse como dicho esta, q.e es viudo de sesenta y cuatro años, natural de la Barca y C. A. R.

Preg.do en los terminos q.e los anteriores dijo. A lo primero; que el solicitante es Mejicano por nacimiento que ha servido en la Carrera militar; que es

21 casado = (Sello Tercera Dos Reales = Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro = Jose Rafael Gonzalez = Piguerra =) = y tiene hijos; y q.e su conducta es buena.

N.S.Dh.

A lo segundo, Dijo; Que el terreno

q. solicita no sabe q. pertenesca a ninguna propiedad; que es de temporal y abrevadero y q. su intencion ignora cual sea A lo tercero Dijo: q. tiene suficientes vientes de campo para poblarlo, y q. lo dicho es la verdad a cargo del juramento q. tiene hecho en el q. se afirmó y ratificó leida q. le fue esta su declaracion y no firmó p.r no saber lo hice yo y los de as.a

M. Escobar

De as.a
Jose Maria Maldonado

De as.a
Jose Antonio Romero

Monterey Dic 13 de 1833

Concluidas las diligencias q. se mandan en el antecedente superior decreto, vuelva el espediente al S. Gefe Superior Politico para su superior resolucion. Así yo el Alcalde Const.te lo decreté mandé y firme con los testigos de as.a

A.

Marcelino Escobar

De as.a
Jos.é Maria Maldonado

De as.a
Jos.é Ant.o Romero

12 S.D.R. Monterey Diciembre 17 de 1833

Vista la peticion con q. da principio este espediente el informe de la autoridad Municipal de la Villa de Branciforte, el del R. P. Ministro de la Mision de Sta Cruz

24

las esposiciones de los testigos con todo lo demas q. se tubo presente y vos convino de conformidad con lo dispuesto por las leyes y reglamentos de la materia se declara á Juan José
24 Gonzales dueño en propiedad del terreno conocido con el nombre de S.n Antonio (ó) el Pescadero colindante con el Rancho de Antonino Buelna, la Sierra, la Costa y arroyo del Bistano sugeto á las condiciones q. se estipularon: librese el despacho correspondiente, tomese razon en el libro respectivo y dirijase este expediente para la devida aprovacion á la Exma. Diputacion Territorial, en cuyo caso el interesado, á quien se le hara saber
25 este decreto presentara nuevamente su titulo para q. se revalide.

El Sr. D. José Figueroa Gen.l de Brigada Com.te Gen.l Gnsp.r y Gefe Sup.r Político de la Alta California así lo mandó, decretó y firmó de q. doy fe

José Figueroa

Agustin V. Zamorano

En = Sello Tercero Dos Reales = Habilitado provisionalmente por la Administracion
13 (DK) de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y tres y mil ochocientos treinta y cuatro

Figueroa José Rafael Gonzales

= 24 de Diciembre de 1833 habiendo
26 comparecido en esta Secretaria la parte de Juan José Gonzales se le hizo saber el decreto q. antecede del Sr. Gefe Superior Político y enterada de el dijo q. lo oye y de quedar conforme lo firmó conmigo p.a la devida Cons.ta

Agustin V. Zamorano Juan Gonzales

25

U.S.D.K.

Las Comisiones de Colonizacion y Terrenos Baldios á quienes se pasó el espediente, cuya formacion provocó por pretencion q. el Ciud.no Juan José Gonzales hizo del paraje nombrado S.n Antonio el Pescadero, le han examinado con la circunspecion que corresponde, teniendo al mismo tiempo presente la ley de 18 de Agsto de 1824 sus concordantes y las disposiciones generales q. en 24 de Nov.re de 1828 dictó el Supremo Gobierno de la Union p.a el mejor cumplimto de la primera.

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Del examen del espediente se ha penetrado la Comision de la opinion q. ya tenia, de la escrupulosidad, y tino con que el Sor. Gefe Politico lo mandó instruir; de suerte que ni en su formacion se estravió algun requisito esencial de los practicados

104 ND
PAGE 24

Por lo dicho concluye la Comision ofreciendo á la deliberacion de esta Exma Diputacion la siguiente proposicion:

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1a- Se aprueba la concision hecha al Ciud.no Juan José Gonzales del paraje nombrado S.n Antonio el Pescadero en 24 de Diciembre de 1833 de entera conformidad con lo prevenido en la ley de 18 de Agsto de 1824 y el articulo 5 del reglamento de 21 de Nov.re de 1828

Monterrey Mayo 10 de 1834

Carlos Anto Carrillo

Jos. F. Ortega

José Castro

José A. Estudillo

U.S.D.K.

Monterrey 17 de Mayo de 1834

En sesion de este dia se aprovó por la

29 Exma. Diputacion la proposicion del dictamen antecedente mandando se devuelva el expediente al Sr. Gefe Supor. Polito para los fines consiguientes.

Jnó Figuerra

Juan B. Alvarado

Srio.

Office of the Surveyor General of the United States for California.

J Samuel D. King Surveyor General of the United States for the State of California and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California do hereby certify, that the fifteen preceding and hereunto annexed pages of bearing papers numbered from one to fifteen

30 inclusive and each of which is verified by my initials (S.D.K.) exhibit true and accurate Copies of certain documents on file and forming part of the said archives in this Office

In testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a seal of Office) at the City of San Francisco Cal the 2nd day of Sept. 1852

Sam'l D King
Surv'r Gen'l. Cal
(2nd Sept 1852
S D K.)

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Filed in Office Sept 13th 1852
Geo. Fisher Secy.

N ✓

104 ND
PAGE 26

D.

Translation of Expediente

Stamp Third, Two Reales.

Provisionally authorized by the maritime Custom House of Monterey, for the years one thousand eight hundred & thirty three & one thousand eight hundred & thirty four.

(Signed) Figueroa.

Monterey, Nov 29th 1833.

In conformity with the laws on the matter, let the Ayuntamiento of the town of Branciforte report whether the person interested in this petition possesses the requisites to the attended to in his petition, whether the land he asks for is included in the 20 leagues from the boundary or 10 from the sea shore extended to in the law of Aug. 1824, if it is unigable dependent on the owner or pasture land, if it belongs to the ownership of any private individual, corporation or pueble, with everything else which may be proper to explain the matter. This being concluded it will pass this

(Signed) José Rafael Gonzalez.

To His Excellency the Commanding General.

I, citizen Juan José Gonzalez a native of the Mission of Santa Cruz, resident of the town of Branciforte, residing & employed in said Mission of Santa Cruz, & mayor domo of the same, married, with a family of thirteen children persons, having served the nation eight years & two months as a soldier, & having obtained my discharge from His Excellency the Commanding General, Don Manuel Victoria, with the condition of furnishing a remit, which I did at my own expense, & finding myself with 500 head of large cattle, & having no land or place to settle on, tired of the trouble of being together in the same village, where I have been & am unable to progress on account of the same living, where I have noted a great loss in the stock which I placed twelve years ago, & being now actually governed by the same Mission of Santa Cruz, where my deceased father served (sacrificed) himself for 20 years, & where I serve in his place, the salaries of this post being & having been very low, the

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respectively to the Rev Father Minister of the Mission of Santa Cruz, that he may report what he knows on the matter. Señor Don Jose Figueroa General of Brigade & Commandant, Inspector General & Superior Political Chief of the Territory, has ordered, decreed & signed to which I certify. Figueroa.

Agustin V. Zamorano Secretary

minister who attends at present in the same Mission (Fray Antonio Real), satisfied with my services & those of my deceased father, have seen fit to favor me by assigning to me the rancho of San Antonio, formerly called El Escaden Redondo, which is not occupied by said Mission, is distant 12 leagues to the North west, bounded by the rancho of San Gregorio, which place is delineated on the accompanying paper, including a square of about four leagues, extending from the coast to the sierra & from (the rancho of San Gregorio) rancho occupied by citizen Antonio Buelna) to the rancho of la punta de Año nuevo, which is the further occupied by the Mission, & desiring a security or guaranty in the same place, I apply (with the consent of the same minister) to your Excellency with the due respect, praying that you will be pleased to give me in possession the aforesaid place, in consideration of my large family. And which will confer favor & grace on your most attached subject & servant, who wishes you many years of life &c &c —

Santa Cruz, Nov 26th 1833

(Signed) Juan Gonzalez.

In compliance with your Excellency's order this Ayuntamiento under your cognizance in the decree of November 29/1833, to report whether the person interested in this petition possesses the requisites to be attended to in his request, & if the land he asks for be included in those referred to in the law —

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The land asked for by the person interested in this petition may now be granted to him, for he has all the commendatory required in order to be attended to, & is entitled to it. It is an unoccupied place, has no irrigable lands, has lands dependent on the seasons, has been recognized as the property of the Mission of Santa Cruz, & for the purposes it may serve I sign this with the 2d Regidor on account of the absence of the Sent, in the town hall of the town of Branciforte, on the 2d December 1833 —

(Signed) José Antonio Robles
(") José Maria Salazar.

Inasmuch as there being granted the petitioner Juan José Gonzalez, the place he asks for, as it is a place which this Mission does not at present occupy, nor is it deemed necessary for it in consideration of the fact that it has land enough for its few cattle, & that being unoccupied it is considered public land, besides when the Mission occupied it, it had abundance of cattle & on account of scarcity of pasture & water, in subsequent years the cattle have died & diminished & the few that remain do not need that land, he is a person of merit, & the Mission ought to place him before any other person, he has all the requisites & is entitled to it & in testimony I sign it on the 7th of December 1833 —

(Signed) Friar Antonio Suarez del Real.
Minister of Santa Cruz.

Monterey, December 10 1833.

Let it pass to the Alcalde of this Capital, before whom the party will produce an information of three fit witness, who will be questioned upon the following points. 1st If the petitioner is a Mexican by birth, if he has served in the army, if he is married & has children, if he is of good conduct — 2d If the land he asks for is of the ownership of any

individual, corporation or pueblo, if it is arrigable, de-
-pendent on the reserve, or pasture land, & what is its exten-
-sion.
3d, If he has cattle with which to stock it, or the pos-
-sibility of acquiring them. This examination being
made, let him return the expediente for its decision.
His Excellency the Political Chief, Commanding
General, & Inspector General of Brigade, Don José
Figueroa, thus ordered, decreed & signed it, to which I
certify. (Signed) José Figueroa.
(Signed) Augustin V. Zamorano.
Secretary.
Monterey December 13th 1833.

Fee $3,00

Let the party interested in this expedi-
-ente, be notified to present the witnesses which are
to be examined on the points included in the su-
-perior decree of the 10th inst, which precedes this.
Thus I the Alcalde decreed, ordered & signed it,
with the assisting witnesses in the established form.
Assisting Witnesses. (Signed) Marcelino Escobar
(Sgd) José Maria Maldonado.
(a) José Antonio Romero.
On the same day, present Juan José Gonzalez, the
foregoing act was made known to him, & having
understood it he said that he heard it, & that he presents
citizens Salvio Pacheco, Manuel Lanos, & Felipe
Hernandez, & he signed it with me & the assisting wit-
-nesses.
Assisting Witnesses (Sgd) M. Escobar.
Sgd) José Maria Maldonado (a) Juan Gonzalez.
a) José Antonio Romero
In the port of Monterey on the 13th day of the month of
December, one thousand, eight hundred & thirty three, present

Salvio Pacheco, witness presented on the part of the person interested, oath was received of him in form of law, by which he promised to speak truth in that which he might know & be asked, & being asked for his name, estate, age, country & religion; he said that he is called as has been said, is married, thirty eight years old, a native of this capital & Apostolic Roman Catholic — Questioned as to the interrogatory, presented in the foregoing superior decree, he said — To the 1st That the petitioner is a Mexican by birth, that he has served in the Army in the Cavalry company of the port of San Francisco, that he is married & has thirteen children that he knows of, that his conduct as far as he has observed is good, & he has never been reprehended. To the 2d he said, That he does not know that the land petitioned for pertains to the ownership of any private individual & only knows by rumor that it pertains to the Mission of Santa Cruz, that there is more land dependent on the seasons & pasture land than irrigable, but he is not very well acquainted with it, & that its extent is from a league to a league & a half from East & West & from North to South he does not know how much it is, as it is a cañon which reaches to the ranchos of citizen Antonio Buelna. To the third, he said, that the number of cattle he is known to have is about two hundred head & a drove of mares & tame horses, with which he believes he can stock it; that what he has said is true under the oath which he has made, which he affirms & ratifies & this his declaration having been read to him, he signed it with me & those of my assistance —

Assisting Witnesses — (Sgd) M. Escobar.
(Sgd) José Mª Maldonado. (u) Salvio Pacheco.
(u) José Antº Romero —

330 In the same date, present citizen Manuel Lanoi, oath

was received of him in form of law, by which he promised to speak the truth in all that he might know & be asked; & being asked for his name, estate, age, country & religion, he said, that he is called as has been said, that he is married, thirty five years old, native of the Pueblo of San José & apostolic Roman Catholic — Questioned in the same terms in which the first witness was he replied. To the first; that he is a Mexican by birth, that he has served in the Army in the Company of Cavalry of the Port of San Francisco, that he is married & has children, & that his conduct is very good. To the second, That he only knows that the land petitioned for pertains to the Mission of Santa Cruz, but that he also knows that the Father Minister of it has granted it, that the said place is dependent on the seasons, & pastoral land; & that there may be some point that with labor & cultivation will be irrigable; that its extent is about a league or more wide & two from the beach to the hills — To the third, he replies that he has cattle with which to stock it, as well as horses; that what he has said is true under the oath which he has made, which he affirms & ratifies, this his declaration having been read to him & did not sign because he did not know how. I did so with three of assistance —

Assisting Witnesses (Signed) M. Escobar.

(Signed) José Maria Maldonado —

" José Antonio Romero —

On the same date, present, Citizen Felipe Hernandez, oath was received of him in form of law, by which he promised to speak truth in all that he might be asked & know, & being asked for his name, estate, age, country & religion, he said: he is called as has been said, that he is a widower, seventy four years old, native of la Baja California — & Apostolic Roman Catholic —

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Questioned in the same general terms as the first, he said, To the first – that the petitioner is a Mexican by birth, that he has served in the Army, is married & has eleven children & that his conduct is good – To the second, he said, that the land which he petitions for, is not to his knowledge, of any ownership, that it is dependent on the seasons & pasture land, & he does not know what its extent it. To the third, he said, that he has sufficient ~~stock~~ to cattle to stock it, & that what he has said is true under the oath which he has made, which he affirms & ratifies this his declaration having been read to him, & did not sign because he did not know how, I did it with their assistance –

Assisting Witnesses (Signed) M. Escobar –
Sgd/ José Maria Maldonado
a/ José Antonio Romero –

Monterey December 13th 1833.

The official acts ordered in the foregoing superior decree being finished, let the expediente be returned to the superior Political Chief for his superior decision.

Thus, I the constitutional Alcalde, decreed, ordered & signed with the assisting witnesses –
Assisting witnesses (Signed) M. Escobar.
(Signed) José Maria Maldonado –
(a/ José Antonio Romero.

Monterey December 17th 1833.

Having seen the petition with which this expediente commences, the report of the municipal authority of the town of Branciforte, that of the Rev Father Minister of Santa Cruz, the declarations of the witnesses, together with all other things which were

presented & deemed proper to be seen, in conformity with the provisions of the laws & regulations on the matter, Juan José Gonzalez is declared owner in fee of the land known by the name of San Antonio (or El Escaden) bounded by the ranchos of Antonio Buelna, the Sierra, the Coast, the Arroyo del Bodano subject to the conditions which may be stipulated, let the corresponding patent issue, let note be made in the proper book, & let this expediente be elevated for the approbation of the Most Excellent Territorial Deputation, in which case the person interested who will be made to know this decree, will again present his title that it may be revalidated —

Señor Don José Figueroa, Brigadier General, Commanding General, Inspector & Superior Political Chief of Upper California, thus ordered & signed, to which I certify

(Signed) José Figueroa.

(Signed) Agustin V. Zamorano —

On the 24th of December 1833, the party D. Juan José Gonzalez having appeared in this office, he was made to know the foregoing decree of the Superior Political Chief, & having understood it, he acknowledged notice, & signed it with me for its due testimony.

Agustin V. Zamorano — Juan Gonzalez.

The Committee on Colonization & Vacant lands to whom was referred the expediente, the formation of which was caused by the petition of citizen Juan José Gonzalez for the place named San Antonio (or) el Escadero, having examined it with the corresponding circumspection,

taking into consideration at the same time, the law of August 18th 1824, those agreeing with it & the general dispositions which on the 24th November, 1828, the Supreme Government of the Union gave, for the better fulfilment of the first. From the examination of the Expediente, the committee has become informed with the opinion which it before held, of the scrupulousness and tact with which his Excellency the Political Chief ordered it to be made, so that neither in its formation, nor in the steps taken is any essential requisite wanting. Wherefore the Committee concludes by offering to the deliberation of this Most Excellent Deputation the following proposition.

1st. Approved, the grant made to citizen Juan José Gonzalez of the place named San Antonio, El Pescadero, on the 24th December 1833, in entire conformity with the provisions of the law of August 18 1824 & article 5th of the regulation of Nov 21 1828. Monterey May 11 1834.

(Signed) Carlos Antonio Carrillo.
(") José Castro
(") José T. Ortega
(") José A. Estudillo.

Monterey May 17th 1834.

In session of this day the proposition of the foregoing report was approved by the Most Excellent Deputation, ordering that the expediente be returned to his Excellency the Superior Political Chief for the convenient purpose —

(Signed) José Figueroa —

(Signed) Juan B. Alvarado.
Secretary —

Filed in Office Jany 4th 1852.
Geo: Fisher Secy.

37

Case No 336.

Juan José Gonzalez vs The United States. — For the place called San Antonio or El Pescadero, claim for 1 leg. League of land in the County of Santa Cruz.

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Opinion of the Board by Comr R. Aug. Thompson.

This claim is founded on a grant made by Governor Figueroa on the 24th day of December 1833 to the present claimant, which was duly approved by the Territorial Deputation on the 17th day of May following. The grant describes the land as that known by the name of San Antonio or El Pescadero, bounded by the ranchos of Antonio Buelna, the sierra, the coast, & the Arroyo del Butano. The fourth condition states that the land of which donation is made is one league in length & three quarters of a league in breadth, a little more or less as shown by the map which goes with the expediente, with the usual reservation of the sobrante or surplus to the use of the Nation. The boundaries are distinctly marked on the map & although there is no scale on the map by which the extent of the boundaries can be ascertained but there is a note made upon it stating that they extend one league from North to South & three quarters of a league from East to West. This description taken in connection with that contained in the grant shows very clearly that it is a grant by metes & bounds & that consequently no sobrante can result.

The original grant is in evidence & the genuineness of the signatures of the Governor and Secretary appearing thereon are duly proved by the deposition of David Spence. Manuel Jimeno proves that the claimant has occupied the land since the year 1833, that he has had a house, cattle, horses, & sowings

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on it, & that he still lives on it —

The evidence is sufficient to establish the validity of the claim & entitle it to a confirmation by the board.

Filed in Office Jany 31st 1834.

Geo: Fisher
Secy.

Case No 336.

Juan José Gonzalez.
vs
The United States.

Decree

In this case on hearing the proofs & allegations it is adjudged by the Commission that the claim is valid & it is therefore decreed that the same be confirmed. The land of which confirmation is made is known by the name of San Antonio or El Pescadero & is situated in the present County of Santa Cruz being the same which has been held & occupied by the present claimant since the year 1833 to the present time, & is bounded as follows — Beginning at the mouth of the Arroyo del Butano & running along the sea coast, & bordering thereon to the boundary line of Antonio Buelna, the distance being one league a little more or less, thence with the line of said Buelna East three quarters of a league — Thence a line southerly parallel with the sea coast until it intersects the Arroyo del Butano at the distance of three

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quarters of a league from the coast; thence along said Arroyo & bordering thereon to its mouth, the place of beginning. The same being in extent three fourths of a square league a little more or less. For a more particular description reference being had to the original grant, & map contained in the Expediente from the archives now in the custody of the U. S. Surveyor General for California. The first of which, & a traced copy of the latter, are filed in the case.

Alpheus Felch.
Thompson Campbell.
R. Aug. Thompson.

Filed in Office Jany 30th 1854.
Geo: Fisher.
Secy.

340

4750-4751/4

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

I, George Fisher Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing forty pages, numbered from 1 to 40, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this office, in Case No. 336 on the Docket of the said Board, wherein Juan José Gonzalez is the Claimant against the United States, for the place known by the name of "San Antonio ó el Pescadero"

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this twenty third day of September A. D. 1854, and of the Independence of the United States of America the seventy-ninth

Geo: Fisher
Sy.

104 ND

U. S. DISTRICT COURT,

Northern District of California

No. 1104

THE UNITED STATES,

104 vs. ND

Juan Jose Gonzales

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 336

Filed, Sept 23d 1854

Woodworth Clk

No 336

Office of the Attorney General of the United States,

Washington, 30th November 1854.

José Gonzales
vs.
The United States.
} 336.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of August 1854 the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No 104

U. S. District Court

Northern District

The United States
vs.
José Gonzales

Appeal Notice

Sam Bryant & E. R. Sanders
Defendants
Filed January 8. 1855
J. M. A. Monroe,
Clerk,

One

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United States District Court for the Northern District of California

No. 104

Juan José Gonzales, Appellant vs. The United States — On Appeal from the U.S. Board of Land Commissioners for the State of California

To the Honorable Ogden Hoffman Judge of said Court

Juan José Gonzales the Petitioner herein, respectfully represents that on the 17th day of December A.D. 1833, José Figueroa, Governor of the Department of California, and having full power and authority by law, to make grants of lands belonging to the public domain, made to the Petitioner a Grant of a certain tract of land, situated within the Northern District of the State of California, called "San Antonio, or El Pescadero, bounded by the Ranch of Antonio Buelna, the Mountain, the Coast, and the Rivulet Butano, reference being here had for a more particular description, to the Original Grant thereof, and the papers on file in said Court,

That on the day of 1852, this Petitioner filed his Petition for the confirmation to him of the title to

said tract of land, in the United States Board of Land Commissioners, Organized by the Act of Congress Approved March 3d 1851, entitled "An Act to ascertain and settle the Private Land Claims in the State of California", and that thereafter such proceedings were had that said Commission on the days of 1854 rendered a decision in the said case, confirming his title to part of the lands embraced within said Grant, and rejecting his claim as to a part of said lands

Whereupon he appealed from said decision to said United States District Court.

The Petitioner prays this Honorable Court, to review said decision of the said Commissioners and decide on the validity of his said claim, and for such other and further proceedings as may be just and proper in the premises, And he will ever pray &c

V. E. Howard
For Petitioner

U. S. Dist. Court

No 104

Juan José Gonzales

— vs —

The United States

Petition

Filed April 18th 55
I A Monroe
Clk.

Service of a copy of the
within paper this 19 day of
April 1855 is admitted

S. W. Inge
U S District Atty
for John H. Godfrey

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True

V. E. Howard
for Petitioner

U. S. District Court for the Northern District of California

Juan José Gonzales
Appellant
vs.
The United States
} No 104

To Samuel J. Inge. U. S. District attorney for said District

You are hereby notified that Juan José Gonzales will prosecute a cross Appeal in the above stated case for a Confirmation of that portion of the claim which was rejected by the U. S. Land Commissioners, for the State of California, a Board Organized by the Act of Congress of March 3d 1851 in which case the United States has also taken an Appeal

San Francisco April 18th 1855

V. E. Howard
for Plaintiff

U. S. Dist. Court

No 104

Juan José Gonzales

~~Jas Morehead~~

~~Admr. of Wm Knight~~

vs

The United States

Notice of Appeal.

Service of a copy admitted this 19 day of April 1858

S. W. Inge

U S District Attorney

Jos John H. Godfrey

Filed April 19th 1858

Sam'l Throckmorton

Clk.

Two

In the District Court of the United States - for the Northern District of California.

The United States
Appellees
vs
Juan José Guerrero

No 1114.

The United States by their attorney deny the validity of the title set out in the petition of the said Appellants for all and any part of the claim therein prayed for, and pray that the decision of the Board of Commissioners be in all things reversed ~~affirmed~~ and that the said title be decreed to be invalid to all intents and purposes.

Respectfully
A. Russell Asst. U.S. Atty.

No. 104.

U.S. Dist Court

The U. States
v
Juan José Vasquez

Special Answer

Filed Oct. 16. 1855.
J. Ohlers
Deputy

Four

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A. G. Russell

District Court of the United States for the Northern District of California.

Juan Jose Gonzales
v.
The United States } No 104.

Know all men by these presents, that Wm B. Damerm and George W. Guthrie of the State of California, are held and firmly bound to the above named United States in the sum of two hundred dollars, to be paid to the said United States, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors & administrators, jointly and severally, by these presents.

Sealed with our seals and dated the nineteenth day of August in the year of our Lord one thousand eight hundred and fifty eight.

Whereas the above named appellant has prosecuted an appeal to the Supreme Court of the United States, at the City of Washington, in the District of Columbia, to reverse the decree rendered in the above suit by the District Court of the United States for the Northern District of the State of California

Now therefore, the condition of this obligation is such, that if the above named appellant shall prosecute his appeal to effect and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void, otherwise to remain in full force and virtue.

Witness our hands and seals the day and year above written.

Signed & sealed in presence of } W B Dameron

W. H. Chevers. G W Guthrie

Wm B. Dameron and George W Guthrie parties to the above bond, being duly sworn, each for himself says, that he resides in the Northern District of Cala and that he is worth the sum of Two hundred dollars over and above all his just debts & liabilities.

W B Dameron
G W. Guthrie

Sworn to & subscribed Aug: 19. 1858. before me.
W. H. Chevers,
A. P. Commissioner.

San Francisco
Aug: 19. 1858. } Affirmed.

Ogden Hoffman
Dist Judge

104.

U. S. Dist. Court.

Juan José Gonzales,

vs

The United States.

Appeal Bond,

Filed Aug: 19. 1858.
W. H. Chaves,
Clerk.

To the United States of America,

By P. Della Torre Esq. U. S. Attorney.

Greeting.

You are cited and admonished to be an appear at a Supreme Court of the United States, to be holden in Washington on the first Monday in December next, pursuant to an order of appeal granted on the nineteenth day of August A.D. 1858, by the District Judge of the District Court of the United States for the Northern District of California, in a certain suit wherein Juan José Guzaley is plaintiff and the United States are defendants on appeal, to show cause if any there be, why the decision in the said appeal mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco, this nineteenth day of August in the year of our Lord one thousand eight hundred and fifty eight.

Ogden Hoffman
Dist Judge

104

U. S. District Court.

Juan Jose Gonzalez

v.

The United States.

Citation

Due service within citation by U.S. Marshal, admitted this 19th Aug AD 1858.

P. Della Torre

Pl. S. Atty

Filed Aug: 19, 1858,

W. H. Chevers,

Clerk

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At a Stated Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of SAN FRANCISCO, on Thursday the 19th day of August in the year of our Lord one thousand eight hundred and fifty ~~seven~~ eight,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

Juan José Gonzales
v.
The United States

D.C. 104; L.C. 331.

In this case, on application of V. E. Howard Esq, Attorney for claimant, it is ordered by the Court that an appeal in behalf of the claimant from the final decision of the Court, rendered in said cause at the June 1858 term be and the same is hereby granted; ~~and~~ that the claimant file a bond with sureties in the sum of $200 to be approved by the Court; that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay, and that the appellants serve the usual citation according to law.

Ogden Hoffman
Dist Judge

104

United States District Court, Northern District of California.

Juan José Gonzalez

vs.

The United States

ORDER.

granting appeal

Filed Aug: 19. 1858.

W. H. Chevers

CLERK.

By

DEPUTY.

NORTHERN DISTRICT OF CALIFORNIA.

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UNITED STATES DISTRICT COURT.

The United States,
vs.
Juan José Gonzales.

CLERK'S FEES. No 104.

1854

Sept 23	Filing Transcript from Land Com:	"	20
	" Notice of appeal. (U.S.)	"	20
	" " " " (Clt)	"	20
	" & entering return of above,	"	30
	" 20 & " Rt: of Clt. service accepted.	"	50
	" Special Answer of U.S.	"	20
	" & entering Decree of Con:	1	10
	" & " order granting appeal.	1	10
	" & " " fixing amt of bond.	1	10
	Drawing & executing appeal bond.	5	00
	Filing do.	"	20
	Issuing Citation.	2	40
	" & entering Rt: of do.	"	50
	Dockets &c.	6	00
	" Clerk's Costs,	"	20
	Making appeal record 150 fol:	30	00
	Making Mah'n do.	7	50
	Certificate & Seal,	"	70
		$ 57	40

No. 104

United States District Court.

Northern District of California.

No. 104.

The United States.

vs.

Juan Josi Gonzales.

Clerk's Fees, $57 40/100.

Filed August 19, 1858.
W. H. Chevers,
Clerk

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Taxed at Fifty seven 40/100 Dollars.
W. H. Chevers, Clerk.

CLERK'S FEES.

IN THE DISTRICT COURT OF THE UNITED STATES.

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room in the CITY OF SAN FRANCISCO, on Saturday the fifth day of January in the year of our Lord one thousand eight hundred and sixty-one,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States.
v.
Juan José Gonzales.

D. No. 104.
L. No. 336.

And now comes the claimant Juan José Gonzales, by his Counsel A. P. Hepburn, Esq. and presents the Mandate of the Supreme Court of the United States, affirming the decree of this Court in this cause, as more particularly appears by reference to the said Mandate, whereupon, and on motion of the said Claimant, by his said Attorney it is ordered that the said Mandate be filed, and made a part of the record of this Court in this cause, and that the said Claimant may proceed under said Mandate, and under the decree of this Court as thereby affirmed, as under final decree.

Ogden Hoffman
U. S. Dist Judge

No. 104.

UNITED STATES DISTRICT COURT

Northern District of California.

The United States,

v.

Juan José Gonzales.

Order to file Mandate U. S. Supreme Court.

Filed January 5, 1861.

W. A. Clement, Clerk.

UNITED STATES OF AMERICA, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District Court of the United States, for the Northern District of California

greeting:

Whereas, lately, in the District Court of the United States, for the Northern District of California before you, in a cause between Juan José Gonzales, appellant and the United States, appellee, the decree of the said District Court was in the following words, viz: —

"It is ordered, adjudged and decreed by the Court that the said decision be in all things affirmed; and it is further ordered, adjudged and decreed by the Court, that the claim of the said Juan José Gonzales is a good and valid claim to the land known by the name of "San Antonio" or "Pescadero", to the extent and within the boundaries mentioned in the grant and map, the original of which former, and copy of which latter, are on file in the records of this case."

as by the inspection of the transcript of the record _____

_____ of the said District

Court, which was brought into the Supreme Court of the United States, by virtue of an appeal

agreeably to the act of Congress, _____

_____ in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty nine the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: On consideration whereof, it is now here ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause be and the same is hereby affirmed. — (12 March

You, therefore, are hereby commanded that such further _____ proceedings be had in said cause, _____

as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding:

Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and fifty nine. —

~~COSTS OF~~

~~Clerk~~..... $

~~Attorney~~.... $

$

~~Taxed by~~

Wm. Thos. Carroll

Clerk of the Supreme Court of the United States.

No. 104.

No. 107, December Term, 1859.

MANDATE

SUPREME COURT UNITED STATES.

Gonzales vs. U. States —

Filed January 5, 1861.

W. T. Carroll

Clerk.

To the honorable the judge of the District court of the United States for the Northern District of California

The petition of Samuel H. Bepe and Bartlett V. Weeks respectfully represents that the said Samuel H. Bepe is entitled to three undivided ninths of two thirds, & the said Bartlett V. Weeks to two undivided ninths of two thirds of the rancho known as the San Antonio or El Pescadero granted to Juan Gonzales by the Mexican nation in December 1833, that the said claim has been finally confirmed, surveyed by J. C. Mandeville Surveyor General of the United States for the State of California & on the 17th of April 1861 approved by him, & on the same day published for the first time in the San Francisco Herald a daily newspaper published in the city of San Francisco; that the interest as aforesaid of your petitioners is derived by conveyances & mesne conveyances from

the children & heirs of the said Juan Gonzales deceased.

Your petitioners object to said survey in this, that it includes in the survey only three quarters of a league of land, whereas it should have included four leagues of land; Your petitioners therefore pray the court for an order to be addressed to the said J. W. Mandeville Surveyor Genl. by observing directing him to return the said survey with this court to the end that the said error may be corrected.

H. P. Hepburn
for petitioners.

Personally appeared Samuel H. Beckle who made oath that he has read the foregoing petition & knows the contents thereof & that the facts therein set forth are true

Subscribed & sworn to
this 2nd day of May
A D 1861 before me
Saml C Hermann
Notary Public
In & for the City & County
of San Francisco
State of California

Saml H Beckle

No. 104.

U. S. District Court.

The United States.

— vs —

Juan José Gonzales.

Petition & affidavit
for the
return of Survey.

Filed May 7, 1861,
W. H. Chevers,
Clerk.

H. P. Hepburn,
atty for Petitioner

hold.

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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Tuesday the Seventh day of May in the year of our Lord one thousand eight hundred and sixty one,

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

v.

Juan José Gonzales,

IN LAND CASES.

District Court No. 104,

Land Com. No. 336,

AND now at this day on application of H. P. Hepburn Attorney for Besse & Weeks, IT IS ORDERED, that the Surveyor General of the United States for California return into this Court, on or before Wednesday, the 29th day of May A. D. 1861, his Official Survey and Plat of the land finally confirmed in the above entitled cause, known as "San Antonio, o el Pescadero", and situated in the County of Santa Cruz in said District; AND IT IS FURTHER ORDERED, that the United States Marshal for this District serve upon the said Surveyor General, without delay, a certified copy of this order, and make due return hereon.

No. 104.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Juan José Sanguiliés,

ORDER TO RETURN SURVEY.

Returnable May 29th, 1861.

Issued May 7th, 1861.

Filed May 7th, 1861.

W. H. Chever,

Clerk.

104 ND

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Served personally by copy on P. W. Marcuello & Jennings Guard this 7th day of May 1861

W. Thos Carey

By W. Thos Carey

Deputy

104 ND
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At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the CITY OF SAN FRANCISCO, on Wednesday the fifth day of June in the year of our Lord one thousand eight hundred and sixty-one,

Present:

The Honorable OGDEN HOFFMAN, *District Judge.*

The United States,

v.

Juan José Gonzales.

IN LAND CASES.

District Court No. 104.

Land Com. No. 336

AND now at this day the United States Marshal having made return upon the Monition heretofore issued in this cause, that he had given due notice as therein commanded; on motion of Wm. H. Sharp Attorney for the United States proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above entitled cause, appear and intervene for the protection of such interest;

The U. S. Atty. and P. Della Torre, Esq. appeared in behalf of the U. S. Jeremiah Clarke, Esq. appeared for Coburn, himself, and filed intervention. A. P. Hepburn appeared in behalf of the widow of Gonzales. Meek's ehdl. and on motion, he is hereby allowed 3 days to intervene in that behalf.

No other party appearing

whereupon IT IS ORDERED, that the default of all parties not appearing as aforesaid be and the same is hereby entered.

No. 104.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Juan José Gonzales.

ORDER ON RETURN OF MONITION.

Filed June 5th, 1861.

W. A. Chever,

Clerk.

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United States of America,) ss.
Northern District of California.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,
To the Marshal of the United States for the Northern District of California,

GREETING:—

WHEREAS, objection has been made to the official survey and location of the land finally confirmed, in case No. 104, to Juan José Gonzales known as "San Antonio o el Pescadero", and situated in the County of Santa Cruz in said District.

NOW THEREFORE YOU ARE HEREBY COMMANDED, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location, that they be and appear before the District Court of the United States for said District, sitting in Land Cases, on or before Wednesday, the 29th day of May A. D. 1861, at 11 o'clock, A. M. (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter,) then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

WITNESS, the Hon. OGDEN HOFFMAN, Judge of said Court, at San Francisco, in said District, this 7th day of May A. D., 1861.

W. H. Chevers,

CLERK.

The within Monition was received by me on Wednesday *the* 8 *day of* May 1861, *and in obedience thereto I have given due notice, as therein commanded, by causing the publication of said notice, for* 3 *consecutive Wednesdays, in the San Francisco Herald, commencing on the* 15 *day of* May 1861; *and for* 2 *consecutive* ~~Saturdays~~ Thursday*s, in the* Santa Cruz Sentinel *a paper published nearest the land, commencing on the* 16 *day of* May 1861.

Dated San Francisco, May 29 1861.

Wm Rabe

~~U. S. Marshal.~~

United States of America—Northern District of California, s. s.

WHEREAS objection has been made to the official survey and location of the land finally confirmed in case No. 104, to JUAN JOSE GONZALES, known as SAN ANTONIO, O EL PESCADERO, and situated in the County of Santa Cruz, in said District:

Now, Therefore, in pursuance of the monition of the District Court of the United States for said District, to me directed and delivered, I do hereby give public notice to all parties having, or claiming to have, an interest in such survey and location, to be and appear before the said Court, sitting in Land Cases on or before WEDNESDAY, the 29th day of May, A. D. 1861, at 11 o'clock A. M., (if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter), and then and there to intervene for the protection of such interest, or their defaults will be taken.

Dated at San Francisco, in the District aforesaid, May 7th 1861.

WM. RABE,
U. S. Marshal.

May 16—3t.

No. 104.

UNITED STATES DISTRICT COURT,
Northern District of California.
IN LAND CASES.

THE UNITED STATES.

v.

Juan José Gonzales.

MONITION.

Returnable May 29th 1861.

Issued May 7th 1861.

Filed June 5 1861.

W. A. Chenes
Clerk.

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In the District Court of the United States for the Northern District of California

The United States vs. Juan Gonzales } No. LC No.

Loren Coburn and Jeremiah Clarke intervene for their interest in the proceedings touching the survey, returned to the Court in the above entitled cause, and state and alledge as follows, viz; that they are the owners of the tract of land called "Butano", confirmed by this court to Manuel Rodriguez in case No (LC No 627) under conveyances to them from said Rodriguez, of all his interest in said tract called "Butano".

That said tract called Butano adjoins the tract confirmed to Juan Gonzales in this cause, on the South and East. and that whatever lines are finally fixed as the boundary lines of said Gonzales survey, will become thereby the

Northern and Western lines of the survey of the said tract called Butaw as the same should be finally fixed.

Said Coburn and Clarke ask therefore, to intervene in this cause and to become parties thereto.

J. Clarke
for himself and as
Attorney for L Coburn.

Jeremiah Clarke, whose name appears in the above Statement maketh oath that the same is true of his own knowledge except as to the matters therein stated on his information and belief, and as to those matters he believes it to be true.

J. Clarke

Sworn to and Subscribed June 5th. 1861. before me,
W. A. Cheves,
N. P. Com.

U States Dist Court
No — 104.
L C No 336.

The U States
vs
Juan Gonzales

Filed June 5. 1861.
W. W. Cheever.
Clerk.

Intervention of
Loren Coburn and
Jeremiah Clark —

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J Clark
Atty

No. 1054

United States vs Juan Gonzales } In the district court of the United States for the Northern District of California

The intervenors Samuel H Befse and Bartlett C Weeks except to the survey returned into court in this case for this, to wit: That the said survey includes only three quarters of a league of land whereas it ought to have included four leagues of land. They aver therefore that the said survey is erroneous, and pray the court that the same may be disapproved and that a new survey may be ordered directing the Surveyor General to include within the same the quantity of four leagues.

H P Hepburn
Atty for Befse & Weeks

104.

United States

vs

Juan Gonzales

Exceptions to Survey

by

Bee & Weeks.

Filed June 12. 1861.

W. H. Chevers.

Clerk.

In the District Court of the United States - Northern District of California

The United States vs Juan Gonzales } D. C. No 104 / L. C. No

Loren Coburn and Jeremiah Clarke, who intervene in the above entitled cause as owners of the adjoining tract called "Butano" confirmed to Manuel Rodriguez, except to the Survey returned to the said Court in said cause, by the United States Surveyor General, for this Tract, whereas the title of the claimant was confirmed in said cause, to a tract of land having the form of a rectangular parallelogram, and having a length of one league, from North to South and a breadth of three fourths of a league, from East to West, yet that the said Survey is of a tract, irregular in form, having an extreme length of more

than one and a half leagues, and a breadth varying from five eighths of a league. to one eighth.

They insist that the Eastern line of said Survey should have been located parallel to the Seashore, and at the distance of three fourths of a league therefrom, in conformity with the grant, diseño, and decree of confirmation in said case. Also, that the Southern boundary of said Survey should have been a straight line, extending from the mouth of "Butano" Creek Eastwardly and at right angles to said Sea Shore, and so as to conform to said grant, diseño and decree of confirmation

J. Clark
for himself, and as
Atty for Dr. Coburn

No. 104
L. & No.

U. S. Dist. Court

The U. States
vs
Juan Gonzales

Filed June 12. 1861.
W. ~~D.~~ Chevers.
clerk.

Exceptions to Survey
filed by Le. Column
and J. Clarke

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J. Clarke

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Juan José Gonzales

IN LAND CASES.

Dist. Court No. 104

Land Com. No. 336

BE IT REMEMBERED, that on this Eleventh day of July A.D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared Manuel Rodriguez a witness produced in behalf of the Cl't, and Ants. Pepe & Weeks in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being interpreted by N. D. Spalivalo a sworn interpreter.

PRESENT: N. P. Stephens Esq, for Intervenors Pepe & Weeks and Claimant, J. Clarke Esq for Intervenors Coburn & Clarke, and W. H. Sharp Esq. U. S. Atty.

QUESTIONS IN BEHALF OF THE Claimant & Pepe & Weeks,

Question 1st,

What is your name, age and place of residence?

Ans.

My name is Manuel Rodriguez, my age is 44 years, and I reside in

Santa Cruz County.

2.

When did you first know the Pescadero ranche?

Ans.

In 1839.

3

Who was in possession of that ranch at that time?

Ans.

Juan Gonzales.

4.

What number of cattle, animals and horses did he have on the ranche at that time?

Ans.

He had more than four thousand head of cattle, and between two and three hundred horses.

5.

About how many vaqueros did he have?

Ans.

Four or six who were always there.

6

Wh

6

What improvements did he have, ~~and~~ in houses, corrals, fencings, awnings &c?

Ans.

He had an Adobe house, also a frame house near the Butano, he had a large corral and a smaller one where the horses were kept and the cows milked. There were some awnings around the small frame house where the vaqueros lived.

7.

How far was the Adobe house and large corral from the sea?

Ans.

From the Adobe house to the sea shore was about three thousand varas, and from the Adobe house to the corral it was about three hundred varas more.

8.

How far is the small house near the Butano from the sea?

Ans.

About four thousand varas, I do not think quite so much.

9.

Did the cattle and horses you have spoken of continue on the ranchs till 1846 and afterwards?

Ans.

In 1846 I was not there, being sick, but afterwards I was, and saw a good many cattle and horses.

10.

What are the boundaries of the ranchs?

Objected to on the ground that parol evidence is substituted for documentary proof.

Ans.

To the South the Butano to the North the boundary of Antonino Buena, — the Cañada Pampanio, to the East the mountains, and to the West the sea.

11.

the West the sea.

11.

What was the extent of the occupation by the cattle and horses?

Ans.

Everywhere within the boundaries I have described.

12.

Within three quarters of a league from the sea, between the Butano and the Pomponio what sort of pasture land is it?

Ans.

It is not very good, it is the worst of the ranch.

13.

How many head of cattle would the tract be described, support?

Ans.

If this tract was fenced so that cattle could not get out according to my best knowledge five hundred head would fare very badly.

14.

Was the whole of the land included in the boundaries

you have described necessary for the support of the cattle and horses, thereon, when you knew it?

Ans.

It was.

15.

During all the time that you knew this ranche was it exclusively occupied by the cattle of Gonzales?

Ans.

It was.

Cross Examination
Questions by Counsel for Intervenors Coburn and Clarke

Ques: 16.

How recently have you been over the Pescadero ranche?

Ans.

I was there about two months ago. I passed through the tract from North to South by the

present travelled road.

present travelled road.

17.

On which side of that road, do you think a line would be, drawn parallel with the ocean at the distance of three fourths of a league?

Ans.

I cannot say as the road is very crooked.

18.

You have stated that the land lying to the West of this line, is the poorest part of the tract, how far to the Easterly of this line does the land continue to improve in quality?

Ans.

From a deep Cañada which goes towards Sampanis from a store near the Pescadero to the East is the best grazing land.

19

About how far is it from the ocean to the top of the mountains across this tract?

Ans

I have never measured it but I think it is three leagues to the top of the mountain.

21.

Does it continue to be good pasture land all the way to the top of the mountains?

Ans.

It is generally good.

21.

At the time you first knew the Pescadero tract in 1839, what was understood to be the Northern boundary of the rancho called Punta del Señora, and by whom was the rancho then occupied?

Ans

I do not exactly remember who occupied it, but my best recollection ~~was~~ is that it was Eugenio Soto, The Northern boundary was known to be the Arroyo Gurgias.

22.

About what is the distance from the Butano creek to

the Arroyo Gurgias?

the Arrayas Garzias?

Ans.

I do not know.

23.

Does the Garzas creek where it empties into the sea, lies to the North or South of the point known as Pigeon point, Storehouse rock, or Punta de Ballena, ~~if~~ and how far from that point?

Ans.

It lies to the South, about one thousand varas more or less.

Direct examination resumed
Questions by Counsel for Intervenors Pepe, Meeks, and Amt.

Ques: 24.

Are not the grapes salt and inferior near the sea-shore, and do they not gradually improve towards the mountains?

Ans.

They are salt and inferior and improve as you go

up towards the mountains.

Cross examination resumed
Questions by Counsel for
Intervenors Coburn and Clarke

Ques: 25.

Is not the whole shore
from the mouth of the
Pamponis to near the mouth
of the Butans a perpendicu-
lar cliff of rock from
eighty to one hundred feet
high?

Ans.

It is in some places, but
not so throughout, and
the height is not so much.

Direct examination resumed
Questions by Counsel for Inter-
venors Pope & Meaks and Claimants

Ques: 26.

What preparation of his
time did Gonzales pass
upon his ranch?

Ans.

Ans.

From one third to one half of his time. He never failed to be there Saturdays to give his orders to the vaqueros.

27.

Was there danger from Indians in that neighborhood before the Americans came?

Ans.

Yes, very much danger.

M. Rodriguez

Sworn to and subscribed July 11. 1861. before me,

W. A. Chaves,
U. S. Com

No. 104.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

V.

Juan Josi Gonzales

DEPOSITION OF

Manl Rodriguez

on part of Intervenors

Bessee et al. & Ellt.

Filed Aug: 21, 1861.

W. H. Chevers,

Clerk.

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In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Juan José Gonzales

IN LAND CASES.

Dist. Court No. 104

Land Com. No. 336

BE IT REMEMBERED, that on this Eleventh day of July A. D., 186✓, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared Cornelio Perez a witness produced in behalf of the Clt. and Intrs. Pope & Weeks in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: his evidence being interpreted by A. D. Splivalo a sworn interpreter.

PRESENT: H. P. Stephens Esq. for Intervenors Pope & Weeks and Claimant. J. Clarke Esq for Intervenors Coburn & Clarke, and W. H. Sharp Esq, U. S. Atty for the U. S.

QUESTIONS IN BEHALF OF THE Claimant & Pope & Weeks

Question 1st,

What is your name, age and place of residence?

Ans.

My name is Cornelio Perez my age is 32 years, and I

reside in Santa Cruz County.

2.

Did you know Don Juan Gonzales in his lifetime?

Ans.

I did.

3.

Did you know when he first went on to the Ranchs of Pescadero or San Antonio?

Ans.

I don't remember when he went to live there with his family, but I remember when he started the ranch, which I believe was in the year 1830 or 1831, at that time he began to stock it with cattle.

4.

How many animals did he put on it when he founded the ranch?

Ans.

More than seven hundred head of cattle.

5.

How long did Gonzales live

there?

there?

Ans.

The year that he stocked the ranch with cattle he had servants to live there, but at that time he did not stay there continually himself, because his family staid in another place.

6.

When did he, and his family go to live permanently on the ranchs?

Ans.

I do not remember in what year. I do not remember whether it was in 1850 or 1851.

7.

What houses or improvements did Gonzales put on his ranch, and when?

Ans.

He had an Adobe house, and another frame house ~~on~~ the creeping of Butano. The adobe house was built the year after the foundation of the ranch and near the Pescadero creek. The vaqueros made a

corral near the frame house and there milked the cows. They also had awnings around that place.

Counsel for Intervenors Bepe & Nicks, and Claimants, now offers, map marked "Exhibit A," of the Rancho Pescadero surveyed by Chas. T. Healy and S. W. Smith.

Counsel for Intervenors Cohurn and Clarke objects to the introduction of the exhibit first, on the ground that the assumed surveyor should have been examined at the time of introducing the exhibit, and second, because the exhibit is not a plat of an actual survey, but merely a fancy sketch.

8.

Look upon the map now shown you marked "Exhibit A" and point out if you can where the adobe house

and frame house, put up

and frame house, put up by Gonzales are situated?

Question withdrawn.

9.

How far in your judgment is the State house from the sea?

Ans.

I don't know.

10

Is it a league?

Ans.

I don't know.

11.

How far in your judgment is the house on the Butano Rafo from the sea?

Ans.

I don't know.

12.

Can you state whether it is a league and a half?

Ans.

I believe not.

13.

You have stated that when Gonzales founded his ranch he put seven hundred

head of cattle on it, have you any personal knowledge of this fact?

Ans.

Yes, because I helped to drive in the cattle.

14.

In 1846 or about that time how many head of cattle had Gonzales on that ranch?

Ans.

I do not remember exactly how many cattle he had there in 1846, but in 1840 they were estimated at four thousand, the greater number that were drove into the corral were counted, but those in the hills were estimated.

15.

Did those cattle, which were thus counted and estimated in 1840, with their increase, remain there until 1846?

Objected to because it is leading, and the witness has already stated that he

did not know the number of

did not know the number of cattle in 1846?

Ans.

I do not know whether in 1846 he had more or less than in 1840, because a good many were butchered every year.

16.

Were the cattle of Gonzales always on the ranch more or less from 1831, until Gonzales died?

Ans.

The cattle were always there. I do not know the quantity, but the cattle remained on the ranch until they were finished.

17.

Can you say, more or less, estimating by hundreds or thousands, how many cattle were on the ranch in 1846?

Ans.

I cannot say whether there were four thousand either more or less, for as I

said before, he killed a good many every year, however the quantity then remaining was very considerable.

18.

Were you in the habit of visiting Gonzales on this ranch, during the period between the years 1831 and 1846?

Ans.

I was.

19.

State what were the boundaries of this ranch and the limits of the occupation by the cattle?

Objected to as attempting to prove by parol, boundaries which are already proved by documentary proof.

Ans.

The boundaries as they were then recognised were from the Arroyo Butano to the Cañada of Pampanio, colindante with Antonino Buelna and from the sea to the Sierra. These were also the limits of the

occupation by the cattle

occupation by the cattle and horses. of which latter he had about three hundred head.

20

You have stated that you assisted in putting the cattle on the ranchs in 1831 when it was founded. State where they occupied at that time?

Ans.

They were left free on the ranchs Pescadero where they grazed, and also along Butano creek.

21.

Did not the cattle and horses range from the beginning over the entire ranch within the limits described by ~~[illegible]~~?

Ans.

Yes they did. I know this because I very often went to keep them, when they gave rodeos, to gather the cattle which were spread all over the ranch, from the seashore to the mountains.

22.

How many corrals had Gonzales on this ranch?

Ans.

He had two - a large one, and a smaller one.

23.

On what part of the ranch was the large corral?

Ans.

The large corral was near the Adobe house, which was near the Pescadero creek.

24.

On what part of the rancho was the small corral?

Ans.

It was near the Butano roofing, where his servants milked the tame cows.

25.

In what direction from the Adobe house was the large corral, was it towards the sea, or hills?

Ans.

It was towards the hills — ~~wa~~ the large corral was

where the cattle were shut

where the cattle were shut in to be branded.

26.

What sort of grazing land is the land bordering on the sea between the Butano and the Pomponio, running back three quarters of a league?

Ans.

It was good pasturage for cattle, because they also ate the brush.

27.

Is that tract better or worse than the rest of the rancho, towards the hill, for grazing purposes?

Ans.

It is all good grazing land, from the sea to the mountains.

28.

Do you know of your own knowledge whether Gonzales cut timber on this rancho at any time, if so state when, where and for what purpose?

Ans.

He did cut some timber, the first he cut was up above the

Butano creek in the mountain for building his house when he founded the ranch, he also cut some for fences, corrals and everything needed on the ranch.

Cross Examination
Questions by Counsel for Intervenors Coburn and Clarke.

Ques: 29.

How did Gonzales draw the timber down ~~to~~ the creek, was it by dragging, or hauling it on a wagon?

Ans.

He dragged it with oxen, wagons could not go up where the timber was cut.

30.

Was there continued to be a trail there, ever since?

Ans.

I don't know.

31.

On what side of the Butano

was the trail down which

was the trail down which he drew the timber?

Ans.

He searched for a better road sometimes crossing over and back again.

32.

On which side of the creek did Gonzales cut the timber?

Ans.

On both sides.

33.

What was the distance as near as you can estimate from the place where he cut the timber, to the sea?

Ans.

I do not know.

34

Was it four leagues?

Ans.

I do not know.

35,

Then for anything you know it might be more than four leagues?

Ans.

I do not know whether it is one league, half a league

or what was it's distance.

36.

Do you wish to be understood as stating upon your oath, that you don't know that it was more than half a league?

Ans.

I do not know, I cannot say whether it was one league either more or less.

37.

Can you state how far it was above Gonzales frame house?

Ans.

I cannot.

38.

Were you frequently present at the rodeos that Gonzales gave?

Ans.

Yes I was frequently present for very often when he could not attend himself, and I was in my house, he would employ me to go there and act as his Mayor Domo.

39.

39.

State what neighboring rancheros were present at those rodeos at different times?

Ans.

The only neighboring rancheros during the first years were Jose Antonio Galindo and Antonino Buelna, they came to the rodeos very seldom, and only ~~during~~ when cattle were branded, most of the time they were away from their ranchos. The Galindo of whom I speak is the son of Romana Sanchez.

40.

State if upon the occasions of these rodeos there would be found mixed with the cattle of the person holding the rodeo also the cattle of the neighboring rancheros?

Ans.

Yes, sometimes cattle of these neighboring rancheros would be found mixed with Gonzales

cattle, but this very seldom ~~because~~ and the greater quantity belonging to Antonino Buelna, because Gonzales would never allow the cattle of Galindo to crop the Butano to his ranch.

41.

Did Antonino Buelna ever have rodeos on his ranch?

Ans.

Yes.

42.

Would he ever find any of Gonzales cattle, with his, and seperate them?

Ans.

Whenever Gonzales wanted to brand his cattle he would ask Buelna to give a rodeo and then we would go over and bring the cattle belonging to Gonzales.

43.

How far in the direction of Buelna's ranch from Gonzales corral, would Gonzale's cattle sometimes stray?

Ans

Ans.

I cannot say how far, they sometimes strayed over, and mixed with Buelna's cattle.

44

In those days were there any fences between adjoining ranchos, to prevent cattle straying as they pleased?

Ans.

There were not.

45.

How far did Buelna's tract extend from the sea Eastwardly to the tops of the mountains?

Ans.

I don't know.

46.

Have you ever been to the tops of the mountains opposite Lanzale's and Buelna's ranchos?

Ans.

I have been everywhere in those mountains.

47.

State according to the best of your opinion the distance from the tops of those mountains

to the sea?

Ans.

I do not know.

48.

Have you any opinion about the distance?

Ans.

My opinion is that it may be one league more or less.

49

Do you think it is more than a league?

Ans.

I have said that I do not know whether it is one league more or less.

50.

Was there any adjoining ranch owned to the East of Gonzales?

Ans.

I never knew of any.

51.

At the time when Gonzales founded this ranche whose cattle pastured between it and the present town of Santa Cruz?

Ans.

It was the cattle belonging to the Mission of Santa Cruz.

52.

Where was the point nearest to Gonzales that there was a corral or houses for the vaqueros, of the cattle of the Mission of Santa Cruz?

Ans.

At the Punta of Año Nuevo was the nearest place where the vaqueros from Santa Cruz had a corral, and house,

Direct Examination resumed

Questions by Counsel for Intervenors Pepe & Nunes and Alt.

Ques: 53.

Before Gonzales went to live on the ranch with his family, was he often there himself, and did he have vaqueros there?

Ans.

He used to go there very often, and always had

vaqueros living there.

Cross Examination resumed
Questions by Counsel for
Intervenors Coburn & Clarke.

Ques: 54
Was the house and corral
of Galindo near the Butano
creek?

Ans.
He had a small house
there.

Cornelio his ✗ mark. Perez

Sworn to and subscribed July 11.
1861. before me.
W. T. Chevers,
U. S. Com.

No. 104.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

V.

Juan José Gonzales.

DEPOSITION OF

Cornelio Perez

on part of Claimant, &

intervenors Besse, et al.

Filed Aug: 21. 1861.

W. H. Chever

Clerk.

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Juan José Gonzales

IN LAND CASES.

Dist. Court No. 104.

Land Com. No. 336.

BE IT REMEMBERED, that on this Ninth day of August A.D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared R. C. Hopkins a witness produced in behalf of Claimant in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by~~ ~~a sworn interpreter~~.

PRESENT: A. P. Hepburn in behalf of Claimants - J. Clarke - for self and others - U.S. Dist. atty. for U.S.

QUESTIONS IN BEHALF OF THE Claimants

Question 1st,

What is your name, age, residence and occupation?

Ans R. C. Hopkins - over 21 years of

age, San Francisco. Keeper of the Spanish and Mexican Archives in the office of the Surveyor General of the United States for California.

2 Have you examined the Expediente in the case of the claim of Juan Gonzales for the Rancho of San Antonio or Pescadero

Ans I have.

3 In whose hand writing is a note on the diseño of the said Expediente, and which is in the following words.

"De Norte a Sur tiene una legua de largo y de este a oeste tiene tres quartos de legua"?

Ans It is in the hand writing of Agustin V. Zamorano, Secretary of State under Figueroa - at the date of the Grant.

4

4 Have you compared the handwriting of the other parts of the diseño with that of the petition of Gonzalez for the Grant

Ans 5 I have

Are they in the same handwriting? I mean the rest of the diseño, except the note, and the Petition &c

Ans 6 I think they are.

Is this handwriting a diffrent hand writing from the handwriting of the note on the diseño aforesaid?

Ans 7 It is.

Have you examined the diseño in the Grant of the Puente de Año Nuevo?

Ans I have

8 Does that diseño call for the line of Gonzales? If so, to to what extent?

(Objected to by Intervenor as proving by parol the contents of a document which speaks for itself.)

Ans. In the Expediente of the Punta del Año Nuevo the diseño shows the Northern boundary of the Año Nuevo to be a line drawn from the Cuesta to the Sea, upon which line is written the words "lindero de Juan Gonzales".

9 Was the Grant of Punta del Año Nuevo subsequent to the Grant to Gonzales?

Ans It was.

Cross Ex.d by Mr Clarke.

10. What other parts of the Gonzales

Expediente are in the hand writing of

Expediente are in the hand writing of Zamorano?

Ans. The Certificate signed by Zamorano that he had made known to the Party interested the decree of the Governor, is in the hand writing of Zamorano - dated 24th December 1833 -

" Which is the nominative to the verb "tiene", expressed or understood, referred to by you in your first answer in regard to the note in the Expediente

Ans The nominative understood is "the land."

Deposition closed R. C. Hopkins.

Subscribed & Sworn to before me this 9th day of Aug. 1861
W. G. Cheever
U. S. Com.

104

U. S. Dist. Court
Northern District
of California -

The United States

v

Juan José Gonzales

Deposition of R. C.
Hopkins - for Claimt -

Filed Aug: 21. 1861.
W. H. Chenery,
Clerk

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$3.90 -

In the District Court of the United States

FOR THE NORTHERN DISTRICT OF CALIFORNIA.

The United States,

v.

Juan José Gonzales

IN LAND CASES.

Dist. Court No. 104

Land Com. No. 336

BE IT REMEMBERED, that on this 20th day of July A.D., 1861, at the City of San Francisco, in the District aforesaid, before me, WM. H. CHEVERS, a Commissioner duly appointed by the Circuit Court of the United States for the Districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the Courts of the United States, pursuant to the Acts of Congress in that behalf, personally appeared S. Marsly Smith a witness produced in behalf of the Clt. & Int.rs Bepe & Weeks in the above entitled cause, now pending in said Court under the Acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows: ~~his evidence being interpreted by~~ _____ ~~a sworn interpreter~~.

PRESENT: H. P. Hepburn Esq. for Intervenors Bepe & Weeks and Claimant. J. Clarke Esq. for Intervenors Coburn & Clarke, and W. H. Sharp Esq. U. S. Atty for the U. S.

QUESTIONS IN BEHALF OF THE Clts. & Bepe & Weeks

Question 1st,

What is your name, age, ~~and~~ place of residence, and occupation?

Ans.

My name is S. Marsly Smith, my age is twenty four years,

I reside in the City of San José, and am a Surveyor by occupation.

2.

Who made the survey of the rancho Pescadero?

Ans.

I did.

3.

Look on the map marked Exhibit A. and state who made it?

Ans.

I made it.

4.

What does that map delineate?

Ans.

It delineates the topography of the country known as the Pescadero ranch.

5.

What are the boundaries of that ranch according to this map?

Ans.

It is bounded on the North by the Pamponis creek, on the South by the Butano creek, on the East by a

creek, on the East by a range of mountains, and on the West by the Pacific Ocean.

6.

Have you a personal knowledge of the tract contained within those boundaries?

Ans.

I have.

7.

About how many leagues are contained within those boundaries?

Ans.

Between three and four leagues.

8.

Do you know the locality of the Adobe house, or the remains of an adobe house on that tract, built by Gongales, if so, state whether that adobe house, or it's remains falls within, or without the boundary lines of the official survey made by you?

Ans.

I know the locality of the foundation of the old house.

of Gonzales, and the same lies without the boundaries of the ranch as surveyed by me.

9.

~~Ans~~ What distance outside?

Ans.

About a quarter of a mile.

10.

~~Does the Eastern line~~ Are the limits of the official survey made by you indicated on the map marked Exhibit A?

Ans.

Yes sir, they are.

11.

When you say the Adobe house is a quarter of a mile outside of the official survey, in what direction does it lay?

Ans.

It lies a quarter of a mile ~~of a mile~~ East of the Eastern line.

12.

Is the foundation of the Adobe house indicated on Exhibit A. if so is it properly located thereon?

-erly located thereon?

Ans.

It is located on Exhibit A, and properly so.

13.

At whose request and for whom did you make the official survey?

Ans.

I made it under direction from Mr. Healey as his compasman.

14.

Do you know of your personal knowledge whether the natural objects and the topography of the country purported to be delineated on the map marked Exhibit A, are truly delineated?

Ans.

I do know that it is.

Counsel for claimant and Intervenors Pope and Weeks offers in evidence the map marked Exhibit A, to be annexed to this deposition.

Cross Examination
Questions by Counsel for
Intervenors Clarke & Coburn

Ques: 15.

Was Mr. Healey present at the time of making this survey?

Ans.

He was not.

16.

How long were you engaged in making it, on the ground?

Ans.

I was four days in actual survey upon the ground.

17.

Were you ever in that part of the country, before or since the making of this survey?

Ans.

I was not.

18

Which of the lines upon Exhibit A, did you actually run with chain and compass?

Ans.

The line corresponding with course 25 on the official survey, and extending from the Pampa=

nio creek, ~~extending~~ East=

nio creek, ~~extending~~ East-
wardly to the most Northern
point of the ~~land~~ plat, ~~was~~
is the only line shown on
Exhibit A, that I actually
run with the compass and
chain; the closing line
which I run is not
shown upon this map, because
it took in too much land,
the line as shown I made
by calculation.

19.

With what was that line
to close?

Ans.

That line closed with the
line of the Butano ranch
on the Butano creek, as
the said line of the Butano
ranch had been previously
surveyed by a U. S. Deputy
Surveyor, also the shore
line of the Pacific Ocean, also
the line of the ranchs San
Gregorio on the Pomponio
creek, and as the Surveyor
General had given us instruc-
tions not to retrace any of

those lines, I had only the closing line to run between the San Gregorio and the Butano ranchos. The field notes of the shore line of the Pacific were given me by the Surveyor General as having been run by C. C. Bracy U. S. Deputy Surveyor in making public surveys, and also the connection of that line with the Butano and San Gregorio ranchos.

20.

What was the area included within the closing line as actually run by you and the other lines of the tract?

Ans.

I don't recollect exactly but I think it was about 3600 acres.

21.

What was the distance from the point where said closing line as actually run, struck the Butano creek, and the point where the line, as returned upon the plat

delineated upon the plat

strikes said creek?

Ans.

About ten chains.

22.

Did you take the bearings of the foundation of the old Adobe house of Gonzales, so as to precisely fix it's location upon the plat and exhibit?

Ans.

When I run the closing line I ~~took~~ noticed the distance when I got to the West of the house, but did not take it's bearing by compass, or measure the distance.

23.

Did you take the bearings of the "Postoffice" represented on the Exhibit, or measure it's distance?

Ans.

I did not.

24.

Was not the "Postoffice" been delineated on said map from your memory and general impression?

Ans.

It was not. I took it from surveys made by the County Surveyor of Santa Cruz County.

25.

Did you note in your field notes the distance at which your closing line ~~ca~~ run across the Pescadero creek?

Ans.

I did.

26.

State whether the closing line as returned crosses the creek at the same distance?

Ans.

I think not.

27.

From what data then was the Pescadero Creek laid down upon this exhibit?

Ans.

Partly from the general direction of the creek taken with the compass ~~[illegible]~~ when I traced it, and partly from

memory.

memory.

28.

Do you not know that the Postoffice stands upon the very bank of the creek?

Ans.

I do not.

29.

How far is the Postoffice from the Pescadero Creek, as shown upon this Exhibit?

Ans.

It is about half a mile.

30.

~~Did you take~~ the direction of the Pescadero creek at any other point than at the crossing referred to?

Ans.

I took the direction at one other point above. The creek has never been actually surveyed so far as I know.

31.

State whether the Butano creek is represented according to any actual survey, or according to your impression of it's direction? I mean

above your connecting line?

Ans.

It's general direction is partly from surveys and partly from my own judgment.

32.

How far is it from the Eastern portion of the tract represented on Exhibit A, to the summit of the mountains?

Ans.

I never measured it, I should judge it to be between four and five miles.

33.

Have the mountains in that region any distinct line of base, or does the mountain side continue to descend all the way from the summit to the ocean?

Ans.

It has no very distinct base it is cut up by cañons and ravines, and upon the North side the mountains generally extend nearly if not quite to the ocean. As a general

thing on the rest of the

thing on the rest of the ranch they do not.

34.

If the Eastern line of Exhibit A does not represent the summit of the mountain, nor the base of the mountain, and has not been drawn to cut off any specified quantity of land, is it not a purely arbitrary line with reference to this tract?

Ans.

The Eastern line was intended to represent a corresponding line on the diseño

35.

Does the land on this tract descend gradually to the shore or does it terminate in an abrupt and high rocky bluff?

Ans.

In some places there are rocky bluffs, in some places low sandhills, the general configuration of the country ~~[illegible]~~ is a high bluff, varying from twenty

to seventy five and one hundred feet in heighth. The sandhills extend about half a mile from the Butano creek, the rest is a high rocky bluff

36.

What is the ~~distance~~ length of the Eastern line as shown on the plat returned in this case?

Ans.

It is one league and seven-tenths.

37.

What is the greatest breadth of the land, as shown on the plat?

Ans.

Three fifths of a league.

38.

If the tract had been surveyed one league in length and of the breadth of three fourths of a league, or such breadth as would have included three fourths of a league in area would it not necessarily have in=

cluded the old adobe house

cluded the old adobe house of Gonzales?

Ans.

In a rectangular form it would.

Direct examination resumed
Questions by Counsel for Plt, and Intervenors Bejar & Weeks

Ques: 39.

If a rectangular form had been adopted, could both of the boundaries to wit: the Butano and the Pamponio, have been reached?

Ans.

They could not. It could have reached them but not followed them.

40.

How do the grapes within the limits of the official survey, compare with the grapes further East?

Ans.

They are inferior.

41.

Does the ~~grapes in the canons~~

Pasturage run back to the summit of the mountains?

Ans.

It does.

S. Worsley Smith

Sworn to and subscribed this 20th day of July, A. D. 1861.

~~W. C.~~ Chenault.
U. S. Commr.

No. 104.

UNITED STATES DISTRICT COURT

Northern District of California.

IN LAND CASES.

THE UNITED STATES,

v.

Juan José Gonzales.

DEPOSITION OF

S. Worsley Smith

on part of Plaintiff and

Intervenors Bosse et al.

Filed Aug: 21. 1861,

W. H. Chevers,

Clerk.

104 ND

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1 Exhibit

U. S. Dist. Court
Nor. Dist. Cal.

U. S.
vs
Juan José Gonzales

Clark for intervenors - the owners of the Butano Rancho confined to Manuel Rodriguez

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The decree confined it 3/4 of a league - and this decree was affirmed by the Supreme Court.

The survey is of the right quantity - but it about a league & 1/2 in length and of narrow in proportion - whereas all the decrees & papers documents show it to be 1 league in length & 3/4 of a league in width

The quantity is specified in the 4th condition - & the solicitude reserved -

Inscription on the diseño - proved to be in handwriting of Amorano -

This was a Figueroa grant. which were all small grants.

Assuming that the quantity is to be limited to 3/4 of a league what is to be its form?

The form of the offered Plat & survey does not correspond with any description in the grant or decree

(N.B. The question is did the Government intend to grant the land between the Butano and San Gregorio Rancho which is about the length specified and then run up the Butano)

Hepburn —

2 cases have been decided as to quantity

Rosa Pacheco's case & Gonts' case

If the back line of the survey is maintained it will exclude his house & improvements

3

Della Torre – for U. S.

I contend that ~~to~~ one half of what is claimed should be granted to each of the opposing parties.

The only interest Mr. Clarke has is to have the Gonza les survey so made as to leave land to the North of the Butano for the Rodrigues grant —

But in no event can the Rodrigues grant drop the Butano —

1. The Butano in the Gonza les case is the Southern Creek —
2. The testimony in that case also fixes of Rodrigues fixes his Northern boundary at the Butano
3. & the grant fixes it in the same way. —

1. Map of 1838 in Rodriguez expediente —

4

The petition in the case only asks for 3/4 of a league —
There is no claim in the case for more
N. B. Petition amended on appeal

104.

U. S. Dist: Court.

The United States

— vs —

Juan José Gonzales.

Notes of Argument.

Aug: 27. 1861.

Juan Gonzales
to Maria C. Alzina

Know all men by these presents that I Juan Gonzales of the County of Santa Cruz California for and in consideration of my paternal love and affection towards my sister Maria Carlota wife of Francisco Alzina have given and ceded and by these presents do give, cede, convey and transfer to the said Maria Carlota her heirs and assigns all my right and interest in a piece of ground which is part of my Rancho de "San Antonio" in the County of Santa Cruz towards the coast and above the Rancho "de la Punta del año nuevo" and being in extent two hundred acres, more or less, said place being known as "El Rodeo Viejo" bounded by the "arroyo del Pescadero" the survey of the same to be done by the County Surveyor under my direction. Ceding to the said Maria Carlota all my right and interest in said piece of ground together with the fruits, profits, and rents of the same.

That she and her heirs and

assigns may have it for their ~~use~~ absolute use and benefit forever, so that neither I nor my children nor any body may claim it in the future—

In witness whereof I sign this in Santa Cruz the 15th day of September 1852 with my hand and seal —— The word "Pescadero" that was before was taken out and in its place was written the word "San Antonio" ~~[illegible]~~

witness —
Peter Tracy.

Juan Gonzales (seal)

1

Juan Gonzales To Maria C. Alzina

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Conste por este que yo Juan Gonzalez del Condado de Santa Cruz, California por y consideration del amor y cariño fraternal que tengo para mi hermana Maria Carlota Muger de Francisco Alzina he dado y concedido y por estas presentes doy y concedo enagano y pasi a la dicha Maria Carlota y a sus herederos y asignatorios todo, el derecho y interes que tengo en un pedazo de terreno siendo ello parte de mi Rancho de San Antonio Situado en el Condado de Santa Cruz ~~en la Costa en la costa~~ y mas ariba del Rancho de la Punta del año nuevo y de 4 leucion de dos cientos acres mas o menos, dicho paraje Conocido Como El Rodeo Viejo Colindando con el arroyo del Pescadero el plano de lo cual se ha de hacer el agrimensor del condado bajo mi direccion, Cediendo a la dicha Maria Carlota todo, derecho y interes que tengo en dicho pedazo de terreno y su los frutos ganancias y rentas de ello — Para que ella y sus herederos y asignatorios lo tenga para su sola y absoluto uso y beneficio para siempre de modo de que ni yo, ni mis hijos ni ninguno puede reclamarlo en lo futuro — Y para que Conste doy este en Santa Cruz el dia —

quince de Setiembre de 1852, bajo mi firma y Sello La palabra "Pescadero" que antes decia se borro. - La palabra "San Antonio" Vale

Testigo } Juan Gonzalez } Seal }
Peter Tracy }

State of California }
County of Santa Cruz } on this Seventh day of September AD 1852 before me Peter Tracy County Clerk in and for said County personally came Juan Gonzalez to me known to be the person described in & who executed the foregoing instrument and who acknowledged that he executed the same freely and voluntarily & for the uses and purpose therein mentioned Witness my hand ~~xxxxxxxx~~ & Seal of office the day and year above written
} Seal } Peter Tracy Clerk
Filed for Record Sep 18th 1852. at 6 o'cl P.M.
Attest Peter Tracy Recorder

State of California }
County of Santa Cruz } I D J Haslam Co Recorder of Santa Cruz do hereby certify that the foregoing pages 1 & 2 inclusive is a full true & correct Copy of an Instrument now of Record in my office in Vol. 1 of Deeds page 421.
Witness my hand and official Seal this 14th day of May AD 1861
D J Haslam
Co Recorder

104.

Deed

Juan Gonzales
To
Maria Alzina

Sept. 15. 1852

U. S. Dist. Court.

The United States.
—vs—
Juan José Gonzales.

Deed from
Juan Gonzales to
Maria Alzina.

Filed August 27. 1861.
W. H. Clement
Clerk.

104 ND
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A. P. Hefbairn,
Atty for Ctt.

Juan Gonzales to
Felipe & Louis Gonzales
Know all men by
these presents that I Juan Gonzales
for and in consideration of friendship
and fraternal love that I bear towards
my brothers Felipe Gonzales ~~y~~ & Louis
Gonzales & have given, transfered and
by these presents I cede to the said
Felipe Gonzales ~~y~~ and Louis Gonzales and
their heirs for ever a piece of ground
which is part of my Rancho known
by the name of "Rancho de San Antonio"
or "Pescadero" situate in the County of
Santa Cruz California being in extent
and beginning at the corner of Moore
towards the southwest to the Lagoon
thence following the "Cañada" to the
other Lagoon and passing through the
middle of said Lagoon thence towards
the south to a point where the road
intercepts the "arroyo del Butano"
thence towards the south following the
said "arroyo" to its head, thence follow-
-ing the hills to the corner of Moore
towards the southeast and thence to the
point of beginning — The upper part
for Louis and the lower part for Felipe,

So that they and their heirs forever may have it and that they may claim it.

In witness whereof I signed this in the County of Santa Cruz the 30th of September 1852.

witnesses
H. Hyna
H. H. Parrow.

Juan Gonzales.

Juan Gonzalez To. Felipe & Louis Gonzalez.

Conste por este que, yo Juan Gonzalez por y en consideracion del amistad y amor fraternal, que tengo para con mis hermanos. Felipe Gonzalez y Louis Gonzalez, he dado pasado y cedo a, los dichos Felipe Gonzalez y, Louis Gonzalez y a sus herederos para siempre un pedazo de terreno siendo parte de mi Rancho conocido con el nombre del Rancho de San Antonio o Pescadero, Situado en Condado de Santa Cruz. California y de 4 tencion que sigue principiando al la esquina de Moore por el sur Aneste a la laguna de ahi siguendo la cañado a la otra Laguna, y pasando por el medio de dicho Laguna de ahi por el Sur hasta llegar el punto donde el Camino pasa, el arroyito del Butano, al sur de ahi Seguiendo este arroyo hasta su nacimiento y de ahi siguendo los lomas hasta ala esquina de Moore por el sur Este y de ahi al punto en que principio este descripcion La parte de arriba para Luis y parte de abajo para Felipe, Para que lo tengan ellos y sus herederos para siempre de modo de que puedan reclamar Y para que conste lo he firmado en Santa Cruz este 30 de Setiembre de 1852.

Testigos
F. Alzina
H. F. Parsons

Juan Gonzalez

State of California }
County of Santa Cruz } Before me Peter Tracy County Clerk in and for said County personally came Francisco Alzina known to me to be the person whose name is subscribed to the foregoing Instrument as a Witness thereto who being duly sworn deposes and says that he was present at and witness to the execution of said Instrument, and that Juan Gonzalez whose name is subscribed to said Instrument as party thereto is the person who executed the same and that he executed the same freely and voluntarily and for the uses and purposes therein mentioned, and that he the said Alzina subscribed his name to said Instrument as a witness thereto

F. Alzina

Sworn to and subscribed
before me the 22nd day of October AD 1852
Witness my hand and official seal, the day and year last above written

Peter Tracy
Clerk

Seal }

Filed for Record Oct 22nd 1852. Peter Tracy Recorder

State of California }
County of Santa Cruz } ss. I D J Hastam Co Recorder of Santa Cruz Co. do hereby certify that the foregoing is a true and correct copy of an Instrument of Record in my office in Vol 1 of Deed page 463

Witness my hand and official seal this 12th day of May AD 1861

D J Hastam
Co Recorder

104.

Deed

Juan Gonzales
7
Felipe Gonzales
& Luis Gonzales

Sept. 30. 1852.

U. S. Dist. Court.

The United States.

vs

Juan José Gonzales.

Deed from
Juan Gonzales to
Felipe & Luis Gonzales.

Filed Aug: 27. 1861.
W. H. Chevers
Clerk.

104 ND
PAGE 152

H. P. Heffern.
Atty for Deft.

1 Juan Gonzalez & Wife

To

Eli Moore —

This Indenture made the fifteenth day of September in the year of our Lord one thousand eight hundred and fifty two, between Juan Gonzalez, and Marii Ann, his wife of the County of Santa Cruz and State of California of the first part and Eli Moore, of the same County and State of the second part Witnesseth that the said parties of the first part for and in consideration of the sum of Six Thousand Dollars to them in hand paid by the said party of the second part the receipt whereof is hereby acknowledged, hath bargained and sold and by these presents doth bargain sell and confirm unto the said party of the second part and to his heirs and assigns forever all and each of their right and title in and to the following described land situated in the aforesaid County of Santa Cruz, and being a part of that certain tract of land known as the Rancho San Antonio, on which the said Gonzalez now lives more particularly described as follows to wit Commencing at an Oak Tree marked on the South side and leaning to the Westward which stands on the point of the hill West of —

the first Arroyo, which comes from the Mountains Eastward of the said Gonzalez's house thence by true Meridian Magnetic Variation North 14½° East. South 37° 45' West 37.40/00 Chains (66 feet one Chain) Thence South 37° 15' East 17 5/00 Chains, Thence South 13° 15' East 24 6/00 Chains, Thence South 23° East 13 30/00 Chains Thence South 21° 30' East 5 50/00 Chains, Thence South 29° 30' West 3 55/00 Chains, Thence South 58° 15' West. 7 0/00 Chains, Thence South 34° 45' East, 2 8/00 Chains, Thence North 42° 45' East 2 50/00 Chains, Thence North 67° East 4 50/00 Chains — Thence South 78° 15' East 2 60/00 Chains, Thence South 44° East 3 50/00 Chains, Thence South 48° 15' East, 17 65/00 Chains, Thence East 80 Chains, Thence from Station one or place of beginning South 76° 15' East 52 50/00 Chains to a Sycamore blazed Fir Tree, thence to point of intersection of line from Station 14 containing about Eight hundred acres. Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders rents issues and profits thereof, And also all the estate, right, title and interest and dower and right of dower, property possession claim and demand whatsoever as well in law as in equity of the said parties of the first part of in and to the above

described premises and every and parcel thereof — To have and To Hold all and singular the above mentioned and described premises together with the appurtenances unto the said party of the second part his heirs and assigns forever In Witness Whereof — the said parties of the first part have hereunto set their hands and seals the day and year first above written

Signed Sealed and delivered in presence of —
T. W. Wright
F. Alzeria

Juan. Gonzalez (S)
Marie Anna her mark Gonzalez (S)

County of Santa Cruz }
State of California } on this the fifteenth day of September AD 1852 Before me Peter Tracy Clerk, and Ex officio Recorder for the County aforesaid, ~~Rxxxx~~ personally came Juan. Gonzalez and Marie Anna his wife known to me to be the persons who executed the above Conveyance and acknowledged that they executed the same freely and Voluntarily, and the said Marie Anna, on a private examination made by me apart from her husband, acknowledged that she executed the same freely and Voluntarily without fear or Compulsion of him, —

In testimony Whereof I have hereunto set my hand and affixed the seal of my office the

4

day and year last above written

Peter Tracy Clerk and Ex officio
Recorder

Seal

By. J. W. Wright. Deputy

Filed for Record September 16th at 7
o'clock a.m. AD 1852

Peter Tracy
Recorder

State of Calª
County of Santa Cruz } ss.

I. D. J. Haslam
County Clerk of Santa Cruz County
State of Calª and Ex officio County
Recorder thereof do hereby certify that the
foregoing pages 1. 2. 3 & 4, and map marked
A, is a full true and correct copy of an
Instrument now of record in my office in
Vol 1. of Deeds pages 417. 418. & 419

Witness my hand and official seal
this 23d day of March AD 1861

D. J. Haslam
Co Recorder
Santa Cruz County

Filed
Juan Gonzales
To
Eli Moore
Feb 15. 1852.

240
1.50
242.50

1014, ND
336 Bd

U. S. Dist. Court.

The United States.

—vs—

Juan José Gonzales.

Deed from
Juan Gonzales to
Eli Moore.

Filed Aug: 27, 1861;
W. W. Cheveis,
Clerk.

U.S. Dist Court
Nor Dist Cal

45.

United States
vs
Juan José Gonzalez } 1034 Objections to Survey --

104 ND

The ~~Objections~~ Exceptions to ~~this~~ survey in this case have been filed ~~on the part of~~ by the claimants and ~~of parties~~ by certain parties intervening for their interest

It is contended by the claimants that the original grant was for a certain tract ~~includes~~ within specified boundaries and that the whole quantity (~~4~~ about 4 leagues) included within those boundaries should be surveyed to the claimant —

The history of the grant as disclosed by the Expediente is as follows

On the 25th Nov. 1833 Juan José Gonzales petitioned the Governor for the Rancho of "San ~~Gregorio~~ Antonio
" or El Pescadero Malengo including a square of about four
" leagues extending from the

2 " rancho of San ~~Antonio~~ Gregorio occupied
" by citizen Antonio Buelna, to
" the Rancho of La Punta del
" Aire Nuevo, and from the
" Coast to the Sierra"

This petition was referred by the Governor to the Alcalde of the Capital with directions to examine witnesses as to the qualifications of the petitioner and the nature and extent of the land —

By the Alcaldes report it appears that three witnesses appeared before him —

The first deposed; that the
" land was from a league to
" a league & a half from East
" to West but its length from North
" to South she was unacquainted
" with as it was a cañon which
" extended to the Rancho of Antonio
" Buelna"

The second witness testified that the land was a league or more wide i.e from North South & 2 leagues from the beach to the hills —

The 3d witness was unacquainted with the extent of the tract —

On this information the Governor made on the 17th December 1833 his decree of concession by which he declared Gonzales the owner in fee of "the land "known by the name of San "Antonio or El Rescadero "bounded by the Rancho of Antonio "Buelna, the sierra the coast "and the Arroyo del Butano"

~~The final title did not immediately issue but as required by the Regulations the expediente was forwarded directly to the Territorial Deputation for their approval —~~

~~The Deputation approved the grant as made in the decree of concession~~

~~This~~ On the 24th December the final title was issued. In this document the land granted is described precisely as in the decree of concession — but the 4th condition declares the land of which donation is made to

be "one league in length &
" three quarters of a league in
" breadth a little more or less
" as shown by the map which
" goes with the Expediente."
The motive of the Governor in
thus reducing by more than one
half the quantity of land granted
is not very apparent.
The report of the Alcalde had
apprised him that the width
of the tract from the Sierra
to the beach was from ~~[illegible]~~
one and a half to two leagues.
He had by his decree of concession
granted the tract with
the boundaries mentioned in the
petition, and if he had determined
not to grant all the land within
those boundaries, and of the extent of which he was apprised
it would seem more natural
to have so stated in his decree
of concession and in the granting
clause of the title —
~~But~~ In the diseño found in
the Expediente there appears a
note or memo in which it is

unsigned

stated that the land is a league in length by three quarters of a league in breadth.

This note ~~it~~ has ~~same~~ been shown to ~~be~~ be in the handwriting of Zamorano, the Governor's Secretary, and to be written in a hand different from that of the petition and other parts of the diseño submitted by the Claimants — The statement contained in it, if it was intended to apply to the land solicited, or delineated on the diseño is obviously inaccurate for the petition asks for 4 leagues, and the testimony of the witnesses had shown the land to be from 1½ to 2 leagues wood — ~~The fact conclusively establ~~ The surveys by the U. S. show that the land included within the diseño is at least twice as wide as supposed by Zamorano —

Under these circumstances a question naturally arises as to

the intention of the Governor
did he ~~by~~ ~~[illegible]~~ when stating the
length of the tract to be one
league & its breadth ~~of~~ three
quarters of a league mean
to restrict the grantee to that
precise quantity and in effect
give him ~~only~~ less than one half
of the tract specified and
contained within ~~as~~ the boun
daries, or did the Governor
intend as his decree of concession
and the granting clause of
the title declare, to give him
the whole land within the
boundaries; but ~~he~~ on looking
the testimony of the witnesses
before the Alcalde, and in
cautiously adopting the erroneous
estimate ~~made by~~ of quantity
contained in Lamorano's note
he mentioned the quantity
under the idea that it expressed
truly the whole extent of land
contained within the bounda
ries —

If the question were an open
one I ~~should~~ might perhaps have inclined to the

latter view.) But it appears to have been decided by the Supreme Court.

By the decree of the Board the land, confirmed was described as follows. "Beginning at
" the mouth of the Arroyo del
" Butano, running thence along
" the sea coast to the boundary
" line of Antonio Buelna the dis-
" tance being one league a little
" more or less thence with the
" line of said Buelna East three
" quarters of a league thence
" southerly and parallel with
" the sea coast until it intersects
" the arroyo del Butano at the
" distance of three quarters of
" a league from the coast
" and thence along the Buta
" no to its mouth" —

If the ~~as~~ the general course of the arroyo del Butano were at right angles to the coast the tract bounded as above would be of the length of one league and the breadth

of 3/4th of a league —
But it is found that the arroyo del Butano enters the sea at an acute angle —
If there the back or East line be drawn at a distance of 3/4 of a league from the shore and from the boundary of Bella na until its intersection the Butano, it will ~~have~~ be considerably more than one league in length — and the land included in within the boundaries will ~~considerably~~ exceed 3/4ths of a league —
By the decree of this Court the land confirmed was described as "that known by the "name of San Antonio or El "Pescadero to the extent of ~~the~~ "within the boundaries mentioned "in the grant and map."
The claimant accepting this decree as limiting him to the quantity mentioned in the grant appealed to the Supreme Court —
His Counsel in an elaborate argument before that tribunal

contended that the grant was for a tract with specific boundaries and not for a certain quantity of land within those boundaries — In the opinion of the Court the question is not discussed — after setting forth the whole Expediente and alluding to the proofs of the genuineness of the signatures and the occupation of the land the Court says. "Entertaining no doubt from "the facts of the case that the "grant is a valid one to the "extent of one league in length "and three quarters in breadth "it is hereby confirmed to that "extent — the 3/4ths of a league "to be surveyed within the "outboundary represented on "the diseño"

Mr J. Campbell delivered a separate opinion in which Mr J. Nelson concurred — In this opinion after stating the point made by the Counsel for the Claimants he says, But the decision of

10 " If this question ~~was~~ is resolved
" ~~by~~ in the decree of the District
" Court and will properly arise
" after the location — The failure to
" define the precise manner of
" the location is not erroneous
" The result therefore is that the
" decree must be affirmed."

As however the opinion delivered by Mr J. McLean is stated to be the opinion of the Court I feel bound to ~~treat~~ consider the question as finally decided by that tribunal — and that as declared in that opinion the claimant is only entitled to 3/4ths of a league to be surveyed within the outbounds mentioned in the grant —

~~In~~ The survey ~~that~~ which has been made is of a tract out league in length along the shore and bounded on the north & south respectively by the lines of Buena and the Buta no — The back line is run for

quantity so as to include an area of 3/4ths of a league but owing to the deflection towards the south of the Buta no, it is run at a distance of a little more than 1/2 a league from the coast.
It is contended by the petitioners that the grant not only determines the quantity but the shape of the tract and that it should be of exactly one league in length by 3/4ths of a league in breadth — The ~~two~~ object of ~~our~~ thus modifying the survey ~~in this particular~~ is to compel the claimant to run his southerly line from the mouth of the Butano at right angles to the shore by 3/4ths of a league in length towards the east, thus leaving a triangular gore of land north of the Butano which it is hoped may be included in the survey of the rancho lying immediately south of the rancho of the claimant

But I can perceive no reason for construing with such strictness the language of the grant or that of the Supreme Court — The ~~gra~~ 4th condition declares the land to be one league in length by 3/4ths of a league in breadth "a little more or less". The track surveyed is of the length of one league along the shore but "of" a little more than one league in length on its back line, while its width is correspondingly diminished but nowhere exceeds 1/2 a league — A tract of this ~~of~~ size and shape sufficiently satisfies the description in the 4th condition — That the Buta no was intended to be one of the boundaries is clear — and I can see no reason for compelling the claimant to stop short of that stream, and accept an imaginary line as a boundary merely to give

the tract a rectangular shape to suit the convenience of a colindante whose grant was long subsequent to his own —

But now if ~~the claimant~~ we were compelled to ~~not to say~~ ~~could~~ to survey a tract of exactly one league in length by 3/4ths of a league in breadth the claimants would still have the right to elect ~~a~~ the location within his outbound ones — He would therefore be at liberty to demand that his southerly line be run up the Butaro a distance of 3/4th of a league in a direct line from the shore, that his back line be run thence northerly and parallel with the shore one league, and that his northerly line be run thence to the shore parallel with the course of the Bula no — He would thus have a tract precisely 3/4ths of a

league in breadth by one league in length — as called ~~for~~ for in the grant — For it is nowhere mentioned that it ~~it~~ must necessarily be rectangular in form —

The land desired by the interveners would thus be included in the survey —

I do not understand that the claimants objects to the present survey provided he is to be limited as to quantity — and as it appears to me to conform substantially to the calls of the grant I think it ought to be approved.

104

U. S. Dist. Court.

The United States.

vs.

Juan José Gonzales.

Opinion
approving survey.

Filed Sept. 28. 1861.
W. ~~A.~~ Chevers.
Clerk

At a Stated Term of the DISTRICT COURT OF THE UNITED STATES OF AMERICA, for the Northern District of California, held at the Court Room, in the City of SAN FRANCISCO, on Friday the 29th day of November in the year of our Lord one thousand eight hundred and ~~fifty-~~ sixty-one.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States
v.
Juan José Gonzalez
} No 104.

This cause having come on to be heard on objections filed to the survey and location by the Surveyor General of the U.S. for California of the land heretofore confirmed to the claimant, pursuant to the provisions of the Act of Congress approved June 14, 1860; and the said survey and location having been ~~dis~~ approved & the Court by its final decree entered this day; Now on motion of H. P. Hepburn Esq, Counsel for intervenors Weeks et al, It is Ordered, that an appeal in behalf of said intervenors, from said final decree be and the same is hereby granted; and that a certified transcript of the pleadings, evidence, depositions and proceedings in said cause be sent to the Supreme Court of the United States without delay.

104.

UNITED STATES DISTRICT COURT,

Northern District of California.

The United States.

vs.

Juan José Gonzales.

Order granting appeal in behalf of intervenors Meek & al.

Filed Nov. 29th 1861.

W. H. Chevers.

CLERK.

By

DEPUTY.

Towne & Bacon, Printers, 125 Clay Street, corner Sansome.

At a stated Term of the District Court of the United States for the Northern District of California held at the Court room in the City of San Francisco on Friday the ~~twenty~~ ninth day of November 1861. Present Hon Ogden Hoffman District Judge.

The United States
vs
Juan Jose Gonzales } No 104.

It appearing to the Court that on the ~~seventh~~ fifth day of January 1861. the mandate of the Supreme Court of the United States was filed in this cause; and that on the seventh day of May 1861 an order was entered directing the return of the official survey of the land confirmed in this case; that on the twenty fifth day of May 1861. in pursuance of said order the Surveyor General of the United States for California returned to this court a certified copy plat of his said survey; that thereupon the claimants by their attorney filed exceptions to said survey; that testimony in support of said exceptions was duly taken, and that upon said exceptions and testimony the cause came regularly to a hearing, all parties being heard by their respective Attorneys, and due deliberation had in the premises

Now therefore in consideration whereof it is ordered, adjudged and decreed that the said exceptions be, and the same hereby are overruled, and that the said survey be, and the same hereby is approved and confirmed.

And it is further ordered, adjudged and decreed that the claim of the said claimants is a good and valid claim for the land granted by the Mexican Government to Juan Jose Gonzales known as "San Antonio o el Pescadero" and lying and being in the County of Santa Cruz Northern District of California, and that the same be and hereby is confirmed to the said Juan Jose Gonzales to the extent of Three thousand two hundred and eighty two acres and twenty two one hundredths of an acre (3282 22/100 acres) located and surveyed by the Surveyor General of the United States for California, as shown by the said plat filed May twenty fifth 1861, the field notes of which survey were approved by said Surveyor General April 10th 1861; and to which said plat certified by said Surveyor General May seventh 1861, and marked "approved November 29th 1861. Ogden Hoffman District Judge" and annexed to and made a part of this decree reference is had for more particular description of the land hereby con=

firmed to the said claimant

firmed to the said claimant

Ogden Hoffman
U. S. Dist Judge

U. S. District Court

The United States
v.
Juan José Gonzales

Final Decree.

Filed November 29. 1861.
W. A. Chenery.
Clerk.

U. S. District Court
Northern District of California

The United States
v
Juan Jose Gonzales

No 104

It is stipulated that the record in this cause, shall consist of the Record on file in the Clerk's Office of the Supreme Court, of the United States; and a Transcript of all the proceedings of every kind, which have taken place in this Court, since the filing of the Mandate of said Supreme Court, (including the same), until the Order granting an appeal on the Survey and Location; the same together constituting a full and complete record of the entire proceedings in this cause
Dated San Francisco Decr 28th 1861

Wm H. Sharp
U. S. District Attorney
H P Hepburn
Atty for Defs & Widow
& widow Gonzales &
claimant.

U.S. District Court
Nor Dist Cal.

No. 1024

The U. States
vs
J. J. Ganzales

Stipulation in
regard to transcript.

Filed Dec 28, 1865
W. H. Chevers
Clerk

U. S. District Court.

Juan José Gregory,
ads
United States.

Claim for Rancho "San Antonio O' El Pescadero, in Monterey County
Title, p. 7, translation p. 9,
Translation of Expediente, p. 27,
approval Departl. Assembly p. 35,
Depositions as to title and occupation p. 4, 5,

In this case, the grant was complete, having received the approval of the Departmental Assembly, and all the conditions fully performed.

It is a grant ~~in the~~ between specific natural boundaries. In the 4th Condition, (Records 10) the grant declares: "The lands of which donation is made here is one league in length, by three quarters of a league in breadth, a little more or less, as shown by the map which goes with the Expediente."

This is clearly a grant of all the land within the boundaries, as delineated on the map

There is an endorsement on the face of the map, which declares: "From the North to the South, it has one league in length; from the East to the West, it has three quarters of a league in length".

It does not appear by whom or by what authority this endorsement was made on the map.

There has been a cross appeal taken in this case by the claimant on the ground that the decree limits the grant to one league in ~~width~~ length by one league in width.

But on looking at the decree of confirmation, I do not think, it was the intention of the decree to limit the amount. The decree describes the line on one side, from one natural object to another, or an adjoining rancho, "one league a little more or less".

The decree describes the quantity: "being in extent three fourths of a league a little more or less".

The effect of this is to confirm all the land embraced between the boundaries described in the grant. They are in no wise limited by the

Map, a [illegible] on the Map, which under no circumstances could control the more certain and positive language of the grant. It never was the intention of the Government to give it that effect.

The error in the decree in this case, was in the attempt of the Commission to give all the exterior boundaries instead of leaving that matter to the Surveyor General when it is left by the act of Congress, as expounded in the Cata of Fremont. It will be only necessary to correct the decree in this respect, which the Court would do, even, if the Cross-petition had not been filed by claimant.

V. E. Howard
for claimant

No 104

Indenture

and

Brief.

Arnaud

The United States
Appellant
vs
Juan José Gonzales
Appellee

} Sj Court
Northern Dist
of Calif

This cause coming on to be heard at a stated term of this Court on appeal from the final decree of the District Court to ascertain the private land claims in the State of California under Act of Congress March 3 1851 on a hearing of the decision and papers & proceedings in which said decision was founded, and it appearing that the said Ramirez has been duly served according to law, and counsel for the respective parties having been heard, whereupon it is ordered adjudged & decreed that the said decision be in all things affirmed, and it is further ordered adjudged & decreed that the claim of the said Juan José Gonzales is a perpetual claim to the land known by the name of

of San Antonio or Pascual to the extent and within the boundaries mentioned in the grant, the acquire of which from respective which letter one of which is the second of the said

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