CASE NO.
353
SOUTHERN DISTRICT

LAS CIENEGAS GRANT

JANUARIO ABILA
CLAIMANT

LAND CASE 353 SD pgs. 57

Orig -
372 papers -
Bevier -

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 372.

Samario Abila — CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Las Cienegas."

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* fourth day of October, *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 Januario Abila, *for the Place named* "Las Cienegas", *was presented, and ordered to be filed and docketed with No.* 372, *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;

Los Angeles October 4, 1852.
In Case No. 372, Januario Abila, for the place named "Las Cienegas", the deposition of Rafael Guirado, a witness in behalf of the Claimant, taken before Commissioner James Wilson, was filed:

(Vide page 5 of this Transcript.)

Los Angeles October 25, 1852.
In the same Case the deposition of Manuel Requena, a witness in behalf of the Claimant, taken before Commissioner Hiland Hall, was filed:

(Vide page 12 of this Transcript.)

Los Angeles October 27, 1852.
In the same Case the depositions of Ignacio Machado and Januario Abila,

witnesses in behalf of the claimants, taken before Commissioner Heland Hall, were filed:

(Vide pages 15 & 18 of this Transcript.)

Los Angeles October 30, 1852.
In the same Case the deposition of Manuel Dominguez, a witness in behalf of the claimants, taken before Commissioner Heland Hall, was filed:

(Vide page 19 of this Transcript.)

Los Angeles November 12, 1852.
In the same Case the deposition of Antonio F. Coronel, a witness in behalf of the claimant taken before Commissioner Heland Hall, was filed:

(Vide page 21 of this Transcript.)

San Francisco Aug. 29, 1853.
Case No. 372 was submitted on briefs and taken under advisement by the Board.

San Francisco February 19, 1853
In the same Case the deposition of Rafael Guirado, a witness in behalf of the claimant, taken before Commissioner Peter Lott, was filed:

(Vide page 23 of this Transcript.)

San Francisco June 26, 1853.
In the same Case Commissioner R. Aug. Thompson delivered the Opinion of the Board confirming the claim:

(Vide page 34 of this Transcript.)

And the following order was made, to wit:

(Vide page 45 of this Transcript.

Petition

To the Board of Land Commissioners for ascertaining and settling private land claims in the State of California —

Your Petitioners Ignacio Abila and his three Sisters Petra Abila de Ramirez and Francisca Abila de Kimpan and Loiza Abila de Garfias of Los Angeles in the State of California respectfully represent to Your Honorable Board that they claim a certain Tract of land called Las Ciénegas containing about one sitio or square league situated in the County of Los Angeles adjoining the town of Los Angeles on the west side and near the S W corner of the said Town or Pueblo in the State aforesaid that they claim the same in fee fastly by virtue of an ancient certificate of concession made to Don Francisco Abila their deceased father by Don Jose de la Guerra y Noriega in AD 1823 and a continued occupancy ever since.

Secondly by virtue of an incomplete title under the authority of the Mexican Government by Governor Micheltorena in AD 1843 and

Lastly. By virtue of a recognition of the right of property and ownership in the claimants by the Mexican Government during the long and peaceable possession and occupation of the said sitio of land by the said Abila's family unmolested save but a single exception which was that of an unjust attempt of Don Vicente Sanchez who undertook to rob the orphan children of a portion of their rightful inheritance when asking for a grant from

Governor Pichettorena by including in his solicitation a part of the land belonging to the Avila family but by certain extracts of the record of the Prefect of 1843 herewith transmitted which compared with oral testimony to be taken will conclusively prove that the local authorities have ever refused to give the said Sanchez possession of that portion by him so illiberally coveted.

Your petitioners further represent that it was with the mutual consent of all interested that the incomplete title referred to was in the name of the brother Januario Avila.

Your petitioners would further represent that they have not at this time the original documents in their possession but over their belief to be that they are lost. Yet that they are exercising due diligence in search of them and will in future present to Your Honorable Board whatever they may learn making this petition at this time and in advance of a return from information asked of the U. S. Surveyor General for California (appertaining to what may be in the Archives) in order to enable them on this day to take the deposition of a material witness who is on the eve of departing for the upper country by land.

Your petitioners present herewith an extract from the Record of the Prefect for the year AD 1843 with its translation together with a sketch or map of the aforesaid land recently taken upon

a reconnoissance of the same directed by the three Commissioners who allege that they were deputed by Governor Micheltorena in A.D. 1843 to settle the boundary dispute between Juan Sanchez and Abila Your petitioners will proceed vigilantly to file such further documentary evidence as they may procure together with the testimony of Witnesses the which when filed Your petitioners pray Your Honorable Board to take into consideration their claim to said tract of land and decree their title to be valid and to confirm the same.

And Your petitioners will Ever pray —

Made at Los Angeles this fourth day of October A.D. 1852.

Henry Hancock
Atty for Claimants.

Filed in Office Oct 4. 1852.
(signd) Geo Fisher
Secy.

Office of the Board of Commissioners of California Land Claims &c.
Los Angeles Oct 4. 1852.

Petition of Janeario Abila et als } for the Rancho Las Cenigas }

Depo of Rafael Guyrado

On this day before James Nelson one of the Commissioners for ascertaining and settling private land claims in California came Rafael Guyrado whose testimony

was given in Spanish and interpreted by the Secretary.

Rafael Guirado affirmed as a Witness in behalf of the petitioners being duly sworn testifies and says I have no interest in the Rancho claimed by the above petitioners nor am I related to them. I am fifty three years of age I reside in Los Angeles and have been residing here for twenty years.

I am well acquainted with Januario Avila and his three Sisters the Claimants in this Case —

I know the Rancho Las Cienegas and have known it for twenty years last past.

It is situated about a league and a half from this City of Los Angeles to the westward.

The said Rancho has been occupied by Januario Avila ever since I knew it.

The three sisters of said Januario Avila also resided on the said Rancho with their step brother after the death of their father.

I know the boundaries of that Rancho — A drawing or plat is now shown me marked (R.H. Dep. Rafael Guirado) which is attached to Doc marked B in the files in this case.

The red stripe with the black line accompanying it is on one side of the Rancho and indicates a ditch which is the boundary in part of the said tract of land claimed the said ditch commences at or near

a Willow tree and runs through a swamp in a crooked line to the corral de las Aliso's from the said Willow tree which is the largest tree of that kind in that neighborhood the line runs across a piece of land bounding on the land of the late Vicente Sanchez to another swamp thence along that last mentioned swamp to the corral bajo.

The whole line or boundary from the corral de las Aliso's to the corral bajo is the boundary line between the land claimed by the Avilas and the land of the late Vicente Sanchez

From the corral bajo the line runs in a northwardly direction crossing the highway from Avilas house to the City of Los Angeles and the high land called the (Mesa) also crossing another road which leads from the Mesa to the Rancho Balbona continuing on in the same course until it intersects the road from Los Angeles to La Brea

Thence the boundary line runs North westwardly along and near to the line of said highway to La Brea until it comes to a point nearly opposite the said La Brea Spring and that corner is within about fifty or sixty varas of the said Spring. thence the line from the said last mentioned corner runs straight in a southwestly direction to the corral de las Aliso's.

In the month of June or July 1845 there was a controversy between the claimant Romuario Avila and his neighbor Vicente Sanchez in regard to this boundary line between

the corral de las Alisos and the corral viejo —

That controversy was referred to Governor Micheltorena who appointed me as an arbitrator with two other persons to be selected by me to settle the disputed boundary line aforesaid between the parties.

I did appoint two other persons who with myself went upon the ground got all the papers from the parties heard their proofs and allegations examined their papers and documents and we did settle and establish the line.

Among the papers presented to us at the time above mentioned was a certain paper which purported to be a petition by Francisco Avila the father of these claimants in which he solicited from Don de la Guerra y Noriega who acted at that time as Governor in this part of California for this Rancho Los Cuenjas —

On that petition there was a decree by the said Noriega by which he granted the land prayed for in the said petition of Francisco Avila and pointed out the boundaries.

By those boundaries we were guided to settle the said disputed line and did settle and establish it,

As near as I can now recollect the boundary of said land granted commenced at the corral de las Alisos taking the ditch or Zanja de la Cienega) the

swamp taking or embracing the protrerito part of the tierra the swamp immediate to the corral viejo coming on the corral viejo itself –

The remaining boundaries of the tract solicited by Francisco Avila corresponded with the boundaries I have given in describing them in the former part of this deposition and as indicated on the small plat above referred to.

At the time of the above reference there was given to me by the Governor one title paper relating to Vicente Sanchez land and the boundaries thereof –

The boundary of Sanchez adjoining the land claimed by Avila was the Lomas de Cantinela El paso de la Tegira de la Cuesta,

The boundaries as set out in the two papers did not actually interfere with each other but were adjoining and as we believed gave the protrerito to Avila and we settled the same accordingly.

I have been frequently on the land and I know the place very well It was a watering place and pasturing ground for many of our cattle & I was often there.

I have its general features distinctly on my mind and I could now go upon the land and point out all the lines and boundaries of it with accuracy and precision.

According to the best of my recollection the date of the paper from

Noriega to Francisco Avila was about the year 1822 or 1823.

I do not remember as the quantity of the land embraced in the Rancho Las Llanigas was mentioned in the petition of Francisco Avila. It was not stated in the decree of Gov Noriega.

I did with the other two persons who I associated with me to settle the said disputed boundary agree upon a report which I made out in writing stating our decision in the case referred to us.

That report I signed and one of my associates. The other person could not write which is the reason he did not sign it also.

That report was made out on the same paper which contained the order of Governor Micheltorena to me to decide the question and our doings thereon were immediately returned to the Governor to certify to him what we had done in the premises.

Interrogatories by R Gray Esq in behalf of Geo H Cooley Esq Law Agent of U. States —

I further say that Noriega signed the paper above referred to to Francisco Avila in the official capacity as a subaltern Governor under Luis Arguello who was residing at the time at Monterey.

Noriega resided at Santa Barbara and reported his doings to the principal at Monterey as it was considered his duty to do so. whether

11

Boniga reported this particular case or not I do not know as I was not then in the country.

All that I know about the papers is what I learnt from them when they were in my hands in 1845.

I do not recollect as there was any condition in the decree that he Avila should apply to any higher authority for confirmation of the grant then made to him.

I think the grant was absolute but that he Avila was to apply to the Alcalde of Los Angeles to give him the Juridical possession of the land granted

I do not recollect whether Avila was to build a house on the land but I do remember that Avila was to occupy or might occupy the land with his cattle and stock and might use it as might suit his own convenience.

I have known the tract of land for twenty years last past and I have never known of any other persons claiming this land left the Avilas or any part of it except within limits as above stated.

There has not been to my knowledge or is there now any claim to it or any part of it adverse to the claim of the petitioners in this case.

Rafael Guirado

Oct 4th 1852.

Subscribed & Sworn to
Before me.

James Wilson Comr.

Filed in Office Oct 4, 1852.

(Sgd) Geo Fisher Secy.

P2

Los Angeles Oct 25. 1852

On this day before Commissioner Heiland Hall came Manuel Requena a Witness in behalf of the Claimants Januario Abila petition No 372 and was duly sworn his evidence being interpreted by the Secretary.

Depo of Manuel Requena

The U. S Associate Law Agent was present.

In answer to questions by Counsel for the Claimant the Witness testified as follows.

My name is Manuel Requena My age is fifty one years and I reside in the City of Los Angeles.

While I was Alcalde Vicente Sanchez called on me to give him Jindical possession of a tract of land called which had been granted him and the adjoining neighbors were notified and appeared.

Januario Abila was one & Francisco Higuera another of the adjoining neighbors –

They objected to the giving of the possession as claimed by Sanchez & produced a license to occupy the land in dispute & I suspended the giving of possession & made a report to the Governor which report with all the papers.

I delivered to Sanchez Both Abila & Higuera presented papers which were restored to them.

I was Alcalde during the year 1844. Early as that year the orders of the Prefect were received by

me and placed in the archives.

There was an Index to the archives & when papers were wanted they were found by referring to it.

I have no recollection of having seen the papers of Abila or Higuera or of having occasion to look for them.

My successor was Vicente Sanchez to whom I delivered the archives with an inventory of them.

I do not know whether the papers of Abila were among them or not.

Question by the Associate Law Agent.

Were the grants of lands made by Captain Noriega from 1821 to 1823 considered valid.

Answer.

They were. The Political chief appointed a Commissioner with authority to grant land within the town Tracts. (Egidos) the grantees had the right of occupying the land with cattle to cultivate it and build houses & live on it but not to the prejudice of the inhabitants of the town who had equal rights to pasture their cattle use the water and the timber on the same land.

Among those who acted as such Commissioners Anastacio Carrillo William Cole & Jose Noriega.

There were others who acted as Commissioners at different times. This I understood from papers in the archives & common report —

The lands in dispute between Abila & Higuera & Sanchez before mentioned were considered to be

within the limits of the town of Los Angeles.

An answer to Questions by Counsel for the Claimant.

By knowledge that the said land is within the limits of the Town is derived from Common report for Micheltorena established the town as extending two leagues each way from the Plaza and this land by public report is within the two leagues.

I do not of my own knowledge know that the land is within the limits of the Town.

I was known the land at the time Judicial possession was asked to be given the parties appeared at my office and their papers were presented there.

I do not know whether the authority of the Commissioners extended to the granting of lands beyond the town lands or not. The papers I have seen relate to lands within the town lot tract (Egidos)

Do you mean by the ~~town~~ Egidos the same as jurisdiction?
Answer.

No.

At the time you received the order from Gov Micheltorena relative to the giving of Judicial possession to Sanchez did you also receive a private letter from the Governor on the subject?

Filed in Office
Oct 25. 1852.
(sgd)
Geo Fisher
Secy

the Governor in the Subject?

Answer.

I did not recive any special order from Micheltorena to give Judicial possession to Sanchez.

I did recive a private letter from Micheltorena in which among other things he recommended Sanchez to me when he should appear before me asking to be put in possession of the land.

Manuel Requena.

Sworn & Subscribed
Before me.
Heiland Hull Commr.

Depo of Ignacio Machado.

Los Angeles Oct 24. 1852.

On this day before Commissioner Heiland Hull came Ignacio Machado a Witness in behalf of the Claimant Januario Abila petition No 372 and was duly sworn his testimony being interpreted by the Secretary.

The U S. Associate Law Agent was present.

In answer to Enquiries by Counsel for the claimant the Witness testified as follows.

My Name is Ignacio Machado My age is fifty years and I reside in Los Angeles.

I was one of three Commissioners appointed by Gov Micheltorena to Examine the land claimed by Januario Abila being the Rancho called Las Virgenes land being also claimed by Vicente Sanchez. The Commissioners went and

Abila handed his papers to the chair=
man and we looked at the land &
were of opinion that it belonged to
Abila according to his title papers &
we so reported to the Governor.

The Governor told us to
return and that when he returned he
would arrange the Matter.

The other Commissioners
were Basilio Baldez & Rafael Guirado.

The Potrero always belon=
ged to the Rancho Las Cienegas & about
twenty five years ago I asked permis=
sion of Abila's father to keep some Cattle
there and he allowed it to be done.

I understood the title
papers of Abila were from José Moriga
living at Santa Barbara –

This was when they
were presented to us by Abila on the land
Moriga was Captain of
the troops at Santa Barbara. The
papers were then returned to Abila.

I am acquainted with
the Cañadas which are as follows.

From the Ojuaje de
la Brea (the watering place of the
pitch spring) to the Corralito de los
Alisos (the Corral of the sycamore trees)
thence to Potrero (the little meadow)
thence to some Willow trees near the
Ciniga grande) large swamp) thence
to Corral Viejo (the old corral) thence
to the Cañada de los Alamos (the valley
of the sycamore trees) thence to the
Prickly pear plants near the road lead=
ing to the Brea (pitch spring) thence

ing to the Brea (Pitch Spring) thence to the place of beginning -

A part of the waterings place la Brea is within that it. The corner of the Rancho Simijas was at the pitch Spring and the spring was without the boundaries of the Rancho -

Among the Willow trees before mentioned there is one taller and larger than the others -

The title from Rivera to Abila I understand was given many years ago but I do not know the date

I recollect that in the title papers of Abila which were presented to us as commissioners the Aguajito de la Brea the Corralito de los Alisos the Potrero and the Corral Viejo of la Brea were mentioned.

I have been well acquainted with the Rancho for many years

Francisco Abila father of Januario Abila occupied the rancho being as about twenty seven years ago.

It has been in his occupancy & that of his children to the present time - They have cultivated the land had a vineyard and a tanning there & kept cattle and horses.

There was an adobe house on the land when I first knew it in which Francisco Abila lived with his family & a house has been since built

The family have lived on the land to the present time.

his
Ignacio x Machado
mark.

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Sworn & Subscribed
Before me
Heland Hall
Comr.

Filed in Office Oct 27th 1853.
(signed)
Geo Fisher
Secy.

Ramirio Abila et al
Rancho Las Cienegas } No 372.

Before the United States Commission for ascertaining and settling private land claims in the State of California —

Before His Honor Commissioner Hall on this 27th day of Oct AD 1853.

Depo of Ramirio Abila —

Los Angeles County
State of California

Ramirio Abila being duly sworn deposes and says that he is one of the claimants of the Rancho called Las Cienegas of this vicinity already filed in this Board. that he has not — at this time nor has he since the 7th day of July AD 1846 had any of the papers appertaining to his or his fathers title to the aforementioned Rancho in his possession but that according to the best of his recollection he left all and singular of the said papers in the Government Archives then at Los Angeles for the purpose of

having the same perfected by Governor Manuel Micheltorena who had verbally assured him that he would do so immediately after his return from the North in the Summer or Fall of A.D. 1845 –

That he has made diligent search for the said papers among the respective claimants and knows that they are not in the possession or under the control of any of the Claimants above referred to and he believes they are lost or that some interested person has purloined them –

Samuel Abila

Sworn & Subscribed
Before me
Heland Hall Comr.

Filed in Office Oct 27th 1852.
(signed)
Geo Fisher Secy.

Los Angeles Oct 30th 1852.

On this day before Comr Heland Hall came Manuel Dominguez a witness on behalf of the Claimant Samuel Abila petition No 372 and was duly sworn his evidence being interpreted by the Secretary –

Depo of Manl Dominguez

The U. S Associate Law Agent was present

In answer to questions by Counsel for the Claimants the witness testified as follows.

My name is Manuel Dominguez My age is forty nine years

I reside on the my Rancho in the vicinity of Los Angeles and am a native of California -

I am acquainted with the Rancho Las Cuengas - I recollect that in the year 1825 or 1826 I was at the place and saw Francisco Abila building a house there -

He is the father of Ignacio Abila the Claimant was there about three months ago when I saw Ignacio there -

I know nothing of the boundaries or extent of the land -

Francisco Abila was one of the oldest settlers of this Town -

When I was Alcalde in 1825 or 1826 I considered the Rancho to be within the town common lands.

I do not know what the authority of Noriega was in regard to granting lands.

Question by the Associate Law Agent -

Did Noriega grant many tracts of land here?

Answer.

I do not know of his making many grants - I have seen one permit he gave to Ignacio Anto. Abila to fence a land called Sausal Redondo.

Question by Counsel for the Claimant.

On what ground do you from your

On what ground do you form your opinion that the Rancho of Abila was on the town common land?
Answer.
Because it was so near the town of & because there were some other Ranchos situated near that the owners of which were living within the city.

Manuel Dominguez.

Sworn & Subscribed
Before me
Hiland Hall Comr.

Filed in Office Oct 30th 1852.
(signed)
Geo Fisher Secy.

Las Angeles Nov 12th 1852.
On this day before Comr Hiland Hall came A. F. Coronel a Witness in behalf of the Claimant Samuario Abila petition No 372 and was duly sworn his Evidence being given in Spanish and interpreted by the Secretary.

Depo of A. F. Coronel.

The U. S. Associate Law Agent was present.
In answer to Enquiries by Counsel for the Claimant the Witness testified as follows.
My Name is Antonio F Coronel My age is thirty three years and I reside in the City of Los Angeles.
I gave possession as Alcalde to Vicente Sanchez in 1843 of the Rancho called Ciénega y paso de la

Tegira. Ignacio Abila was present when the possession was given. He had been summoned as one of the adjoining Neighbors -

He appeared at the North Eastern boundary of Sanchez land - They were measuring the third line. Abila alleged that part of the land they were measuring belonged to him.

I called on him for his papers showing his title but he presented none and his claim was disregarded in the measurement.

I told him if the land belonged to him he would not lose his right but could assert his title afterwards -

I do not recollect whether Abila gave any Explanation to why he did not bring his papers or not.

A. F. Coronel.

Sworn & Subscribed
Before me
Heiland Hall
Comr.

Filed in Office Nov 12th 1852.
(Signed)
Geo Fisher
Secy

United States of America
State of California } ss
San Francisco Feb. 15. 1853.

Depo of Rafael Guirado.

This day came before Peter Lott Commissioner for taking Testimony to be used before the Board of U. S Land Commission in said State Rafael Guirado a Witness for Claimant Januario Abila in Case No 372 on the docket of said Board and said Witness being sworn deposed as follows.

The U. S Associate Law Agent is present.

Questions by Mr Gregory for claim Mr Hancock.

1st. Question —
What is your name age and residence?
Answer.
My name is Rafael Guirado My age is about 55 my residence at this time is in Sonoma California —
2d. Question —
In a deposition of yours in this case given at Los Angeles on the 10th of October AD 1852 you stated in Answer to interrogatories of the U S Law Agent that Noriega signed the paper therein referred to to Francisco Abila in his Official capacity as a subaltern Governor of Luis Arguello who was residing at the time in Monterey will you now state whether there was on the decree any particular mode of signing or declaration to that Effect or not?

or in other words if that fact appeared on the decree or you informed from your knowledge of the character of Juan Noriega's acts that he thus signed it?
Answer.

At the time I had the Expediente of Domicio Abila in my possession the decree in the said Expediente was signed by Noriega. I do not remember of having seen the signature of Ayuda on it Nor any thing to show that he was acting as a Subaltern Governor but it was signed by Noriega in the way he usually signed to wit, Noriega or Jose Noriega. I do not remember which but think it was the latter.
Q Question.

Please state what quantity of land there is included within the limits mentioned in your said former deposition as the Cuandary's field by you in the time of Gov. McKittrick.
Answer.

There is less than one league.
Q Question.

Does the Eastern Cuandary of the Rancho crop the Canada de los Alimos as well as the Western.
Answer.

It does but nearer the Northern Cuandary of the Rancho than the Western Cuandary does.

Rafael Guirado.

Subscribed and sworn to before me on this 15th day of February AD 1855.

Peter Dott Commissioner.

Filed in Office Feb 19. 1855. tsgd, Geo Fisher Secy

25 — 478 Jose Antonio Carrillo

Deposition of Jose Antonio Carrillo

Los Angeles Nov. 15. 1852.

On this day before Commissioner Hiland Hall came Jose Antonio Carrillo, a witness in behalf of the Claimant Maria Rita Valdez petition No 478 and was duly sworn, his evidence being interpreted by the Secretary.

The U.S. Associate Law Agent was present

In answer to inquiries by counsel for the claimant the witness testified as follows:

My name is Jose Antonio Carrillo, my age is fifty-seven, and I reside in the City of Los Angeles.

I know the ranche called Rodeo de las Aguas afterwards called San Antonio, I have known it ever since the year 1828. It was then occupied by Rita Valdez, the widow of Villa. She has occupied it ever since. She has a large family. I went to the place in 1828, as alcalde to establish the boundaries, by order of the Governor and they were established. The land was bounded on the west by the land of Maximo Alanis, on the easterly from Roche, on the north by the sierra and on the south by Tomas Sanchez, and Jeronimo Abila and Reyna Villa. The husband of Rita Valdez was a sergeant in the Spanish army and retired from the service as an invalid with a pension. When he left the service he went to live on this land. Jeronimo Abila went to live on adjoining land about the same time. He was also a retired soldier of the Spanish army

Jose Ant° Carrillo

Sworn and subscribed before me

Hiland Hall
Comr

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Filed in office Nov. 15. 1852

(Signed) G. Fisher Jecy

Angeles Junio 10. de 1843.
A la instancia de Damiano Avila
Informe el Sor juez 2º de paz de esta
Ciudad previa la correspondte
sobre el contenido de la presente solicitud
con especificacion de si el terreno á que se
contrae ha sido ocupado por el que repre
senta, desde que tiempo y con que clase
de bienes y encluido vuelva á esta pre
fectura pa los fines que son consiguientes
M. D. E. V. B. C.
Al Esp.l Damiano Avila le pido el infor
me sigte
E. d. La Prefectura de mi cargo á en secue
ncia del supor decreto marginal 4º 1a
de este Espedte tomo los informes que crey
necesarios en el asunto á que se contrae
y segun ellos resulta tener un derecho el
vecino Damiano Avila lo hace acreedor
á la posecion en propiedad del terreno
que menciona tanto por ser un antiguo
poseedor de el con bienes, raices y semo
vientes, como queda por los cuanto por el
indicativo y de sondueta circulada
mas como Dn Vicente Sanchez espresa
segun el informe del pagado que le
pertenese á el un pedazo del sitio que
ahasa Avila en su diseño y que le fue
concedido por V. E. les pasa todo á su
superioridad pa qe en su vista se sir
va resolver lo que crea de justicia
Angeles Junio 1º de 1843. M. D. E. V. B.
E. S.
En 4 fojas utiles incluso el Diseño
acompaño á V. E. ya informado el Espe
diente promovido por el Vecino Damia
no Avila en solicitud de la posecion
en propiedad del terreno que con el ca
racter de provisional ha ocupado con
sus bienes de campo á fin de que V. E.
se sirva resolver lo que tenga á bien. protesto
á V. E. el mayor respecto y distinguida
consideracion.
Dios g. Angl. Junio 1º de 1843.

A
Record of
prefect

M. D. C. G. y Comandte Gral.
al Espedte de L. Avila
Angeles Julio 4/ de 1843. De entera conformidad con el supo decreto que antecede: corrase el traslado que se previene à la parte de Don Vicente Sanchez pa que en el termino de dos dias diga devolviendolos el Espediente à Esta prefectura pa los demas fines consiguientes M. D. C. V. B. O.
Al Espediente de Januario Avila C.
2. La prefectura de mi cargo corrio el traslado prevenido à Dn Vicente Sanchez del presente Espdte y con lo alegado pa Uno Dos y demas documentos que acompaña pasa todo à V. E. à fin de que en su vista se sirva resolver lo que se a justo.
Angeles Julio 8 de 1843. M. D. C. V. B. E. S. pasò à manos de V. E. el Espedte del vecino L. Avila con lo Supuesto pa Dn Vicente Sanchez pa su superior conocimto y resolucion. Reitero à V. E las seguridades de mi particular aprecio y respecto. D. y L. Angles Julio 8 de 1843. M. D. E. L. y O. 2 de este Departamto E. S. tengo el honor de pasar à manos de V. E. el Espedte promovido pa el Vecino L. Avila pa los fines q. convengan = Dios se. V. E. a admitir las seguridades de mi aprecio y respecto D. y L. Angles Julio 10 de 1843. M. D. E. S. G. y E. Gral de este Departto

State of California
County of Los Angeles
I, Wilson M. Jones Recorder of the County of Los Angeles and State of California do Certify that the above and foregoing is a true Extract from the Record of the Prefect of 1843. remaining in the Archives of my Office in the City of Los Angeles.

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In testimony whereof I have hereunto set my hand as Recorder and affixed the seal of my Office at my Office in the City of Los Angeles on this 4th day of October - A. D. 1852

Wilson - W. Jones Recorder
pr H. C. Myers. Dep - D.

Sealed in Office Octr 4th 1852

Geo: Fisher Decr

Translation.

B.

Translation of A.

Extracts from the Prefects Record for 1843.

To the request of Samuario Abila.

Let the 2d Magistrate of this City report (the previous Enquiry being made) upon that which is solicited whether the land in question has been occupied as represented from what time and with what class of cattle, this done return the same to this Office for the Ends which may follow.

(Signed)

Manuel Dominguez

Narciso Bobillo

Secty.

III.

To the request of Samuario Abila is put the following information which was deemed necessary in the action in question according to which the result is that Samuario Abila has a right to said lands of which he has asked possession in absolute property as much by his ancient possession with real and moveable property as remains proved as for his industry and good conduct. But as I am informed by the 2d Magistrate that the Señor Don Vicente Sanchez affirms that a part of the land (un pedazo del Sitio que abraza Abila En su Diseno) included in the diseno of said Abila is owned by him and that it was ceded to him by Your

Excellency. I pass all to your Superior Excellency in order that in view of the whole you may resolve what you may deem fast.

Angeles June 17, 1843 M. D. R. B. Sec.

As four written (or sealed) papers there is accompanied to Your Excellency the demo the information already given and the Expediente adoancing the rights of Amaario Abila in solicitation of the possession in property of the land which he has (in a provisional manner and does now occupy as a grazing Rancho to the end that they may serve Your Excellency in resolving what is well with great respect and distinguished Consideration God and Liberty –

Angeles Jan 17. 1843.

Manl Dominguez.

To the Excellent Senor
Commandant General

To the request of Amaario Abila
Angeles July 7th 1843.

With entire conformity with the Superior Decree which precedes there is sent prepared copy to the party Don Vicente Sanchez telling him to return the Expediente at the end of two days for the ends that may follow.

M. D.

R. B. Sec.

To the request of Amaario Abila
Excellent Senor.

The Prefectorship of my

charge sends the prepared copy of the Espediente of Don Vicente Sanchez with the allegations of the said Señor and the rest of the accompanying documents I pass the whole to Your Excellency in order that in view of the whole you may resolve what may be just.

Angeles July 8. 1843.

Manuel Domínguez.

Excellent Sir

I pass to the hands of Your Excellency the Espediente of City in Semanario Abila with the exposition of Don Vicente Sanchez for Your Superior Knowledge and resolution.

Reiterating to Your Excellency assurances of my particular regard and respect.

God and Liberty.

July 8th 1843.

Manuel Domínguez.

To the Excellent Señor
Governor of this Department.

To the Espediente of Semanario Abila.

E. S. The Prefectorship of the 2d. Dist. with the allegation of Semanario Abila in the present Espediente in defence of his right to the referred to place returning to Your Excellency the said Espediente for the Ends which may serve Your Superior pleasure.

Angeles July 10. 1843.

M. D. = R. B. &c.

Excellent Senor.

I have the honor to pass to Your hands the Expediente provided a Citizen Jamaica Abila for the Ends which may be Convenient.

Please accept my sincere assurances of respect.

Angeles July 10. 1843.

Manuel Domingez.

To the Excellent
Senor and Commanding
General of this Dept.

Filed in Office Oct 4. 1852
(signed)
Geo. Fisher
Secy.

Claim No 372.

Samuario Abila et al
as
United States
"La Cuenga"

Stipulation

This is hereby agreed and stipulated by us the undersigned as follows to wit.

1st. That a certified copy of the deposition of Senor Antonio Carillo taken by the Board in case No 478 may be filed in this case in evidence of the original grantee Francisco Abila having been a retired soldier.

2d. That the deposition of Don Rafael Gurrado taken after the submission of this case may be incorporated with the Evidence on file in this case.

3d. That in case the Commission find this claim valid against the government then the confirmation may be to Samuario Abila and others heirs at law of Francisco Abila deceased without further proof of heirship leaving the property to vest in said Samuario et al heirs at law that is in them to whom it properly corresponds or belongs.

Henry Hancock
Atty for Claimants.

Louis Blanding
Associate Law Agnt
Before the U.S Land Com.
Filed in Office
(signed) Geo Fisher Secy.

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Office of the Surveyor General
of the United States for California

Certificate of U.S. Surveyor General and Stipulation.

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I, John C. Hays, Surveyor General of the United States for the state of California and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California do hereby certify; that upon diligent examination being made of the said archives, I have found no paper or papers, record or other evidence whatever for a concession or grant purporting to have been made to Francisco or Januario Abila, of a tract of land called "La Cienega"

Seal

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed at the City of San Francisco, Cal. this seventeenth day of February A.D. 1855

John C. Hays
U.S. Sur. Genl Cal.

February 1855.

It is hereby stipulated by the undersigned that the foregoing may be filed in case No 372 before the U.S. Land Commission notwithstanding the fact of its having been submitted

Henry Hancock
Atty for claimant

Louis Bleuding
Ag. Law Agent

Filed in office Feby 17, 1855
(signed)
Geo Parker Fay

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Jamario Abila et al
vs
The United States } Las Cienegas

Opinion of the Board delivered by Commissioner R. Aug Thompson

This is a claim for about one square league of land situated near the town of Los Angeles, and purports to be founded on a grant made to Francisco Abila the father of the present claimants by José de la Guerra y Noriega then acting as Governor in the southern portion of California under Don Pio Pico

The affidavit of the claimant Jamario Abila is filed in the case setting forth the loss of the original title papers

He states that about the year 1843, he left said papers in the Government archives then at Los Angeles for the purpose of having the same perfected by Governor Manuel Micheltorena who had verbally opened him that he would so immediately after his return from the north in the summer or fall of that year. That he has made diligent search and inquiries for said papers but has been unable to find them, and that he believes they are lost or have been purloined by some interested person

It is also shown by the certificate of the United States Surveyor General for California that they are not now to be found in the archives under his charge.

It appears from the evidence in the case that in the month of June or July, 1843, a controversy arose between

the present claimants and Vicente Sanchez, who had obtained a grant of land adjoining the tract now claimed in relation to their respective boundaries which was referred by Governor Micheltorena to these Commissioners for settlement.

The depositions of two of those Commissioners have been taken in the case, and they both testify to the fact that the original grant to Abila was before them when they were acting on the matter, and to the general character and contents of the paper and the boundaries described in it

They reported in favor of Abila's right to the portion of land in controversy and returned the papers to the government with their decision, since which time the claimants have been in the undisputed possession of the premises as now claimed

A traced copy from the records of the office of the prefect of the 2d District duly certified containing copies of the reports and informes of that officer to the Governor in relation to the above mentioned controversy is also placed on file.

By these documents it appears that the prefect reported to the Governor that Jamario Abila had a right to the lands he then held provisionally in absolute property as much by his ancient possession with real and personable property as for his industry and good conduct

The original reports appears to have been lost, and no further action seems to have been had in the matter by the public authorities.

by the public authorities.

From the whole testimony in the case this appears to be one of those provisional titles made by the military authorities in California immediately after the establishment of the independence of Mexico, which were intended to be perfected by the issuing of formal titles as soon as the organization of the new government was completed and the necessary laws passed

The grant was made by Don José de la Guerra y Noriega then acting as military commandant of the southern portion of the territory, under Don Luis Argüello, who was in command at Monterey and exercised the civil functions of Governor and was dated in 1822 & 1823 It appears to have been made in accordance with the custom of the commanding officer of the Presidio, under Spanish authority to make provisional grants of land to the retired soldiers of their command of whom the grantee Francisco Ábila was one

Many similar grants were made about the same period, which upon application to the proper authorities were subsequently ratified and confirmed

The grantee in the present case is proven to have entered on the lands immediately after the date of the grant, He built a house on it in which he lived with his family, stocked it with horses and cattle, and had portions of it in cultivation; this occupation has been continued by him until his death and by his children, the present claimants

to the present time.

No application for a confirmation or ratification of the grant of the grant was ever made by the original grantee, he seems to have contented himself with the provisional concession and his undisputed possession and occupation under it, a species of title which was universally respected by the Spanish and Mexican Cultivators

In consequence however of the controversy with Sanchez, his son Jamaio Abila applied to the Governor for a formal title, and the necessary informes appear to have been taken for that purpose, but from the lapse of the Expediente or some other cause no final action was ever had upon it

In view of the whole testimony in the case, the long possession and occupation of the lands by the claimants and their ancestors and the formal recognition of their rights by the Mexican authorities, we think the claimants have shown themselves entitled in equity to a confirmation, to which effect a decree will be entered

Filed in office June 26, 1855

(Signed)

Geo Parker Fay

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Decree of Confirmation

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Jamario Abila et al
vs
The United States

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the petitioners is valid, and it is therefore decreed that the same be confirmed

The land of which confirmation is made is situate in the County of Los Angeles and is known by the name of "Las Cuevas" being the same which has been held by the present claimants and their ancestor ever since the year 1823. to the extent of about one square league, as described in the deposition of Rafael Gricada, and delineated on the map marked "J. H. depo. of Rafael Gricada" both of which are filed among the papers in the case, and are hereby referred to for a more particular description

R. Aug Thompson
S. B. Farrell
Commissioners

Filed in office June 26. 1855

(Signed)

Geo Fisher Jucy

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Order

And it appearing to the satisfaction of this Board that the land herein adjudicated is situated in the Southern District of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case and of the papers and evidence upon which the same are founded be made out and duly certified by the Secretary, one of which transcripts shall be filed with the Clerk of the United States District Court for the Southern District of California and the other be transmitted to the Attorney General of the United States

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 five — pages, numbered from 1 to 45, 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. 372 on the Docket of the said Board, wherein

Januario Abila is —

the Claimant against the United States, for the place known by the name of "Las Cienegas." —

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 first — day of November A. D. 1855, and of the Independence of the United States of America the ~~seventy~~ eighteenth.

Geo: Fisher

Secy.

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U TRICT COURT,

C m District of California.

No

ED STATES,

vs.

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Samuel Ybla et al

Las Cumegas

TRA T OF THE RECORD

ROM THE

LAND COMMISSIONERS,

In No. 372.

Filed, Dec. 1855

C. E. Carr Clk

By Jas. R. Dummer

Dep.

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Office of the Attorney General of the United States,

Washington, 31 December, 1855.

372.) "Las Ciénegas"

Damasio Abila Claimant.

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 18th day of December, 1855 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No. 353.

U S Dist Court
South Dist California

vs

Januario Avila
appellee

ads

The United States
appellants

vs

Notice of Appeal

Filed Feby 12th 1856

J. E. Carr
Clk

In the District Court of the United States for the Southern District of California.

CITY AND COUNTY OF LOS ANGELES--STATE OF CALIFORNIA.

Januario Avila, et al, Appellees.
and
The United States, Appellant.

Docket No. 353.

Transcript No. 372.

TO THE HON. ISAAC S. K. OGIER, JUDGE:

The Petition of **Pacificus Ord,** *a resident of said City, County, and State, Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court, in the name and behalf of the United States, represents as follows: That heretofore, to wit: on or about the* 4th *day of* October *A. D.* 1852, Januario Avila, et al,

presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, claiming a tract of land called Las Cienegas

in the County of Los Angeles *State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit: on or about the* 26th *day of* June *A. D.* 1855, *the said Commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit: on or about the* 6th *day of* December *A. D.* 1855, *a duly certified transcript of the proceedings and decision of the said Commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the Office of the Clerk of the District Court of the United States for the Southern District of California, and marked No.* 372; *reference to which it is prayed may be had and made part of this petition. That on or about the* 18th *day of* December *A. D.* 1855, *the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said Commissioners in said cause, and the papers and*

evidence on which said decision was founded. That thereafter, to wit: on the 12th day of February A. D. 1856, the said Attorney-General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the Clerk of said District Court of the United States, that the appeal in said cause from the said decision of the said Commissioners, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States. Your petitioner further represents, that the land claimed, as aforesaid, is situate in the Southern District of California, and within the jurisdiction of this Honorable Court. Your petitioner further represents and insists, that the said claim is invalid; and the said decision of said Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for many errors and imperfections of law and evidence, apparent in said certified transcript of the proceedings and decisions of said Commissioners in said cause, filed and appealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimants presented as aforesaid to said Commissioners. And your petitioner further denies that the said claimants ~~has~~ have any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said Commissioners, or in support of the said claim, no decision confirming the same should have been made by said Commissioners; but the

said claim should have been rejected by them. And the said claimants having no valid right or title derived from the Spanish or Mexican Governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to the United States, by virtue of conquest, and the Treaty of peace, friendship, limits and settlement, between the United States and the Republic of Mexico, made at the City of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said **Pacificus Ord,** Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the Act of Congress, entitled "An Act to ascertain and settle the Private Land "Claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants or ~~his~~ their attorneys may be served with a copy of this petition; and that this Honorable Court will review the said decision of said Commissioners, and reverse the same; and decide on the validity of the ~~same~~ said claim, and decree the alleged title to be invalid: with costs and general relief.

P. Ord

Attorney of the United States for the Southern District of California.

No. 353.

Filed this 5th January
A.D. 1837
C Sims Clk
by J H Coleman
Dep

UNITED STATES OF AMERICA, } SS.
Southern District of California,

The President of the United States,

TO

Jamaico Avila et al

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Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you in the District Court of the United States, in and for the Southern District of California, on the 5th day of January, in the year of our Lord one thousand eight hundred and fifty-seven at the City and County of Los Angeles, in said District, by

P Ord U.S. Atty praying Said Court to review the decision of the United States Board of Land Commissioners of the 26th June 1855 Confirming your claim to the lands called "Las Cienegas"

and that you are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this 16th day of January A. D. 1857.

J. Lewis
J. H. Coleman
Dep

CLERK.

No. 353

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

Samario Avila et al
appellees
vs
The United States
appellants

Filed on return this 20th of January 1857
C. Sims clk
J. A. Coleman
Dep

SUMMONS.

Received Jany 20th 1857
Edward Hunter
U. S. Marshal.
W. M. Goodman
Deputy.

Marshals Cost.

Copying Sums	1 60
Serving same	3. —
" Petition	3. —
	$ 6. 60

I served this Summons, together with a certified copy of the Petition, upon H. Hancock Atty for Appellees by delivering to him personally a true copy of same

at Los Angeles
the 20th day of January A. D. 1857.

in the Southern District of California, on

Sworn to and subscribed before me, this 20th January 1857
C. Sims
Clerk.
J. A. Coleman
clk

Edward Hunter
U. S. Marshal.
W. M. Goodman
Deputy

In the District Court of the United States
for the Southern District of California
Before Hon Isaac S. K. Ogier
Dist. Judge
Dec Term 1856

Jumaro Abila et al. Appellees
ads
United States Appellant

Docket No 353
Transcript No 372

La Tiesnaga

In answer to the petition of Pacificus Ord Esq. U. S. Dist Atty. filed with the Clerk of this Hon. Court on the 5th day of Jany 1857 of which service was duly made on the 20th inst; the Appellees in this cause admit what is therein contained concerning the proceedings already had, but deny all and singular of the allegations discrediting the validity of their said claim, and hereby on the contrary aver that their title to the said land claimed by them in this instance is good and valid, and therefore pray this Honorable Court to affirm the decision of the said Board of Land Commissioners confirming their said claim, and to decree their title to the said land to be valid and to confirm the same to them, together with such other and further relief as they may in law and equity be entitled to

Henry Hancock
Atty for Appellees

No 353

Januario Abila et al.
Appellees
vs
United States
Appellant

La Cienega

Answer & petition for Revision

Filed this 26th January 1857
Calvin Clk
J. H. Coleman
Dep

In the Dist: Court of the U. States, for the Southern Dist: of Cal:
Monterey, June term 1857 Hon: I. S. K. Ogier Judge.

Tomas Avila, et al. appellees vs. The United States. Appellant.	No. 353. Ens No. 372.

On motion of P. Ord Attyp of the U. States for the said Dist: & on suggesting to the Court that it is not the intention of the U. States to prosecute further the appeal in the above cause, it is ordered by the Court, that the appeal in said cause be dismissed & that the claimant have leave to proceed upon the decree of the Commissioners, heretofore rendered, as a final decree.

Geo. S. K. Ogier
Judge

No. 353

Samuel Avila
et al
vs
The U. States

Dismissal of Appeal

Filed 8 June 1857
A. Taylor
Dep. Clk

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California Land Claims.
Attorney General's Office
26 Jany, 1857.

Sir.

In the case of the claim of Januario Abila et al., confirmed to the claimants by the Commissioners, Case no. three hundred and seventy-two, (372), appeal will not be prosecuted by the United States.

I am,
Respectfully,
[illegible]

Pacificus Ord Esq
U. S. Attorney.
Los Angeles.

No 353

Filed 4th March 1858
for 8th June 1857

H. Sims Clk
J. H. Coleman
Dep