

CASE No.

393

SOUTHERN DISTRICT

PANOCHÉ GRANDE GRANT

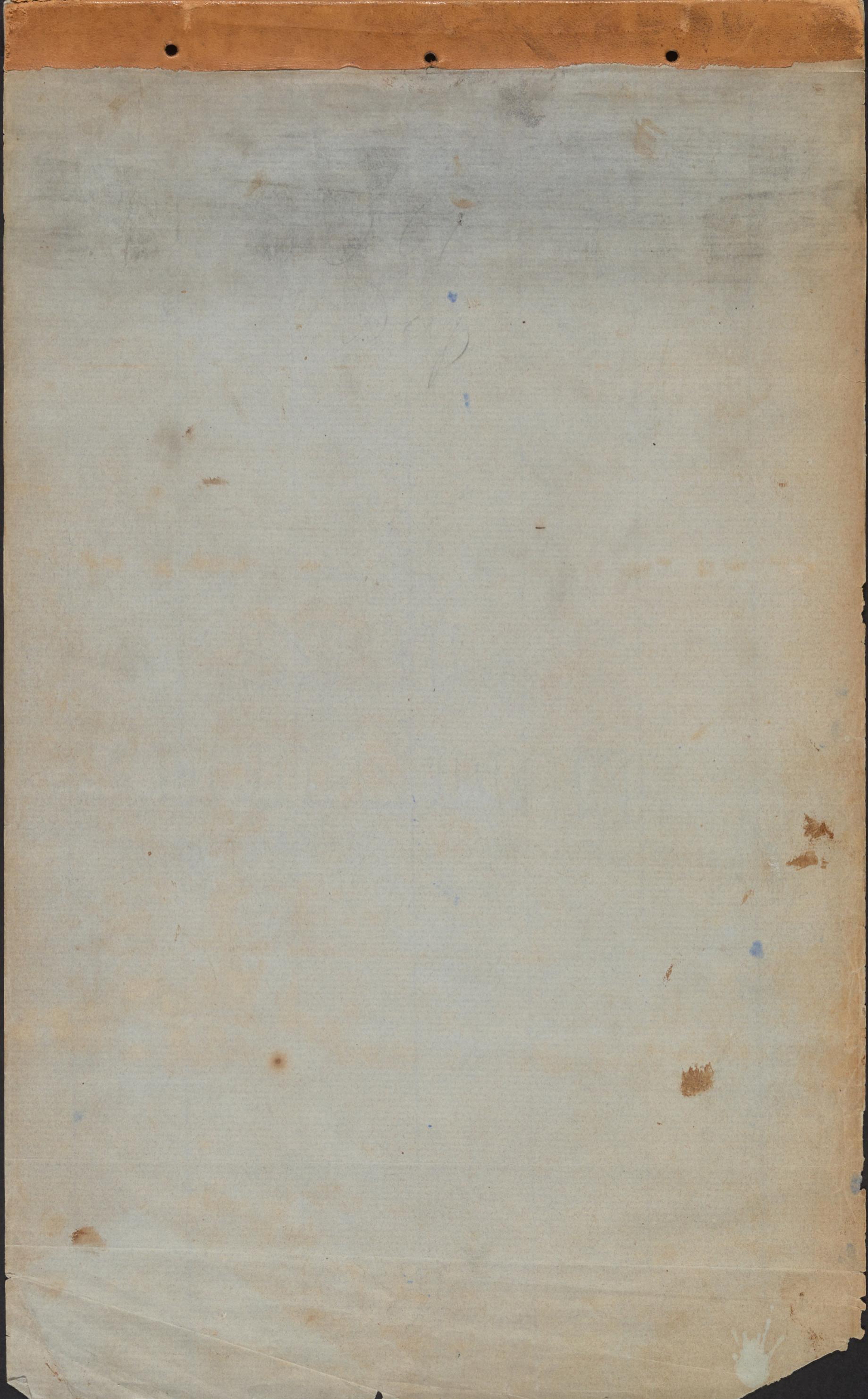
VICENTE GOMEZ

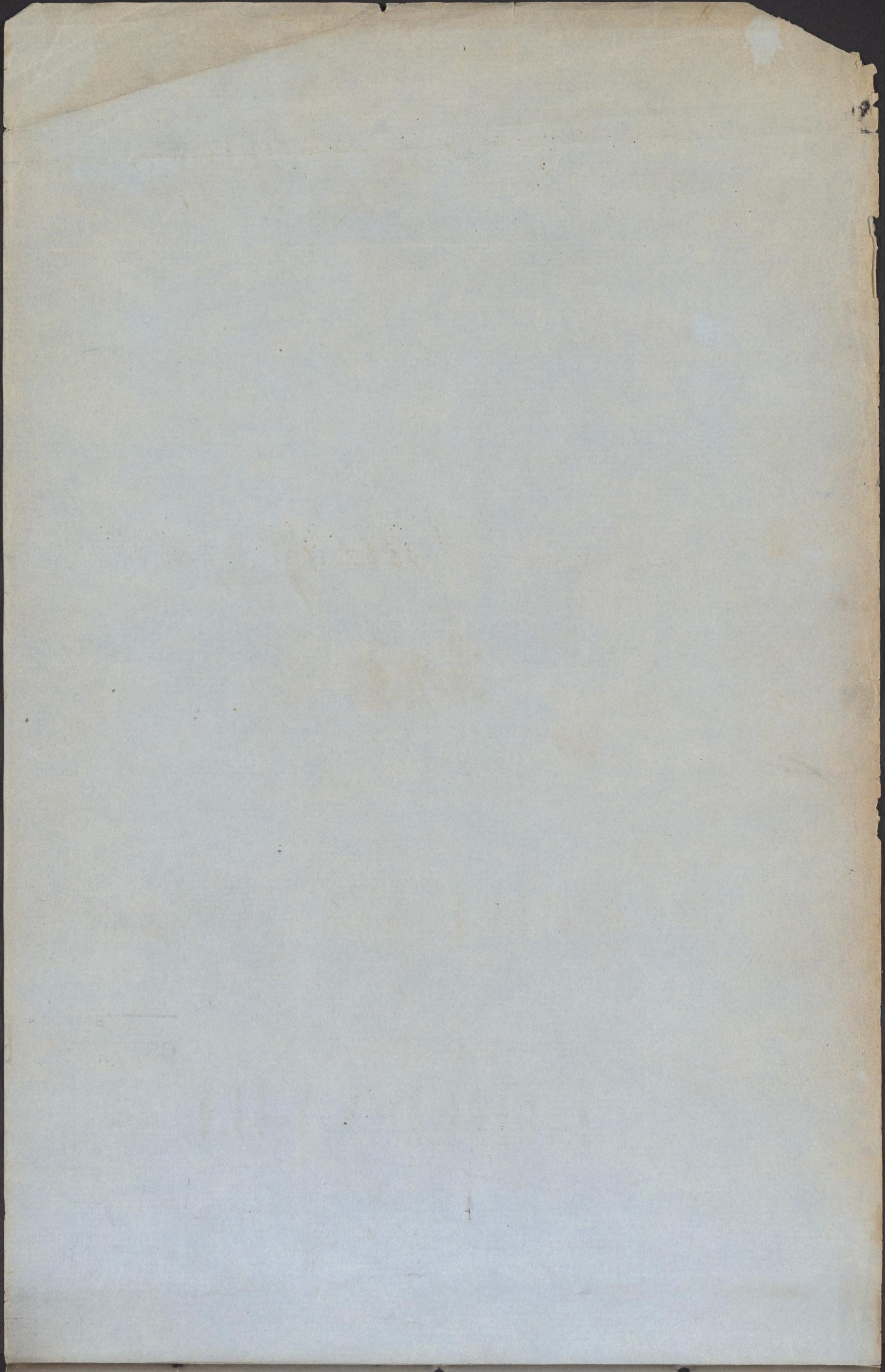
CLAIMANT

LAND CASE 393 S.D.

pp. 280

MAR 27 1963





TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. *569.*

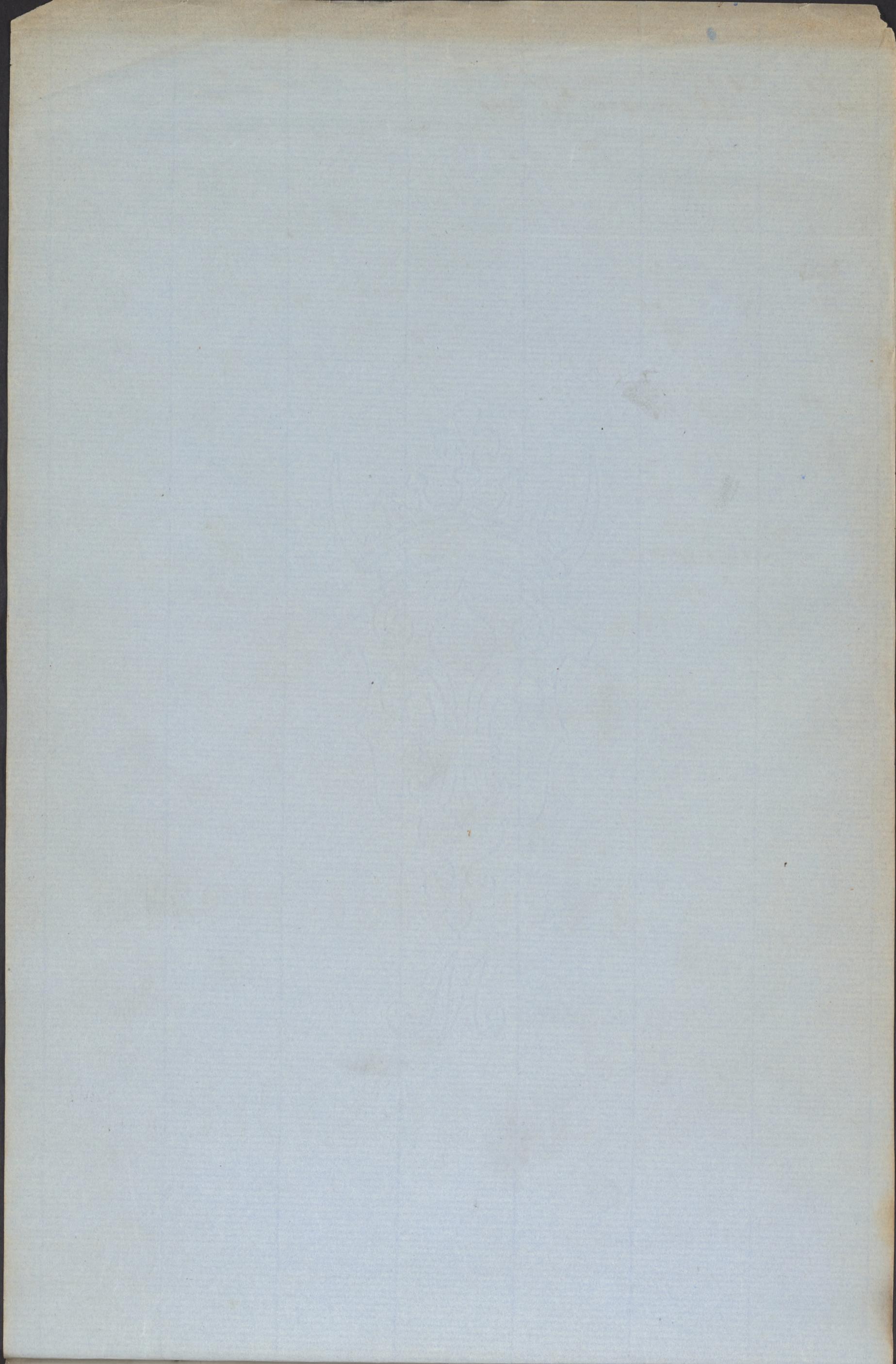
Vicente Gomez CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Sancho Grande



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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PAGE 2

Be it Remembered, that on this *ninth day of February*, Anno Domini One Thousand Eight Hundred and Fifty-~~three~~, 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 *Vicente Gomez* *~~~~~*
~~~~~ for the Place named
Pancho Grande, *~~~~~*
was presented, and ordered to be filed and docketed with No. 569 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 February 12' 1853.
In Case No. 569, Vicente Gomez for the place named "Pancho Grande", the deposition of James S. Ord, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed;
(Vide page 10 of this Transcript.)

San Francisco February 26' 1853.
In the same case the deposition of Jose Castro a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, with document marked H. J. T. no. 1. annexed thereto, was filed;

(Vide page 12 of this Transcript.)

San Francisco October 27' 1853.
In the same case the deposition of Jose Abrego a witness in behalf of the claimant, taken before

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Commissioner Alphens Felch, was filed;
(Vide page 5 of this Transcript.)

San Francisco, November 2^d 1853.

In the same case the deposition of Oscar de Grandlaigne, a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson was filed:

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(Vide page 9 of this Transcript.)

San Francisco December 5th 1854.

Case no. 569 was ordered to be placed at the foot of the 3^d class cases on the Trial Docket.

San Francisco March 6th 1855.

In the same case Commissioner S. B. Farwell delivered the opinion of the Board respecting the claim:

(Vide page 19 of this Transcript.)

and the following order was made, to wit:

(Vide page 21 of this Transcript.)

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Petition

To the Board of Commissioners for ascertaining and settling unsettled land claims in the State of California

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The Petition of Monte Gomez of Monterey County California respectfully represents that some time in the year 1844 Manuel Gutierrez of Upper California granted to your Petitioner a certain tract of land called Pausada Grande of the extent of four square leagues (now lying and being in the county of San Joaquin) bounded as follows:

On the South by the lands of Francisco Vargas on the North by the lands of Julian Bergera and the low hills and on the West by the barren hills as explained by the map hereto annexed. Your Petitioner alleges that for some time before the military occupation of Monterey California by the American forces (July 7th 1846) he was attached in the Commissary's office of Monterey

and that at that time he had his original title papers for said tract of land deposited in his desk in said office of the Commissary. That shortly before the naval forces of the United States took possession of the Town of Monterey he had left the Town in the face of the Mexican troops to assist in the defence of the country.

That when he so left Monterey he left his said original grant of said land in his desk in the office of the Commissary as aforesaid, believing it to be in a secure place. That upon his return to Monterey he found it in possession of the United States troops and the Public Buildings office and papers were all in the possession of and guarded by American soldiers. Your Petitioner made application without delay to the American Officer who had charge of the office and papers who his said original title for said

H

tract of land were deposited as aforesaid but the said officers (Lieutenant Meador of the United States Marine Corps) refused to deliver any paper or papers then in his possession or under his charge.

Your Petitioner alleges that the map herewith presented is the map which accompanied the original Espediente and that the grant made as aforesaid by General Nuttall was of the land delineated by this map.

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Your Petitioner became possessed of this map by permission of the proper officers for the purpose of having a copy made for his use and benefit and he has taken it to his maternal dwelling house at San Antonio before he fell into the hands of the American authorities since he got possession of this map as aforesaid.

It has always remained in his hands he has made application to the persons in charge of the archives of the former Government which were taken at Monterey for information in relation to this grant and title made to him as aforesaid but it could not be found nor was the original Espediente found.

Your Petitioner has learned and he claims and alleges that many original papers and documents belonging to the Government archives taken at Monterey on the 7th of July 1846 have been since lost or destroyed if such be the fact his title papers and the Espediente cannot have been among the papers and documents so lost or destroyed. Your Petitioner hopes that after such proof as the nature of the case will admit that your Honorable Board will confirm his said claim to the said four leagues of land granted as aforesaid and that he may have a decree accordingly & grant relief as in duty bound.
P. Ord. Attorney for Petitioner

5-

27369+

Filed in Office February 9th 1853
George Fisher
Secretary
Records in Vol 1st of Petitions 1854 9, 552
George Fisher
Secretary

Depo of
J. Abrigo.

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Office of the Board of Commissioners &c
This day before Commissioner Alpheus
Felch came Jose Abrigo a native on behalf
of Manuel Necoito Gomez No 5 to 9 who
after being duly sworn deposed as follows

The testimony was given in the Spanish Language
Mr Fisher Secretary &c acted as Interpreter
Testimony by Mr (C) Attorney
for Manuel

Question What is your
name and place of residence
Answer My name is
Jose Abrigo my age forty years and I reside
at Monterey in California I have lived
here twenty years

Question Do you know
Manuel Gomez of Monterey of Galatone
have you known him

Answer Manuel and
I have known him in Monterey during
the last fifteen years he is a native born
Mexican citizen

Question Do you know any
thing about his having a title or grant of
land in California given to him by the
Government of the state generally what you
know about it

Answer In the year 1845
the said Gomez showed to me a title to the
land called La Parochia near the anchorage
of San Luis Gonzaga belonging to Francisco
Perez Pacheco owned by Manuel Necoito

On the
latter part of 1844 or the beginning of 1845 I do
not recollect which said Gomez was at that
time one of the clerks of the Commission
General of California

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of which Office I was the chief after showing
me the said title papers the said Governor placed
the same for safe keeping among the papers
belonging to the archives of said Office where
it remained until the said archives were
taken possession of by the American forces
July 7th 1846 to the best of my recollection

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Hustons Was you at the
head of the Commissioners Office until the
Americans took possession of the country
Answer I was and I was
remained available until the same
time

5 Hustons Was the title of which
you speak signed by the Governor and his
Secretary

Answer It was signed
by Nuttall and Ginnins the Governor and
Secretary at that time. However the signatures
of both of them having after the same date
The signatures on the title papers mentioning
you the two and genuine signatures of said
Nuttall and Ginnins

Mr Greenup objects to this
evidence of signature to documents not
produced

6 Hustons Do you know the
date of the Grant to which you refer
Answer I do not
7 Hustons Do you know the
quantity of land granted by said title
Answer It was four
square leagues

8 Hustons Do you know
its boundaries
Answer I have seen the plat
of it and have read it but I do not recollect
the boundaries

9 Hustons Look at the
documents now shown to your members
Exhibit B and annex to the deposition of J. S. Hester
huntingdon and filed in this case referring
to the maps of the land claimed in this
case and state whether you have con-
sidered the same

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before and if you know where and in what hands you saw it and what you know about it

answer I have seen it before I saw it at the same time I saw the little paper in the hands of said Gumm as above stated at Monterey. I believe the paper on which it is drawn

Is the same kind of paper which I had in my office as commissary at Monterey when I saw it at Monterey. I believe it was annexed to the little paper before mentioned. Question by our Grand Juror associate Law Agent

Question How long was Gumm in your office before the occupation of the country by the United States

answer For years at the numberless

Question at what place was the Grand Juror by Gumm mentioned

answer at Monterey Question Do you recollect when Gumm mentioned left Monterey for Los Angeles, when he resigned his office of Gumm

answer I believe it was in the month of February or March A.D. 1845

Question Did Gumm ever and constantly at Monterey from the time last mentioned until the occupation of the country by the United States

answer He did not leave Monterey and joined General Jose Castro at the time before mentioned at Monterey. This was about the month of May 1846

I do not recollect his being absent at any other time during the time specified frequently gave him leave of absence for several days

or a month that he was employed in my office but also had to go

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8

when called upon to the office of the
Secretary of the Government to assist in the
Office

Quarters by Mr. Clerk

Historic did the ammunition
troops and authorities retain possession
of the Government buildings and archives
after July 7th 1846

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As soon as I got back in the
morning of July 7th 1846 the Ammunition troops
took possession of all the archives of the
Government which were in various public
buildings at Monterey and carried them
in blankets to the custom House building

When there were about
four hundred men stationed under Colonel
Fremont and when many of the papers
constituting the public archives were torn
up and destroyed

From that time the
archives remained in possession of the
American authorities and I do not know
what became of them. The papers that were
destroyed were torn up and scattered about
the streets and lost

I called on Mr. Hart
- Hill and requested him to know
- what steps Lieutenant Maury had
- was in command at Monterey to pre-
- vent further destruction of the papers

Quarters by Mr. Gumbrow

Historic did Gumbrow occupy
any part of the land in question over
it from the time of obtaining the grant
to the time of the occupation of the country by
the Americans

As soon as I do not know whether
he ever occupied it or visited it

Jose Alregio

Subscribed and sworn to before me this 27th
day of October 1853

Alphus Fitch Commissioner

Filed in Office October 27th 1853

George Fisher
Secretary

4/5/97

Recorded in Evidence B. Vol 3 Page 307
Henry Fisher
Secretary

Depo of
Oscar de
Grandkargue

office of the Board of Commissioners &
This day before Commissioner R. Aug
Thompson cause Oscar de Grandkargue
attests in behalf of the claimant Monte
Goumz number 69 who after being duly
summoned appears as follows

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Testimony on behalf of
Claimant

Present. And Esq attorney
for claimant and R. Gumbrow Esq asso-
ciate Law Agent

In answer to questions
attests that his name is Oscar de
Grandkargue age forty seven and
resides residing San Francisco

Question by claimant's
attorney state if you know Monte Goumz
and if so how long have you known him
answer I do not have known
him since the year 1845

Question by same state if
said Goumz ever offered to sell you any
land and if so what land and where
situated

answer I was with Montezuma
in the fall of 1845 as master of a sailing
ship and was intimate with the fam-
ily of said Goumz one day he offered to
sell me about of land which in extent
about three or four leagues as near as I can
recollect

He proposed at that time to take me
to Mexico and showed me the land
was some where in the neighborhood
of Monterrey I am sure Goumz showed
me a document and map which he
told me was title to the land from Monte
Atienza I do not distinctly recollect
the name of the place

But I think it was
New San Grande or something like it

Justina did you understand
the Spanish language at that time
Answer I did
O de Grand K ar que
Sum and subscribed before me this
2nd of November 1853

R Aug Thompson
Commissioner
Filed in Office November 2nd 1853
George Fisher
Secretary
Records in Evidence B. Vol 3 Page 345
George Fisher
Secretary

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Depo of
J.L. Ord

San Francisco Feb 12th 1853
On this day before Commissioner in Heland
Hall came James L Ord attorney in
behalf of the claimants Petition Number
Petition Number 5 to 9 and was duly
sworn his evidence being given in English
The United States asso-
ciate Law Agent was present

In answer to
inquiries by Counsel for the claimants
the witness testified as follows

My name
James L Ord my age is twenty nine years
and I reside at Monterey and am by
profession a Physician

I came to California
as assistant surgeon in company F of the
1st Regiment of United States Artillery
in January 1847 and have since that
time resided in Monterey

In the latter
part of said month of January I comman-
ded occupying a portion of the Custom
House at Monterey and of it I occupied
with Captain W. Sherman of the army
upon quarters

and the other end was
occupied as a hospital and was under
my charge the center of the building was
used as a depositing for naval stores

M

In the room occupied as a hospital some Spanish papers which I supposed were old custom house papers of no value

The papers were in bundles which had doors bottom some of the doors had keys in them but were not locked

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The papers were not in charge of anyone to my knowledge My hospital steward asked me if they were of any value and I told him I did not know but that they were and some of them were used by him in putting up prescriptions for the sick

I used some myself as waste paper when first went there I did not understand Spanish and it was a month or two before I found out they were of value

From the night papers afterwards in charge of Captain Hallish I think some of these were Espionaje I cannot form an idea of the quantity of papers this was

I do not recollect about seeing maps in the papers some of them had numbers on the outside from January until May the papers were in such papers custom house

Departments for a time about the first of May and when I returned in June the papers were not in the place in which they were when I went away

In answer to questions by the associate Law Agent the witness says he thinks Captain Hallish took charge of the papers when they were removed from the custom house James L. Ord

Steward Subscribed before me
Wm. A. Hall
Commissioner
Filed in Office February 12 1853
George Foster Secy

Depoof
Jose Castro

San Francisco July 24 1853

Antes any before Commission Harry
Thurston came Jose Castro antes in
behalf of the claimants Vicente Gurney
Petition No 9 and was by sum his
widow being interpreted by the Secretary

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Questions by claimants

1 Question What is your name

age and place of residence

Answer My name is Jose

Castro my age forty four years and my
residence at Monterey California

2 Question are you acq-

ainted with Vicente Gurney and of what
country was he and where did he live

Answer I am acquainted

with Vicente Gurney his by birth a
Mexican and has resided in California
since the year 1832

3 Question Do you know any

thing of an application being made by
the said Gurney for land to the Gurney
of California at Snytonic and if you state
what you know in this subject

Answer I am familiar

with year 44 whilst I was engaged
in military service against the
Indians the said Gurney said to me
that all the lands with which he was
acquainted that he desired had been
granted and assured that

I would inform

him of a suitable place to petition for
the command him to apply for the place
called Rancho Grande

Under stood that

he afterwards applied to Gurney petitioning
for the place and obtained a grant
for it

4 Question Where is this place

situated of which you speak knowing

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been recommended by you to Gurney and which you say you understood he got a grant for

Answer This place lies Eastward from San Bartolome and about twenty five leagues distant therefrom

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Question Look upon the map now here forwarded for which was filed with the Petition in this case and is now filed as Exhibit. Now tell us your opinion and say whether or not the same is a correct delineation of the said tract of land and the situation of

Answer I have examined the said map I cannot say that it is a correct delineation of the said tract but in the general outlines it would say it was

Question What office if any was held by the said Gurney under the former Government of this country

Answer Gurney was first Clerk in the Commissioners Department at Monterey from some time in 1846 to the change of Government

Question by United States Law Agent

Question All you can certify with the Land Managers in this case from your own personal observation

Answer From the place well from personal observation having camped upon it frequently or twenty days

Question Have you any knowledge of the fact where you reason to believe that Gurney ever occupied this land or visited it himself

Answer I do not know anything of the matter of his occupation or visits to the place have seen Gurney only once after leaving recommended him to apply for the land

Question What public

AH

Affairs have (worked) in California made
the firm Government

persons have filled the
office of Political Chief of California and
a number of the Territorial Deputations
has also Profits and commendations
given

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Jose Castro
United States Law Agent person
born to and subscribed before me this
24th of July 1853

Harry I. Thompson
Commissioner

Filed in Office February 24th 1853
Judge Foster

Secretary
Records in volume B Vol 2 P 602
Judge Foster
Jury

Sello Cuarto de reales.

Habilitado provisionalmente por la Administracion de la Armada Maritima del puerto de Monterrey en el Departamento de las Californias para los años de mil ochocientos Cuarenta y cuatro y mil ochocientos Cuarenta y cinco.

Micheltoren.

Pablo de la Guerra.

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Superior.

Monterrey, Mar. 14 de 1844.

Infº el S. Srío. del despacho transmitido antes otros tantos de necesidad.

Micheltoren.

Exmo. Sr. Gobernador.

Vicente Gomez Mexicano por nacimiento y vecino de esta Capital ante la

N. J. J No
I amuxid
to the dipo-
sitios of
Joa Castro

justificacion de N. E. y como mas halla lugar en derecho espone que deseando obtenerme al hermoso y rico campo de la agricultura que es de tan vital en este Departº solicita de la honra de N. E. se digna concederme en propiedad el paraje conocido con el nombre de "Parque Grande" coluete por el Norte con Don Julian Plisana por el Sur con la Serenaria por el Oriente con el Valle de los Talares y al Poniente con Don Francisco Armas. cuyo terreno demaree la extension de tres sitios de terreno mayor poco mas o menos segun explica el dibujo que a su debido tpo presentare mas correcto que el que ahora acompaño. Comu.

Por lo expuesto suplico a V. E. se digna tener en consideracion mi presente solicitud para de este modo proporcionar la subsistencia necesaria de mi enciada familia.

P. A. A. V. E. Reuolvidamente suplico provea como llebo indicando espensado merced y gracia. Queriendo lo necesario.

Monterrey, Marzo 14 de 1844.

Vicente Gomez.

Como dispone el S. Gobernador pase la presente instancia al Juez 1º de San Juan para que informe lo que sea justo y buena a esta Secretaria para proveer.

Monterrey, 14 de Marzo de 1844.

Narciso Jimeno.

En cumplimiento de la Superior de N. E. en lo que se me pide informe si el terreno que se solicita en esta instancia se halla habilitado por lo que informo que no hay inconveniente por su consecucion

S. Juan 20 de Mar de 1844.

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Here follows a map or plan.

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

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, by virtue of the power vested in me by law, do hereby certify that the four preceding and hereto annexed pages of tracing paper, numbered from one to four inclusive, contain a true and accurate copy of a certain document now on file and forming a portion of the said archives in this Office the same being the only document in the archives in relation to the tract called "Aunche Grande" petitioned by Vicente Sanchez.

In testimony whereof I have hereto signed my name officially and caused my seal of Office to be affixed at the city of San Francisco this thirty-first day of October 1853.

John C. Hays.
Surveyor G. Cal.

Filed in office - Nov^r 3. 1853.

Geo. Fisher. Sec.

107
Translation
of
Expediente

Seal of the fourth class
Providid Provisoriaally for the Maritime
Custom House of Montevideo in the De-
partment of the Republic for the years
one thousand eight hundred and forty
four and one thousand eight hundred
and forty five
Institucion Publica del Asuncion

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Seal }
To the Excellent Governor
Acquite
Gonzalez a Mexican by birth and resident
out of this Capital appears before and
represents to the Justice of your Excellency
and says,

That desiring to devote him-
self to agriculture which is of vital
importance in this Department he soli-
cits that your Excellency will have the
goodness to grant him in ownership
the place known by the name of Parochia
Grande,

Bounded on the North with
Don Julian Versua on the South with
the hills on the east with the Valley of the
Tulans and on the west with Don Francisco
arios,

Which land is of the extent of
three square leagues more or less as
explained by the map which will
present some curiosity than the one now
offered with this Petition

Wherefore I pray
that your Excellency will take into
consideration this Petition so that I may
obtain the means to support my growing
family

Giving thanks to your Excellency
and swearing all that is necessary Montevideo
March 13th 1844

Acquite Gonzalez
Montevideo March 14th 1844

The Secretary of Despatch will take the necessary preliminary steps
Montreal 14th

as directed by His Excellency the Governor let this be passed to the Judge of the first Instance of San Juan.

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For his report of what may be just and returning it to the office of the Secretary Montreal 14th of March 1844

Manuel Jimenez

Impresario of the Supreme order of his Excellency asking for information whether the law asked for is vacant,

It is reported that it is vacant and there is no reason why it should not be granted

San Juan 20th of March 1844

Jose Antonio Rodriguez

Filed in Office November 3rd 1853
George Fisher
Secretary

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Opinion
of the
Board

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Number 569 } claim for a place
Nanto homin } called Panoche
The United States } containing four
square leagues
situate in the County
of Monterey

The Petitioner in this case states in his
Petition that he has a grant for the above
named place issued in the year A.D.
1844 by Governor Micheltorena

and that
the grant was among the archives of
state at Monterey at the time that
the archives fell into the hands of the
Americans in July 1846 and that it
was either lost or destroyed

He has also
given satisfactory proof of the existence
and loss of the grant but has failed
utterly to offer any proof whatever
going to show that he ever occupied, im-
proved or cultivated any part of the land

or
that any one ever did for him or that he
consent the land

We are therefore of the
opinion that the claim is invalid
and a decree rejecting the same will
be entered

Rejected

Filed in Office March 10th 1855

Signed
Geo Fisher
Secretary

Recorded in Records of Decisions Vol 2 p 382

Signed
Geo Fisher
Secretary

Dece

Number 569
Secreto Lomeny
The United States

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In this case on hearing the proofs and allegations it appears by the Commission that the claim of the Petitioner is not valid and it is therefore ordered that his application for a Comproantion be refused

Alphonis Fitch
Lang Thompson
S B Farnell

Commissioners
Filed in office March 6th 1855

Signed
Geo Fisher
Secretary

Recorded in Record of Decisions Vol 1 p 53
Signed Geo Fisher
(Secy)

and it appearing to the satisfaction of the Board that the land in question is situated in the Northern District of California it is hereby ordered that two transcripts of the Proceedings and of the decision 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 U S District Court for the Northern District of Cal and the other be transmitted to the Secretary of the

Office of the Board of Commissioners,

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

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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 *Twenty* pages, numbered from
1 to *20*, both inclusive, to contain a true, correct and full Tran-
script 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. *569* on the Docket of the said Board,
wherein

Vicente Gomez is
the Claimant against the United States, for the place known by
the name of "*Pinoche Grande*"



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 *August*
A. D. *1857*, and of the Independence of the
United States of America the *seventy-eighth*,

Geo. Fisher
Geo. Fisher

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U. S. DISTRICT COURT,
South Western District of California.

No: ~~276~~ - 393 - 393

THE UNITED STATES,

vs.

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Vicente Gomez

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS.

In Case No. *5-69*

Filed, *4 June* 1857
~~*October*~~ 185*8*

J. A. [unclear]

Clk

U.S. [unclear]
Dist. Clk

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

Transcript

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of the

Proceedings In Case

No 393

Vicente Gomez Claimant
vs

The United States
Defendant

For the Place Named

'Panoche Grande.'

Office of the Board of Commissioners
to ascertain and settle the Private
Land Claims in the State of
California.

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Be it Remembered that on
this ninth day of February Anno Domini One
thousand eight hundred and fifty three 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 Vicente Gomez was presented
and ordered to be filed and docketed with N^o 569 and
is as follows to wit;

(Vide page 3 of this Transcript)

Upon which the following subsequent proceedings were
had in their Chronological order to wit;

San Francisco Feby 12th 1853.

In case no 569, Vicente Gomez for the place named
"Panoche Grande" the deposition of James L. Ord
a witness in behalf of the claimant, taken before
Commissioner Hiland Hall was filed.

(Vide page 10 of this Transcript)

San February 24th 1853

In the same case the deposition of Jose Castro a witness
in behalf of the claimant: taken before Commis-
sioner Henry J. Thornton with document marked

H. I. F. No. 1 annexed sheets was filed
(Vide page 12 of this Transcript)

San Francisco October 27th 1853

In the same case the deposition of Jose Abrego a witness
on behalf of the claimant, taken before Commissioner
Alpheus Felch, was filed:

(Vide page 5 of this Transcript)

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San Francisco November 2^d 1853

In the same case the deposition of Osearde Grandclair
a witness in behalf of the claimant, taken before
Commissioner R. Hey. Thompson was filed.

(Vide page 9 of this Transcript)

San Francisco December 5th 1854

Case No. 569 was ordered to be placed at the foot of the
3^d class cases on the trial docket.

San Francisco March 6th 1855.

In the same case Commissioner S. B. Farwell
delivered the opinion of the Board rejecting the claim.

(Vide page 19 of this Transcript)

And the following order was made to wit:

(Vide page 20 of this Transcript)

To the Board of Commissioners for ascertaining and settling Private Land claims in the State of California

The petition of Vicente Gomez of Monterey County California respectfully represents that some time in the year 1844 Manuel Micheltorena then Governor of Upper California granted to your petitioner a certain tract of Land called Rancho Grande to the extent of four square leagues (now lying and being in the County of San Joaquin) bounded as follows.

On the South by the lands of Francisco Argal, on the North by the lands of Julian Lozano and the low hills, and in the West by the Carrizal hills as explained by the Map hereto annexed, your petitioner alleges that ^{for} sometime before the Military occupation of Monterey California by the American forces (July 7th 1846) he was established in the Commissary's office of Monterey.

And that at that time he had his original title papers for said tract of Land, deposited in his desk in said Office of the Commissary. That shortly before the Naval Forces of the United States took possession of the town of Monterey he had left the Town with some of the Mexican Troops to a post in the defense of the Country.

That when he so left Monterey he left his original Grant of said Land in his desk in the Office of the Commissary as aforesaid believing it to be in a secure place.

That upon his return to Monterey he found it in possession of the United States Troops and the Public Buildings, Offices and papers were all in the possession of and guarded by American Soldiers. Your Petitioner made Application without delay

to the American Officer who had charge of the office's papers where his said original titles for said tract of land were deposited as aforesaid but the said officer (Lieut. Madden of the United States Marine Corps) refused to deliver any paper or paper then in his possession or under his charge.

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PAGE 27

Your petitioner alleges that the Map herewith presented is the Map which accompanied the original expediente that the Grant made as aforesaid by Governor Micheltorena was of the land delineated by this Map.

Your petitioner became possessed of this Map by permission of the proper officer for the purpose of having a copy made for his use and benefit and he had taken it to his private dwelling house a short time before California fell into the hands of the American Authorities since he got possession of this Map as aforesaid.

It has always remained in his hands, he has made application to the persons in charge of the Archives of the former Government which were taken at Monterey for information in relation to this Grant and title made to him as aforesaid but it could not be found nor was the original expediente found.

Your petitioner has heard and believes and alleges that many original papers and documents belonging to the Government Archives taken at Monterey on the 7th of July 1846 have been since lost or destroyed. If such be the fact his title paper and the Expediente must have been among the papers and documents so lost or destroyed. Your petitioner hopes that after such proof, as the nature of the case will admit

that the Honorable Board will confirm his title

that Your Honorable Board will confirm his said claim to the said four leagues of land granted as aforesaid and that he may have a decree accordingly & General relief as in duty bound.
P. Ord Atty for Petitioner.

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PAGE 28

Filed In Office Feby 9th 1853
Geo Fisher Secy
Recorded in Vol 1st of Petitions on P 549. 550

Geo Fisher
Secretary

Deposition of
J. Abrigo.

Office of the Board of Commissioners &c
This day before Commissioner
Alpheus Felch came Jose Abrigo a witness
behalf of claimant Vicente Gomez No. 569 who
after being duly sworn deposes as following.

The
Testimony was given in the Spanish Language.
Mr. Fisher Secretary &c acted as Interpreter.
Questions by Mr Ord Attorney for Claimant
Question. What is your name, age and place
of residence.

Answer. My name is Jose Abrigo, my age 40 years
and I reside at Monterey in California. I have
lived here twenty years.

Question. Do you know Vicente Gomez of Monterey
if so how long have you known him.

Answer. I know him and have known him in
Monterey during the last fifteen years. He is a native
born Mexican citizen.

3 Question. Do you know anything about his having a title or grant of land in California given to him by the Governor, if yes state generally what you know about it.

Answer. In the year 1845 the said Gomez showed to me a title to the land called La Pansche near the Rancho of San Luis Gonzaga belonging to Francisco, Puy, Pacheco, issued by Governor Michelorena.

In the latter part of 1844 or the beginning of 1845 I do not recollect which said Gomez was at that time one of two clerks of the Commissary General of California, of which office I was the clerk. After showing me the said title paper the said Gomez placed the same for safe keeping among the papers belonging to the Archives of the said office, where it remained until the said Archives were taken possession of by the American forces July 7th 1846 to the best of my recollection.

4 Question. Was you at the head of the Commissary's office until the Americans took possession of the country.

Answer. I was and Gomez remained as a clerk until the same time.

5 Question was the title of which you speak signed by the Governor and his secretary.

Answer. It was. It was signed by Michelorena and Jimeno the Governor and Secretary at that time, I know the signatures of both of them having often seen them write. The signatures on the title paper mentioned were the true and genuine signatures of said Michelorena and Jimeno.

7
Mr. ~~Gonzalez~~ objects to this evidence of signatures to documents not produced

6 Question. Do you know the date of the grant to which you refer?

Answer. I do not.

7 Question. Do you know the quantity of land granted by said title?

Answer. It was for four square leagues.

8 Question. Do you know its boundaries?

Answer. I have seen the plat of it and have read it, but I do not recollect the boundaries.

9 Question. Look at the document now shown to you numbered exhibit no. 1 annexed to the deposition of Jose Castro heretofore taken and filed in this case. Purporting to be a Map of the land claimed in this case and state whether you have ever seen such Map before, and if yes, when, where and in what hands you saw it, and what you know about it.

Answer. Have seen it before. I saw it at the same time I saw the title paper in the hands of said Gomez as above stated at Monterey, I believe it was annexed to the title paper before mentioned

Questions by Mr. Graham Associate Law Agent

1st Question. How long was Gomez in your office before the occupation of the country by the United States?

Answer. Two Years a little more or less

2^d Question. At what place was the grant issued by Governor Micheltoena?

Answer. At Monterey.

3^d Question. Do you recollect when Governor Micheltorena left Monterey for Los Angeles when he resigned his office of Governor?

Answer. I believe it was in the month of February or March AD 1845

4. Question Did Gentry remain constantly at Monterey from the time last mentioned until the occupation of the country by the United States?

Answer. He did not. He left Monterey and joined General Jose Castro at the time Colonel Fremont appeared at Monterey. This was about the ninth of May 1846.

I do not recollect his being absent at any other time during the periods specified. I frequently gave him leave of absence for twenty days or a month. He was employed in my office but also had to go when called upon to the office of the Secretary of the Governor to assist in the office.

Questions by Mr. Osa

1st Question Did the American troops and authorities retain possession of the Government buildings and Archives after July 7th 1846.

Answer. At 9 o'clock of the morning of July 7th 1846 the American troops took possession of all the Archives of the Government, which were in various Public Buildings at Monterey and carried them in blankets to the Custom House Building where there was about four hundred men stationed under Colonel Fremont and where many of the papers constituting the Public Archives were torn up and destroyed.

From that time the Archives remained in the possession of the American Authorities and I

do not know what became of them.

9

do not know what became of them. The papers that were destroyed were torn up and scattered about the streets and lost.

I called on Mr Heatwell and requested him to remonstrate with Lieutenant Muddox who was in command at Monterey to prevent further destruction of the papers.

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Questions by Mr Greenhow

1st Question. Did Gomez occupy any part of the land ^{in question} or visit it from the time of obtaining the grant to the time of the occupation of the Country by the Americans.

Answer. I do not know whether he ever occupied it or visited it.

Jose Abrigo

Subscribed and sworn to before me this 27th day of October 1853.

Alpheus Felch Commissioner
Filed in Office October 27th 1853.

Geo. Fisher
Secretary

Deposition of
Oscar de Grand
Kangne.

Office of the Board of Commissioners &c

This day before Commissioner R. Aug Thompson came Oscar de Grand Kangne a witness in behalf of the claimant Vicente Gomez No. 569 who after being duly sworn deposes as follows.

Testimony on behalf of claimant

Present R. Ord Esq Attorney for claimant & R. Greenhow Esq Associate Law Agent.

In answer to questions witness states that his name is Oscar de Grand Kangne

age 47 and present residence San Francisco -

Question by Claimant's Attorney
State if you know Vicente Gomez, and if so how
long have you known him.

Answer I do and have known him
since the year 1845.

Question by same, State if said
Gomez ever offered to sell you any land and if so
what land and where situated.

Answer. I was in Monterey
in the fall of 1845 - as Master of a Whaling Ship
and was intimate with the family of said Gomez.
One day he offered to sell me a tract of land he had
in extent about three or four leagues as near as I can
recollect.

He proposed at that time returning to Mexico
I understood that the land was somewhere in the
neighborhood of Monterey. I never saw it - Gomez
showed me a document and map which he told me
was a title to the land from Micheltorena I do not
distinctly recollect the name of the place.

But I think it
was Rancho Grande or something like it.

Question. Did you understand
the Spanish language at that time?

Answer I did -
O de Grandcarque

Sworn and subscribed before me this 2^d of
November 1853.

R. Aug Thompson
Commissioner

Filed in Office November 2^d 1853

Geo Fisher Secy

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Witnessed in presence of ...

Recorded in Evidence B. Vol 3 page 345
 Geo Fisher
 Secretary

Deposition of
 J. L. Ord

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San Francisco February 12th 1853
 On this day before Commissioner Richard Hall
 came James L. Ord a witness in behalf of the
 claimant Vicente Gomez petition no 589 and
 was duly sworn his evidence being given in English
 The United States Associate
 Law Agent was present.

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

My name James L. Ord my age is
 twenty nine years and I reside at Monterey and
 am by profession a physician.

I came to
 California as assistant Surgeon in Company F
 of the third regiment of United States Artillery
 in January 1847 and I have since that time
 resided in Monterey.

In the latter part of said
 month of January I commenced occupying a
 portion of the Custom House at Monterey, one end
 of it I occupied with Captain W. T. Sherman of
 the Army as our quarters.

And the other end was
 occupied as a hospital and was under my
 charge, the centre of the building was used as a
 depository for naval stores.

In the room occupied as a hospital were ^{Spanish} papers which I supposed were old Custom House papers of no value.

The papers were in shelves which had doors to them, some of the doors had keys in them and were not locked.

The papers were not in charge of anyone to my knowledge. My Hospital Steward asked me if they were of any value and I told him I did not know that they were and some of them were used by him in putting up prescriptions for the sick.

I used some myself as waste paper when I went there I did not understand Spanish and it was a month or two before I found out they were of value.

From seeing the papers afterwards in charge of Captain Healy, I think some of these used were expedientes. I cannot form an idea of the quantity of paper thus used.

I do not recollect about seeing Maps in the papers, some of them had numbers on the outside from January until May the papers were in such exposed condition.

I left Monterey for a time about the first of May and when I returned in June the papers were not in the State in which they were when I went away.

In answer to questions by the Associate Law Agent the witness says he thinks Captain Healy took charge of the papers when they were removed from the Custom House.

James L. Ord

Sworn and subscribed before me Silas H. Hall
Commissioner

Filed in Office Feb 12th 1853

Geo Fisher Secretary

Recorded in evidence B. Vol 2 P. 571

Geo Fisher
Secretary393 SD
PAGE 36Deposition of
Jose CastroSan Francisco February 24th 1853

On this day before Commissioner Henry J. Thornton came Jose Castro a witness in behalf of the Claimant Vicente Gomez Petition No 569 and was duly sworn his evidence being interpreted by the Secretary.

Questions by Claimant.

1 Question. What is your name age and place of residence.

Answer. My name is Jose Castro my age forty four years and my residence in Monterey California.

2^d Question. Are you acquainted with Vicente Gomez and of what Country was he & when did he live?

Answer. I am acquainted with Vicente Gomez, he is by birth a Mexican, and has resided in California since the Year 1832.

3 Question

Do you know anything of an application being made by the said Gomez for land to the Governor of California at any time and if yes state what you know on this subject.

Answer. Some time in the Year 1844 whilst I was engaged in Military service against the

Indians the said Gomez said to me that all the lands with which he was acquainted that were desirable had been granted and desired that I would inform him of a suitable place to petition for I recommended him to apply for the place called Panoche Grande.

I understood that he afterwards applied to Governor Mickeltorena for that place and obtained a grant for it.

4 Question. Where is this place situated of which you speak as having been recommended by you to Gomez and which you say you understood he got a grant for.

Answer. This place lies Eastward from San Bautista and about twenty five leagues distant therefrom.

5 Question. Look upon the Map now here shown you which was filed with the Petition in this case and is so filed as Exhibit No. 1 to this deposition and say whether or not the same is a correct delineation of the said Tract of land above spoken of.

Answer. I have examined the said Map. I cannot say that it is a correct delineation of the said tract, but in the general outline would say it was.

6 Question. What office if any was held by the said Gomez under the former Government of this country.

Answer. Gomez was first Clerk in the Commission's department at Monterey from some time in 1846 to the change of Government.

Questions by United States
Law Agent.

1st Question. Are you acquainted with the land claimed in this case from your own personal observation.

Answer. I know the place well from personal observation, having camped upon it for fifteen or twenty days.

2^o Question. Have you any knowledge of the fact or have you reason to believe that Gonyer ever occupied this land or visited it himself.

Answer. I do not know anything of the matter of his occupation or visits to the place have seen Gonyer only once after having recommended him to apply for the land.

3^o Question. What Public Offices have you held in California under the former Government?

Answer. I have filled the office of political chief of California and a member of the Territorial Legislature I was also Prefect and Commandant General.

Jose Castro
United States Law Agent present.

Sworn to and subscribed before me this 24th of February 1853.

Henry J. Thornton
Commissioner

Filed in office Feb 24th 1853

Geo Fisher
Secretary.

Recorded in Evidence B. Vol 2 P 602

Geo Fisher
Secretary.

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RECORDED
FEB 25 1853

Sello Cuarto clas Reales

Habilitado provisoriamente por lo administracion de la Aduana Maritima del puerto de Monterey en el departamento de las Californias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Micheltorena. Pablo de la Guerra.

Monterey Mayo 14 de 1844

Supl el S. Dno del despacho tomando antes otras si los necesito.

Exmo Sr Gobernador Vicente Gomez, Mexicano por Nacimiento y vecino de esta capital ante la

Micheltorena

Justificacion de V. E. y como mas hallu lugar en derecho espone que deseando dedicarme al hermoso y naciente ramo de la agricultura que es de todo vital en este departamento, solicito de la bondad de V. E. se digna concederme en propiedad el paraje conocido con el nombre de "Panoche Grande", colindante por el Norte con San Julian Nisura, por el sur con la Serrania, por el Oriente con el valle de los Tularos y al poniente con San Francisco Arias. Cuyo terreno demarka la estension de tus sitios de ganada Mayor poco mas o menos segun esplica el diseno que a su debido tpo presentare mas coneto que el que haora a compaña, como lo espuesto suplico a V. E. se digna tener en consideracion mi presente solicitud para de este modo proporcionar la subsistencia necesaria de mi enveida familia.

G. A. A. V. G. Reu didamente suplico prorea como llebo indicado espresando Merced y Graciu. Jurando lo necesario.

TRACT - Pancho Grande.
Diseño (rejected)

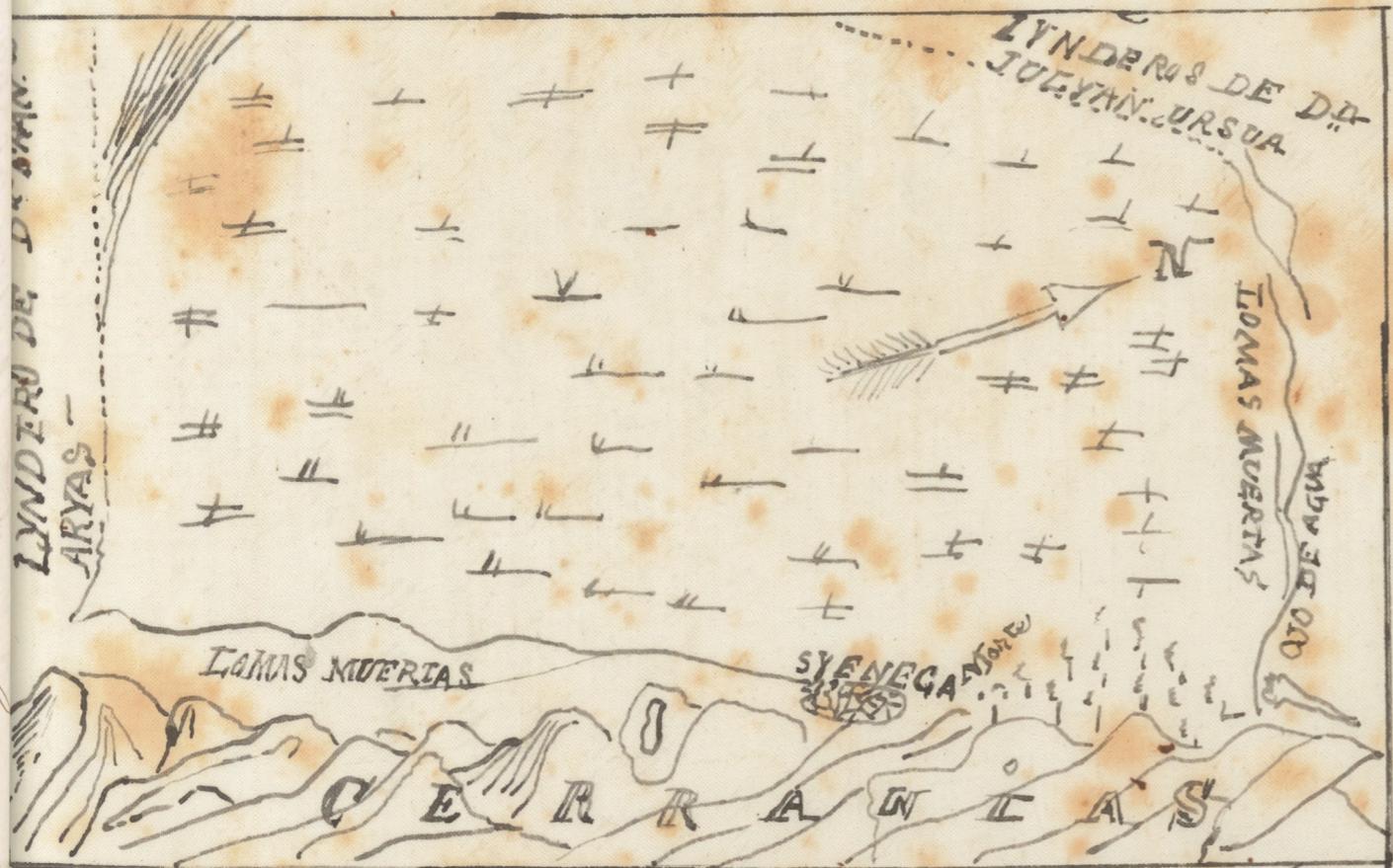
393 S.D (278 N.D)
P. 281

"Pancho Grande"

Unicente Gomez, Chit.

San Benito Co

K39-R.



Nº 569 +

Pancho grande
Vicente Gomez.

Filed in Office Feb 9

Geo. Fisher
[Signature]

Exhibit no 1 to the deposition of
Jose Castro taken in no 569
before Com^r Harry J.
Thornton Feb 24 1853

Geo. Fisher
[Signature]

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Monterey Marzo 13 de 1844
Vicente Gomez

Como dispone el E. S. Gobernador para la precedente instancia al juez 1º de San Juan para que informelo que sea justo y derecha a esta Secretaria para procer.

Monterey 14 de Marzo de 1844

Manuel Jimeno -

En cumplimiento de la Superior de U. E. en lo que se me pide informe si el terreno que se solicita en esta instancia se halla baldio para lo que informe que no hay inconveniente por su consistencia

San Juan 20 de Marzo de 1844

Here follows Maps or Plat.

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

I John C. Hayes
Surveyor General of the United States of the State of
California, as such having in my office and in my
charge and custody a portion of the Archives of

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The former Spanish & Mexican Territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the four preceding & hereto annexed pages of tracing paper, numbered from 1 to four inclusive embrace a true and accurate copy of a certain document, now on file and forming a portion of the said Archives in this office, the same being the only document in the archives in relation to the tract called Paroke Grande petitioned by Vicente Gomez.

In testimony whereof I have hereto signed my name officially and caused my seal of office to be affixed at the City of San Francisco this thirty first day of October 1853.

John C. Hayes
U. S. Sur General

Filed in office November 3^d 1853

Geo Fisher
Secretary

Translation
of
Expediente

569.02

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Seal

Seal of the fourth class.

Provided Provisionally for the Maritime Customs
House of Monterey in the Department of the
Californias for the Years one thousand Eight
hundred and forty four and one thousand Eight
hundred and forty five.

Mexilltorena

Pablo de la Guerra.

To the Excellent Governor.

Vicente
Gonzalez Mexicana by birth and a resident of this
Capital, appears before and represents to the Justice
of your Excellency and says - That desiring to
devote himself to Agriculture, which is of great
importance in this department he solicits that
Your Excellency will have the goodness to grant
him in ownership, the place known by the name
of Rancho Grande.

Bounded on the North with
Don Julian Ursua, on the South with the hills, in
the East with the Valley of the Tulaces and on the
West with Don Francisco Arias.

Which land is of
the extent of three square leagues, more or less as
explained by the map, which I will present more
correctly than the one now affixed with this Petition.

Wherefore I pray that Your Excellency
will take into consideration this Petition so that

I may obtain the means to support my growing family.

Giving thanks to Your Excellency and swearing all that is necessary.

Montevideo March 13th 1844

Vicente Gomez.

Montevideo March 14th 1844

The Secretary of despatch will take the necessary preliminary steps.

Nicheltorena.

As directed by his Excellency the Governor let this be passed to the Judge of the first Instance of San Juan. For his report of what may be just and returning it to the Office of the Secretary. Montevideo 14th of March 1844.

Manuel Jimeno.

In pursuance of the Supreme order of his Excellency asking for information whether the land asked for is vacant.

I report that it is vacant and there is no reason why it should not be granted.

San Juan 20th of March 1844

Jos. Antonio Rodriguez.

Filed in Office November 3^o 1853

George Fisher

Secretary

Opinion of
The Board

Number 569
Vicente Gomez
of
The United States

claim for a place called
Panocha containing four
square leagues situate
in the County of Monterey.

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The Petitioner in this case states in his petition, that he had a grant for the above named place issued in the year AD 1844 by Governor Micheltorena.

And that the Grant was among the Archives of State at Monterey, at the time that the Archives fell into the hands of the Americans in July 1846, and that it was either lost or destroyed.

He has also given satisfactory proof of the existence and loss of the Grant, but has failed entirely to offer any proof whatever going to show, that he ever occupied or improved or cultivated any part of the land. Or that anyone even did for him, or that he ever saw the land.

We are therefore of the opinion that the claim is invalid and a decree rejecting the same will be entered.

Rejected

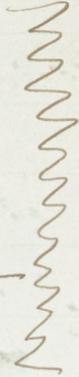
Filed in Office March 6th 1855.

signed
Geo Fisher
Secretary.

Recorded in record of Decisions Vol 2 page 552
Geo Fisher
Secretary

Secree

Number 589
Vicente Gomez
of
The United States



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In this case on hearing
the proofs and allegations it is adjudged by the
Commissioners, that the claim of the Petitioner is
not valid, and it is therefore decreed that his application
for a confirmation thereof be denied.

Alpheus Felch

R. Aug. Thompson

J. B. Farwell
Commissioners

Filed in Office March 6th 1855

signed
Geo. Fisher

Secretary

Recorded in record of decisions Vol 2 page 553

signed
Geo. Fisher

Secretary

And it appearing to the Satisfaction of the Board that the land hereby adjudicated is situated in the Northern District of California it is hereby ordered that Two Transcripts of the proceedings and of the decision 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 Northern Dist of Cal^a and the other be transmitted to the Atty Genl of the United States.

Office of the Board of
Commissioners to ascertain and settle the
Private Land claims in the State of California.

I Geo Fisher Secretary of the Board of Commissioners to ascertain and settle the Private Land claims in the State of California do hereby certify the foregoing (20) Twenty pages numbered from 1 to 20 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. 569 on the books of the said Board wherein

Vicente Govea is the claimant against the United States for the place known by the name of "Pawete Grande".

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 of August
A.D. 1855 and of the Independence
of the United States of America
the Eightieth.



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Geo. Fisher

[Handwritten flourish]

Filed 4 June 1857

Asst. Paylor
Dep'tk

[Faint handwritten text at the bottom edge of the page]

In the United States Dist Court for the Southern
Dist of California
no 278

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The United States vs
Vicente Gomez

No 569 of Transcript
for "Pauvhe Grande"
On appeal from the U.
States Land Commission
for California

Notice of
Appeal

District Court of the United States for the Southern
District of California -

Vicente P. Gomez by his Attor-
ney Henry gives notice that it is his intention to
prosecute the Appeal in the above entitled cause
from the decision of the Commission to ascertain
and settle the private Land claims in the State of
California rejecting his said claim. The transcript
of which was filed in the Clerk's office of said
District Court on the 1st of October AD 1855.

E. O. Crosby
Attorney for Appellant.

Filed March 18 1856

By Cheever Deputy

Filed 6 June 1857

A. S. Taylor
Dep Clerk

Best Court of the United States Northern District
of California

V. P. Gomez

The United States

claim for the place
called
"Pawee Grande"

Booklet No 278 Transcript No 569

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Affidavit
of
V. P. Gomez.

United States of America
Northern Dist of California ss:

Vicente, Prefecto, Gomez, Being

duly sworn deposes and saith, that he is well
acquainted with the tract of land claimed in this case
known by the name "Pawee Grande" that it lies to
the South of and adjoining to, the place known by
the name of "Real de los Aguilas" and is situated
wholly within the Southern Dist of California and
South of the 37th parallel of North latitude

Subscribed & sworn
before me this 17th
January 1857

Vicente, Pfto, Gomez.

W. H. Cheever
Deputy Clerk
U. S. Dist Court
S. D. of Cal.

Filed January 19 1857

W. H. Cheever Dep. Clk

Filed 4 June 1857 A. S. Taylor Dep. Clk

State of California
County of San Francisco

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Affidavits
of
Manuel Castro
and
H. Lamberton

Manuel Castro and
Henriqun Lamberton being duly sworn, each for
himself deposes and says, that he knows Vicente
P. Gomez, that he has heard that said Gomez owns
the Rancho called "La Panoche Grande" situated
in the County of Mariposa or Monterey, that said
Rancho is in the Southern United States Judicial District
of the State of California. And that he knows of the
Rancho situated farther North of the said Rancho
"La Panoche Grande" the Titles to which are being tried
in the District Court of the United States for the
Southern Judicial District in the State aforesaid.

Manuel Castro -
H. Lamberton -

Sworn to and subscribed
before me this 23^d day
of February AD 1857.

As witness my hand
and official Seal



W. F. Swasey
Notary Public

Filed March 2 1857

W. H. Cheverton Deputy

Filed 4 June /57

A. S. Taylor
Spy Clerk

Clerks office U. S. Dist Court
for Dist of California.
San Francisco June 1st 1857.

Letter of Clerk
Northern Dist
Court transferring
Cause to Southern
Dist.

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Sir,
I herewith transmit to you transcript No. 278 in this Court, and 569 in the said Commission wherein Vicente Gomez is the Appellant and Claimant of the Place called "Paucho Grande" together with all the papers on file in this Court in the said Cause, consisting of the Notice of appeal and affidavits of the Claimants, of Manuel Castro and of J. C. Lambuston, and also certified copy of the order, under which the said papers are sent to you. Your receipt for them is respectfully solicited.

Your obt Servant
John A. Monroe, Clerk
by W. H. Cheever's Depty

C. Sims Esq
Clerk U. S. Dist Court
Los Angeles.

Filed 4 June / 57

A. S. Taylor
Dep Clerk

Copy of order
transmitting
transcript
to Southern
Dist of Cal.

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At a Sessⁿ 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
Monday the ninth day of March in the
year of our Lord one thousand eight hundred
and fifty seven.

Present Hon. M. H. McAllister Circuit Judge
& The Honorable Oden Hoffman Dist Judge.

The United States D.C. 278. L. C. 569
- vs -
Vicente Gomez

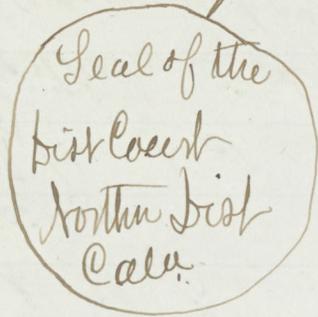
It being represented
to the Court that the lands claimed in this case
lie in the Southern District of California.
Now therefore on motion of C. W. F. Sloan Esq
made in open Court. Ordered by the Court that
the Clerk of this Court send to the Clerk of
the District Court for the Southern District of
California, said Transcript together with a
certified copy of this Order.

Endorsed, Filed March 9th 1857

John A. Monroe Clk
By W. H. Cheever Deputy

I John A. Monroe Clerk
of the District Court of the United States for the
Northern Dist of California, do hereby certify the
foregoing to be a full true and correct copy of the
original now on file, and remaining of record in
my office.

In testimony whereof I have hereunto
set my hand and affixed the seal of the said
Court this first day of June A. D. 1857.



John A. Monroe Clerk
By W. H. Leavers Deputy

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Filed 4 June 1857

C. Sims Clerk.

A. S. Taylor Deputy.

United States of America } S.S.
Southern Dist of California. }

Summons.

The President of the
United States
To P. Ord U. S. Dist Atty

Greeting:

Take notice that a Petition a copy of which is herewith served upon you has been filed against the United States in the District Court of the United States in and for the Southern District of California on the 4th day of June 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
Vicente Gomez praying said Court to review the decision of the United States Board of Land

Commissioners of the 6th March 1855 rejecting his claim to the lands known by the name of "Rancho Panuche Grande" Situate in the Southern District of California.

And that you are hereby 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 that judgment by default will be taken against you, and the prayer of the said petitioner will be granted with costs.

In witness whereof I have hereunto set my hand, and affixed the seal of the said Court, this 1st day of August, in the Year of our Lord one thousand eight hundred and fifty seven at Los Angeles aforesaid.

C. Sims Clerk
for J. W. Coleman
Deputy

Seal of the U. S. Dist
Court S. Dist Cal

I served this summons along with the proper copy of the Petition upon C. E. Thorne acting District Attorney at Los Angeles in the Southern District of California on Monday the 10th day of August, A. D. 1857.

James E. Porsje, Marshall
Sworn to and subscribed before me
12th August 1857

C. Sims Clerk for J. W. Coleman Dep

filed 6th day of August 1857

C. Sims clk
J. H. Coleman dep

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

Regular June Term 1857
Friday June 5th 1857

Vicente Gouey
Appellant

No. 393

vs
The United States
Appellees

Now on this day this
cause coming on to be heard, the parties appearing
by their respective Attorneys the Appellant by
Sloan and Hartman Esqs and the Appellees by
P. Ord U. S. Dist Atty and after argument of
counsel aforesaid the same is submitted to the Court
for final adjudication.

Whereupon the Court being
fully advised in the premises delivered its opinion
confirming the Claim of the Appellant to the extent
called for in the Transcript and papers. Three
leagues or sitios de Ganado Mayor and a decree was
ordered to be entered up in conformity to said opinion.

J. H. H. Esq
Clk Dist Judge

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

Decree

Vicente P. Gomez

Appellant

Case No. 393

^{vs}
The United States

Appellees

"Panoche Grande

Trans 569

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This cause coming on to be heard on appeal from the decision of the United States Board of Land Commissioners to ascertain and settle the private Land claims in the State of California under the act of Congress approved March 3^d 1857 on a transcript of the decision and proceedings of said Board, and the papers and evidence upon which said decision was founded, and the other evidence adduced by the Appellant before this Court, and it appearing to the Court that said Transcript and the notice of appeal have been duly filed according to law, and counsel for respective parties having been heard—

It is ordered
adjudged and decreed, that the decision of said Board of Land Commissioners be and the same is hereby reversed, and that the claim of Appellant is good and valid and the same is hereby confirmed to him as follows, to wit, three leagues of land more or less situate in the County of Monterey, State of California, bounded on the North by the lands of Julian Ursua, on the South by the hills, on the East by the Valley of the Tulares, and on the West by the lands of Francisco Aris. as is more fully described by the title issued for the same.

set forth &

And the diseño accompanying the same.

And it appearing to the Court that on the 5th day of June A.D. 1857, the lands in this case described had been confirmed by the Court to said claimant and Appellant and it having been omitted to sign and enter a decree thereon at the date last aforesaid, It is ordered that the same be done now forthwith.

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Filed this 7th day of January A.D. 1858
Sine pro tunc (5th June A.D. 1857)

C. Sims Clerk

J. H. Coleman Deputy

Recorded on page 248

U. S. Dist Court Dist Cal^a

Regular December Term 1857

Thursday Feb 4th 1858

Vicente Gomez

Appellant

No. 393

or
The United States

Appellees

"Panoche Grande"

Order to
Amend Decree.

On motion of Sloan and Hartman. It is ordered that the Appellant have leave to amend the Decree filed in this case by substituting another in its stead.

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

Vicente P. Gomez
Appellant
vs
The United States
Appellees

Case No 393
"Pawnee Grande"
Transcript No. 569

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Secrec

This cause coming on to be heard on appeal from the decision of the United States Board of Land Commissioners to ascertain and settle the private Land Claims in the State of California under an act of Congress approved March 3^d 1851. on a transcript of the proceedings and decisions of said Board, and the papers and evidence upon which said decision was made, and the after evidence adduced by the Appellant before this Court and it appearing to the Court that said transcript and notice of intention to appeal have been duly filed according to law, and Counsel for the respective parties having been heard.

It is ordered adjudged and decreed that the decision of said Board of Land Commissioners be and the same is hereby reversed and that the claim of said Appellant is good and valid, and the same is hereby confirmed to him as follows, to wit. The tract of land situate in the County of Fresno State of California known by the name of "Pawnee Grande" bounded Northernly by the lands of Don Julian Ursua, Southernly by the hills, Easternly by the valley of the Tulare and Westernly by the lands of Don Francisco

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Acres, containing four square leagues of land
and no more, provided that quantity is contained
within the boundaries aforesaid and provided
also that if a less quantity is contained within
the boundaries aforesaid that confirmation of
such less quantity is hereby made to said claimant
and for a more particular description of which
said land reference is hereby made to the Map
contained in the transcript in this cause.

And it also
appearing to this Court that heretofore to wit on
the 5th day of June AD 1857 at a regular term
of this Court holden in the town of Monterey, State
of California, the claim of the Appellant in this
case had been confirmed by this Court but that it
had been omitted by the Court to sign the decree
of confirmation, at the time the same was made.

It is therefore further
ordered by this Court that the same be signed
now as for then.

Given under my hand in open
Court this 5th day of February AD 1858.

Isaac S. R. Ogier
Cl. S. Dist Judge
for the S. D. of Cal.

Filed this 5th February 1858 for the 3rd June
1857.

C. Sims clk

J. W. Coleman dep

Recorded on page 271

Record on page 271
In the United States District Court for the
Southern District of California.

Regular December Term 1857
March 15th 1858.

Motion for
leave to appeal.

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On motion of E. J. C. Newen acting
U. S. Dist Atty for leave to take appeal in the
following cases, to wit, Nos 20, 153, 187, 231, 274,
288, and 393, the same is taken under advisement.

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

Los Angeles December Term 1857.

Written Motion
for leave to
appeal by
P. Ord U.S. Dist Atty.

On motion of P. Ord Attorney of the United
States for the Southern District of California,
it is ordered by the Court, that appeals to the
Supreme Court of the United States be allowed
the United States in the following cases - viz -
No. 20 - Anastasio Carrillo vs the United States decided Jan 12/57
" 153 Manuel Augisola " " " Feb 20. "
" 288 Wm S. Johnson vs the " " " " 7. "
" 187 Leander Ransom " " " " June 2. "
" 231 Valentin Cota et al " " " " 4. "
" 274 Thomas Coal " " " " 6. "
" 393 Vicente Gomez " " " " 5. "

This page not properly in the record

Filed this 15th March 1858

E. Sims Clerk
p J. H. Coleman Dep

United States of America
Southern District of California

Vicente Genes

vs
The United States

Appeal from the
Land Commissioners
for "Pawnee Grants"
No

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Motion to
open Decree

by
Edwin M. Stanton
Special U. S. Atty

And now comes the
United States by Edwin M. Stanton her special
counsel in that behalf and moves the Court to open
the decree and reinstate it upon the Docket with
leave to take testimony on behalf of the United States
for the reasons following -

1st That the said decree was improvidently
entered.

2^o That new evidence has been discovered
material to the United States to show

that the said claim is fraudulent and
invalid.

Edwin M. Stanton
Counsel for the United States

Filed 7th July 1858 -

C. Sims Clerk

J. H. Coleman
Sef

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

Regular December Term 1858
Tuesday the 7th December 1858

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Motion to
Withdraw
Motion to Appeal
By J. R. Gitchell

Now on this day comes
J. R. Gitchell U. S. Dist Atty and moves the
Court to withdraw the motion heretofore made
and filed to appeal the case No 20. 153-187,
231-274-288- & 393- which motion being
heard by the Court is granted, and the said
Motion heretofore filed is and the same is hereby
withdrawn.

On motion of J. R. Gitchell U. S.
Dist Atty the motion heretofore filed in Case No 393
is set for hearing on the 21st day of February 1859

U. S. Dist Court S. Dist California
Regular December Term 1858
Wednesday May 4th 1859

Vicente P. Gomez
Appel

vs
The United States

Appel

No. 393

Now on this day

come the parties aforesaid the Appellant appearing
by J. L. Brent his Attorney, and the Appellee
by J. R. Gitchell U. S. Dist Atty.

Whereupon Counsel
for Appellant moves the Court for leave to file

Motion to file
Mandate U. S.
Sup Court By
Appel

the mandate of the Supreme Court in this cause
an for an order to proceed under the decree of this
Court heretofore rendered in his favor as under a final
decree - which motion after argument of Counsel
is continued for further argument till Monday
the ninth day of May A.D. 1859 -

U.S. District Court S. Dist. Cal. a.

Regular December term 1858

Monday 9th of May 1859 -

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Continuance.

Case No 393 by consent of parties is continued
indefinitely -

U.S. District Court S. Dist. Cal. a.

Special September Term 1859

Monday 7th Nov 1859

Vicente Gomez vs The United States No 393 -

On motion of E. W.

Taylor Esq. - It is ordered by the Court that Shafter,
Park, and Heydenfeldt and E. W. Taylor Esqs
be substituted as Attorneys of record in the
above entitled cause -

Substitution of
Shafter Park,
Heydenfeldt and
E. W. Taylor Esq
as Attys of record.

V. P. Gomez
 of
 The United States

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On motion of E. W. Taylor
 of counsel for claimant and on consent of J. R.
 Gitchell United States District Atty.

It is ordered
 that the motion in this case heretofore and now pending
 that the decree in this case be opened, and for leave
 to introduce new evidence and also the motion
 heretofore made by Claimant now pending for leave
 to file the mandate of the Supreme Court of the
 United States and for an order to proceed under the
 decree heretofore rendered as under a final decree
 be and they are hereby set down for argument
 and for final submission to the Court on Monday
 the ninth day of January 1860.

Isaac. S. K. Ogier

U. S. District Judge -

Filed in office this 8th day of November
 A. D. 1859 -

C. Sims Clerk

U.S. District Court Southern District of California
Regular December Term 1859
Wednesday 7th Decr 1859

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Vicente P. Gomez vs. The United States No 393

Now on this day comes the United States by her special Atty, the Atty of claimant not being present, and moves the court to continue this cause till the next term of this court, which motion being heard by the court is overruled.

U.S. District Court Southern Dist. Cal.
Regular December Term 1859
Monday 9th January 1860

Vicente Gomez vs. The United States No. 393

Now on this day comes the United States Dist Atty, the counsel of claimant consenting and moves the court for leave to file his motion for a rehearing and affidavit as a substitute for a motion for a rehearing and affidavit heretofore filed and now missing from the record.

Which motion being heard is by the court granted

United States District Court
Southern District of Cal^a.

Vicente Gomez }
vs } Panoche Grande
The United States }

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Now comes J. R. Gitchell U. S. Dist Atty for the Southern District of California and suggest to the Court that a part of the files in this case have been lost to wit a motion filed by the Government on the 7th of December 1858 to open decree and reinstate cause together with the affidavit upon which said motion was founded. And moves the Court for leave to file copies of said motion and affidavit.

Filed in Office this the 10th day of January
1860.
C. J. Sims
Clerk

Vicente P. Gomez }
vs } Panoche Grande
The United States } No. 393

It is admitted upon the part of the Claimant that the said Claimant conveyed by deed to Pacificus Ord former District Atty - two leagues of the land claimed in this case - previous to the confirmation thereof.

And it is further stipulated that a copy of said deed may be placed

on record - when produced and considered as evidence
in this cause -

Shafter, Park & Haydenfeet
Attys for Claimant.

J. R. Gitchell
U. S. Dist. Atty.

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Filed in Office this 11th January 1860

C. Sims Clerk

In the District Court of the United States
Southern Dist of California -

Affidavit of
Isaac Heartman

The United States	}	Case No 393
Appellees		Panoche Grande
vs		In L. C. No
Vicente P. Gomez	}	
Appellant		

Isaac Heartman being duly sworn upon his oath
says that whilst in attendance upon this Court at
its June Term AD 1857 at Monterey in said
District Pacificus Ord Esq then U. S. Dist Atty
for said District asked this affiant to present this
cause to the Court for confirmation on behalf of
Claimant, stating that there was no objection to a
confirmation on the part of the United States -
Affiant not suspecting that there would be anything
wrong about a claim to which the Government
made no objection - consented to present the

and to the Court on the 11th day of January 1860
took place and whilst this affiant was sitting at

made no objection. Consented to present the case to the Court. On the same day this conversation took place and whilst this affair was sitting at the bar table in the Court house the Court then being in session. the said Ord passed to this affiant the transcript in this cause, requesting him to read it to the Court. Affiant did as requested without further remark. After affiant finished reading, said Ord remarked to the Court that there was no opposition on the part of the Government to a confirmation. Whereupon the Court replied that there being no objection the claim would be confirmed as a matter of course. Affiant paid no further attention to the case at the time. At the ensuing December Term of said Court at Los Angeles the said Ord remarked to this affiant that it was omitted at the time of the confirmation of said claim as aforesaid to have the decree therein signed by the Judge and enrolled, and requested Affiant to draw up a decree and present it to the Judge to sign same pro tunc. Affiant again did as requested but he states that he did not know or suspect at the several periods aforesaid - nor until some time after the last mentioned period - that said claim was fraudulent and that the said Pacific Ord had an interest therein at the time of trial and confirmation of two square leagues of the same.

Affiant learned that such was the fact not until some time in the summer of the year AD 1858 when the same was communicated to him by either Edwin M. Stanton, E. L. Gold or Daniel Gibb Esq. Affiant further says that on examining the files in this case some time in the month of November AD 1859 - he for the

first time discovered on file a petition to review the decision of the late Board of Land Commissioners.

This petition is filed as of the 4th day of June AD 1857 and bears the signatures of Hartman and Sloan as Attorneys of claimant. Affiant says that at the date of the filing of this petition a partnership did exist between the said E. W. F. Sloan and this affiant in the practice of law, the firm name in style being "Sloan & Hartman" and never was signed otherwise by them or either of them.

Affiant says that neither the body of said petition or the signature thereto is in the handwriting of affiant or the said E. W. F. Sloan or of any Clerk or person in their employ. Nor did this affiant ever authorize any person to write sign and file said petition and he is informed by said Sloan and believes the same to be true that he the said Sloan never knew or heard of the said petition until a few days since when this affiant called the attention of the said Sloan thereto by inquiry. Affiant says he has no knowledge who wrote and caused said petition to be filed - nor by whose Authority and direction the same was done; that he has never been the Atty of the Appellant in this cause except as herein stated. That he has never rendered any service therein except upon the request of the said Pacificus Ord. and that he has never received any fee or reward for such service either directly or indirectly, and that at the time of the presentation of said case to the District Court aforesaid he was utterly ignorant as to the real parties in interest in said claim, except as informed by the evidence.

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Isaac Hartman

Sworn and subscribed to before me this 11th day
of January A.D. 1860.

C. Sims
Clerk U. S. Dist Court
Southern Dist of Cal^a.

Filed in Office the 11th day of January 1860

C. Sims Clerk

In the District Court of the United States
Southern District of California —

The United States vs Case No 393

Vicente P. Gomez vs "Pawnee Grande"

Isaac Hartman being duly
sworn upon his oath says that about the month of
September or October A.D. 1859 Daniel Gibbs
Esq of the City of San Francisco delivered to
this affiant in the City of San Francisco a
copy of a deed from Vicente P. Gomez to
Pacificus Ord Esq for two leagues of land in the
above claim, certified to by the Recorder of the County
of Monterey, requesting affiant to deliver the same to
J. N. Gitchell U. S. Dist Atty for the Southern Dist
of California. Affiant brought said copy of deed
with him to Los Angeles and had it in his possession
in the month of December when E. L. Gould Esq
arrived in Los Angeles some time in the same

Affidavit
of
J. Hartman

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month representing himself to be specially employed
in this case in behalf of the United States.
Said Gould requested this Affiant to deliver the
aforesaid copy of deed to him. Affiant refused to
do so stating to said Gould that he had given his
receipt to Daniel Gibb Esq for the same and that
he would deliver it to the said Gitchell or deliver
it to the said Gibb. Said Gould suggested that
Affiant return it to said Gibb, which Affiant
afterwards did in the City of San Francisco
somewhere about the 15th day of December
aforesaid, receiving back his receipt therefor.
Affiant further states that he has since been
informed by said Gibb, that he delivered said
certified copy of deed to said Gould, and that
said Gould has carried the same with him
to the City of Washington, Affiant also
states that at the time he had said certified
copy of deed in his possession, he informed said
Gitchell of that fact and that he was ready to
deliver it to him at any time. This was before
said Gould requested the same of Affiant.
And further Affiant saith not

Isaac Heattman

Sworn to and subscribed before me this 11th
day of January A.D. 1860

C. Sims
Clerk U.S. Dist Court Southern
Dist Cal.

Filed in Office this 11th January A.D. 1860

C Sims Clerk

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

The United States
Appellus
G. P. Gomez
Appellant

Case No. 3935 C
"Pawnee Grants"
In L. C. No

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Motion

Now comes Isaac Heatman and in behalf of himself and E. W. F. Sloan moves the Court to strike the names of Heatman & Sloan from of the petition for review in this case purporting to have been filed in the Cause as of the date of June 4th 1857. For the following causes to-wit

1st Because the said petition for review was neither written signed and filed by said Sloan & Heatman, or either of them nor by any other person for them with their consent.

2nd Because the said Sloan and Heatman nor either of them have ever been the Attorneys for the Claimant and Appellant in the above entitled cause.

Isaac Heatman for self
and E. W. F. Sloan
Filed in Office this 11th January 1860.
C. Sims Clerk

U. S. Dist Court
Southern Dist of California

Vicente P. Gomez
vs
The United States

No 393

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Now comes J. R. Gitchell
U. S. Dist Atty and moves the Court for a
continuance of this cause until the next
regular term of this Court for cause assigned in
the annexed affidavit.

J. R. Gitchell
U. S. Dist Atty

Affidavit
of
J. R. Gitchell

J. R. Gitchell being duly
sworn says, that he cannot safely proceed in the
trial of this cause without a proper copy of the
Records of the County of Monterey, State of California
showing the deed of conveyance from Vicente P. Gomez
the claimant in this cause to Pacificus Ord late
U. S. Dist Attorney for the Southern Dist of California
for two leagues of the land claimed in this cause.

That said copy of the record was in Los Angeles
at the commencement of this term in the possession
of J. Hartman Esq.

That applicant has only
learned since the arrival of the steamer on the 7
inst that said copy of the deed is not now in the
possession of said J. Hartman Esq.

Affiant further says that he failed to procure a certified copy of said record believing that this error would be true principally by counsel specially appointed in this cause. That since the opening of present Term of this Court, E. L. Gould Esq. appeared in Court and represented himself to affiant as specially employed by the Government to prosecute this cause, and believing such to be the case affiant trusted the preparation of this cause to said Gould.

And further if this cause is continued until next term will be able to procure said records.

And further affiant saith not
J. R. Gittelle

Sworn and subscribed to before me this
the 11th day of January AD 1860.

C. Sims
U. S. Dist. Clerk
Southern Dist. of
California.

Filed 11th January AD 1860
C. Sims Clk

In the best Court of the United States
Southern District of California—

Vicente P. Gomez } Case No 393.
vs }
The United States } Rancho Grande

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Affidavit
of
J. R. Gitchell

J. R. Gitchell U. S.
District Attorney for the Southern District of
California being duly sworn says that since the
trial and confirmation in this case he has been
informed and believes that the pretended grant in this
cause is false and fraudulent, and that no such
grant ever issued and that there is no evidence
in the Archives of the Office of the Surveyor General
of the United States for the State of California
showing that any such grant had ever been issued.
And further that the confirmation of this claim in
this court was procured by fraud in this that at
the time of the trial in this Court Pacificus Ord
the then District Attorney for the United States for
the Southern District of California was the owner
in fee of two leagues of the land claimed in this
case, deriving his interest from the said Claimant
Vicente P. Gomez, by a proper deed of conveyance
that upon said true said Ord made no opposition
to the confirmation of said claim but appeared on
behalf of the United States and assented in open
court to the entering of the decree therein

And further Affiant saith not.

J. R. Gitchell

Sworn and Subscribed to before me the 11 day
of January 1860 G. Sims Clerk U. S. District Court District of
California—

United States Dist Court Southern District of California

Vicente Gomez
vs
The United States

No. 393
Pawchu Gramme

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Now comes J. R. Gitchell
United States District Atty, for the Southern Dist
of California and moves the Court to open the
Secue heretofore entered in this cause and reinstate
the same upon the Docket with leave to take
further testimony.

Motion

And for cause assigns the
following reasons to wit:
1st That the said Secue was impermissi-
bly entered.

2^d That new evidence has been discovered
material to the United States to show, that said
Claim was fraudulent and invalid -

3^d That said Secue was procured to be
entered through fraud -

J. R. Gitchell U. S. Atty
for the Southern District
of California -

Filed in Office the 11th day of January A.D. 1860
of Beer 7th 1858

C. Sims Clerk

U. S. Dist Court Dist Cal^a

Regular December Term 1859
Wednesday 11th January 1860

Vicente Gomez
vs
The United States

No. 393

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Now on this day come
the parties aforesaid by their Attorneys aforesaid
whereupon J. R. Fitchell U. S. Dist. Attorney
moves the Court for a continuance of the motions
heretofore filed to wit the motion of Claimant
to file the Mandate of the Supreme Court on
appeal for leave to proceed under the decree of
this Court and the motion to continue the motion
made on the part of the Government for a hearing
of this Cause, and reads his own affidavit in
support of said motion of continuance and during
the argument of Counsel - The Counsel of
Claimant offering to admit the facts set forth in
the Affidavit to wit - That J. Ord the late
U. S. Dist Atty. was the owner of two leagues covered
by the decree by a conveyance from the Claimant
before the decree was entered, and a stipulation to
that effect having been entered into by the respect-
ive Counsel - and the facts thus admitted being
considered as evidence together with the affidavit
of J. Hartman Esq. the argument of said
motion continued. Whereupon after argument
of Counsel the Court adjourns the further hearing
till Friday the 13 inst.

U.S. District Court Dist. Cal. Regular Dec Term 1859

14th of January 1860

Vicente Gomez

vs

The United States

No. 393

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Now on this day being the day for the further hearing of this cause come the parties by their respective attorneys.

Whereupon the Court proceeds to deliver its opinion upon the motion for leave to file the mandate of the Supreme Court and for leave to proceed under the decree of this Court as under a final decree rejecting and overruling the same. Whereupon the motion for rehearing heretofore filed coming up for hearing and after argument of counsel the Court overrules the motion for a continuance of the U. S. Dist Atty and it being suggested to the Court by the Affidavit of J. Hartman that the petition for a review of the decision of the Board of Land Commissioners and purporting to be signed by Hartman & Sloan as attorneys for the Claimant was not so signed by them in fact or authorized to be so signed by them and it appearing that the answer filed in said cause by the District Atty of the United States is missing from the files and it appearing also that at the time the decree of this Court was entered in said cause that the late Dist Atty Pacificus Ord was interested in said claim the Court upon its own motion ordered that this cause be continued for the purpose of procuring the testimony of E. W. Sloan to be used on the further hearing of said motion to which

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 eight the said cause came on to be heard before the said Supreme Court on the said transcript of the Record, and it appearing that the Appellants (the United States) have failed to have their cause filed and docketed in conformity to the Rules of this Court; It is now here ordered and decreed by this Court that this Appeal from the District Court of the United States for the Southern District of California be and the same is hereby docketed and dismissed; and that this cause be and the same is hereby remanded to the said District Court.

Jan: 31st

You therefore are hereby commanded that such 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 and eight hundred and fifty eight.

Wm. Thos. Carroll
Clerk of the Supreme Court of
the United States

Erasmus
Filed May 4th 1859. C. Sims Clerk

The above Erasmus made Jan'y 18th 1860
C. Sims clk

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

Vicente P. Gomez
Appellant

^{vs}
United States
Appellee

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Final Order
on
Mandate.

And now comes Vicente
P. Gomez Appellant herein and files in open Court
the mandate of the Supreme Court of the United
States held on the 1st day of December 1858 &
rendered herein. Whereupon it is by the Court
ordered and adjudged & decreed that the said
Mandate be carried into Effect & that the said Gomez
proceed under the decree of this Court heretofore
rendered as under a final decree.

This done and
signed in open Court this May 10 1859

Filed & Entered 4th 1859

C. Sims clk

Above erasure made January 18th 1860
C. Sims clk

The President of the United States of America

To John B. Williams Esq
United States Commissioner

Greeting

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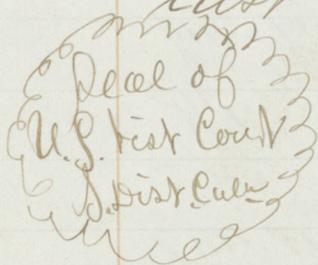
Know ye that we with full in your powers and competency have authorized and by these presents do authorize you to examine and take the testimony of E. W. H. Sloan Esq of the City of San Francisco State of California as a witness in a cause now pending in the District Court of the United States for the Southern District of California wherein Vicente P. Gouzy is appellant and the United States Appellee on the part of the Appellee on oath upon the interrogatories annexed to this Commission and to take and certify the deposition of the witness and return the same to this Court according to law.

Witness the Hon Isaac. J. H. Ogier Judge of the District Court of the United States for the Southern District of California.

At the City of Los Angeles this twentieth day of January AD one thousand eight hundred and sixty.

Attest my hand the seal of said Court the day and year last down written.

C. Sims Clerk



Interrogatories to be propounded to E. W. Sloan
the witness named in the foregoing commission.

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Interrogatory 1st Look upon the annexed paper
here shown you purporting to be a petition for a
review of the decision of the Board of Land
Commissioners in this case filed on the 4th of
June 1857 in the Southern District Court, purporting
to be signed by Hartman & Sloan as attorneys
and state if you have any knowledge of the
same - if the same is in your hand writing
or that of your former partner Hartman, or of
any clerk or person in your employment, or if
you know in whose handwriting the same and
the signature thereto is - if you ever authorized
any person to write and sign or file the same
on behalf of you, or your partner Hartman, or
whether the firm name was ever signed in the
manner as is to said petition, and state fully
all you may know relative to the same.

Interrogatory 2nd. State if you are the E. W.
Sloan whose name appears in an order of
the Northern District Court in this Cause - As the
Attorney upon whose motion this cause was
transferred from the United States District
Court for the Northern District of California
to the United States District Court of the
Southern District and at whose instance and
request you made said motion, if you or the
said firm of Sloan and Hartman were ever in point
of fact the Attorneys for Claimant - And whether

you or said firm ever had and contract for or received any fee or reward for services in this cause and state fully what else you know concerning the matters about which you have been interrogated.

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Vicente Gomez
Appel
of
the United States
Appellee

Booklet No 393
Transcript No. 569
June Term 1857

To the honorable the
District Court of the United States for the Southern
District of California - On Transfer from U. S. Dist
Court Northern District of California -
The petition of
Hartman & Sloan Attorneys for Vicente Gomez
or those claiming under said Gomez that this
cause is an appeal from the decision of the
U. S. Board of Land Commissioners to
ascertain and settle private Land claims in
the State of California -
That the Land claimed
for by your petitioner is the land described in
the Expediente, making a part of the evidence
proceedings, pleadings etc. in the Transcript
No 569 of said Board of Land Commissioners
above alluded to together with the accompanying

map or diseno. filed and endorsed in said Transcript, and that the said land is known as the "Rancho Paucho Grande" and is within the jurisdiction of this Hon Court.

That after considering the claim of your petitioner and the proof filed in support thereof said Board on the 6th day of March 1855 decided the said claim to be invalid.

That a Transcript of the Record of said proceedings was filed in this Court on the 4th day of June 1857, being transferred by consent of this Court from the Dist Court of the United States for the North, Dist of California and that said Transcript record was duly filed in said Northern Dist Court on October the first 1855 and a notice of appeal filed in said Northern Dist Court on 18th March 1856 by E. V. Crosby said Claimant's Attorney.

Your petitioner pray that such decision of said Board may be reversed and that this Court may confirm its title to said land.

Hartman & Swan
Attorneys for Claimant and those under him.

Filed 4 June 1857

A. S. Taylor Dep Clk

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

Vicente P. Gomez

The United States

D.C. 393: L.C. 569-

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The deposition of E.
W. H. Sloan the witness named in the Commission
annexed being, on this twenty fifth day of
January 1860. duly sworn duly sworn and
examined upon the several interrogatories
thereto annexed, doth depose and say as
follows to, wit:

Answer to Interrogatory 1st

I have looked at the paper annexed to this
Commission, and purporting to be a petition
for review of the decision of the Board of
Land Commissioners in the case mentioned in
the first interrogatory signed "Hartman &
Sloan Attorneys for Claimant and those
under him, and have no knowledge whatever
of said paper. It is not in my handwriting
nor in that of my former partner, Hartman
nor in that of any clerk which I now have or
ever had in my office, or in the office of any
legal firm of which I have been a member at
any time. I speak of the signatures as well
as the body of the paper which seems to be in
the same handwriting. I do not know in
whose handwriting the body and signatures

of said paper are. I never authorized any person to draft or sign said petition or any petition whatever in said case either on behalf of myself or Hartman or both.

When Hartman was my copartner the partnership name or firm was "Sloan and Hartman" I have no further knowledge touching said petition. I was never employed as an attorney or counsellor in the said case, either alone or in connection with anyone else.

Answer to Interrogatory 2nd.

I have no doubt but that I am the same person whose name appears in the order referred to in the second interrogatory, which directed the transcript and papers in said case to be transferred from the Northern to the Southern District of California. I have no distinct recollection of having applied for such order in this particular case, but I do remember at the solicitation of some member of the bar, to have presented certain affidavits which he handed me, showing that the lands described in that particular case lay within the Southern District, and that the transcript from the Board of Land Commissioners had by mistake been lodged in the Clerk's office of the District Court for the Northern District of California and upon such showing to have obtained an order similar to that mentioned in said second interrogatory. I cannot remember with absolute certainty, at whose instance, I made the application.

whose instance, I made the application

My best recollection is that it was at the request of Pacificus Ord, late District Attorney of the U. S. for the Southern District of California. Whoever it was, represented that it was inconvenient, either to remain in Court or to appear that morning when the order was made, and at his request I attended to it as a matter of professional courtesy.

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I have never been the attorney or counsel of the Claimant in said case, or of any person claiming an interest in the same nor have I any knowledge that the firm of Sloan and Hartman were ever in fact Attorneys or of counsel for said claimant, or for any other party in interest. I never had any contract for or received any fee or reward for services in said case. I have no knowledge whatever of any contract for or of any fee or reward paid or secured to be paid, directly or indirectly to Hartman, either individually or as a member of the firm of Sloan and Hartman. I have never been informed nor have I any reason to believe that Hartman ever was employed as an Attorney or Counsellor at law to render any services in said case during the existence of our partnership.

I know no other facts bearing upon or relating to this case.

Sworn to and subscribed E. W. F. Sloan
before me this 28th day of
January A.D. 1860.

Jno B. Williams
J. C. Cour

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

Vicente P. Gomez }
v } b.c. 393, L.C. 569.
The United States }

City and County of San Francisco
Northern District of California

Be it known
that on this 25th day of January A.D. 1860 under
and by virtue of the foregoing Commission to me
directed by the Hon District Court, Court of the
United States for the Southern District of
California. I caused the within named E. W.
H. Sloan, the deponent in said commission
mentioned to come before me in said City and
District, and he being then and then duly
sworn in answer to the several interrogatories
annexed to said commission gave the foregoing
answers, by me reduced to writing in presence
of said deponent, and the same was by him
subscribed and sworn to before me.

In Testimony whereof
I have hereunto set my hand
and seal the day and Year above
written in the City and District
aforesaid. Jno. B. Williams, J.S. }
U.S. Commissioner for the Dist of Cal. }

Filed in office 1st Feby 1860 U. S. Dist Ct.

This Affidavit made the twenty fourth day

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This Indenture made the twenty fourth day
of November A. D. Eighteen hundred and
fifty six by and between Vicente, Perfecto, Gomez,
of Monterey County California of the first part
and Pacific Ord of Los Angeles County
California of the second part witnesseth that
the said party of the first part for and in
consideration of the sum of one dollar, in hand
paid the receipt whereof is hereby acknowledged,
has granted bargain and sold, and by these
presents does grant bargain and sell unto the
said party of the second part his heirs and
assigns forever, all the right title and interest
of the said party of the first part in law and
in equity, in and to that certain tract or parcel
of land lying in the County of Monterey State
of California bounded and described as follows
to wit: The one undivided half of that place
known by the name of "Panoche Grande" bounded
on the North by the lands of Julian Ursua,
on the South by the hills (Lomeria) on the
East by the Tulare Valley, and on the west
by the lands of Francisco Crios of the extent
of four square leagues more or less, for a more
full and perfect description of the said land
reference is made to the petition in the claim
of the said Vicente, Gomez No 559 filed before
the United States Land Commissioners for
California on the 9th of February A.D. 1853
and the documents maps and evidences
therein filed and now pending on appeal
in the District Court of the United States for
the Southern District of California. Together
with all and singular the hereditaments and

and appurtenances, rents, issues and profits thereof, and also all the estate, right, title, interest, claim or demand whatsoever of him the said party of the first part in law or equity of, in and to the said premises and every part and parcel thereof. To have and to hold to the said party of the second part his heirs and assigns to the sole and only proper use and benefit of the said Pacificus Ord. his heirs and assigns forever. In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written.

Vicente Pto Gomez (Seal)

Witness to signing sealing and delivery, W. H. Swasey, State of California County of San Francisco. On this Twenty fourth day of November A.D. one thousand Eight hundred and fifty six before me W. H. Swasey a Notary Public in and for said County personally appeared Vicente P. Gomez to me personally known to be the individual described in and who executed the annexed instrument and acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned, the contents thereof having been first interpreted and explained to me. In witness whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

W. H. Swasey Notary Public (Notarial Seal)
Filed Wednesday the 26th day of
November A.D. 1857. at 6 o'clock P. M.
Recorded at the request of P. Ord in book A

of deeds for the County of Merced on folios 122,
123, 124. E. G. Reister Recorder of Merced County
Filed for Record Friday the 26th day of
March AD 1858 at 8 o'clock and 10 minutes
A. M. and recorded at request of P. Ord Esq
(Written instructions) in book A of deeds folios
118 & 119 James Sayles Jr Recorder, Fresno County
Received for Record May 3rd at 5 o'clock P. M.
Recorded at Request of Alex S. Taylor

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The words "Gonzales" on the 2nd page and
"instantaneous" on this page erased (not being on
record) by me

J. J. Robert County Clerk and
Ex officio County Recorder in and for the County
of Monterey and State of California do hereby
certify that the foregoing three pages is a full, true
and correct copy of a deed of conveyance now on
Record in my office made by Vicente P. Gomez
to P. Ord. Recorded in Book C of conveyances
on Pages 367 & 368 =

In witness whereof I
herunto set my hand and affixed
the seal of County Recorder - Monterey
County, this the twelfth day of
January AD 1862

J. J. Robert
Recorder Monterey Co. Cal.



Filed in office this the 2nd day of
February 1860 by virtue of stipulation
filed 11 January 1860

C. J. Sims
clerk

U.S. Dist Court S. Dist Cal
Regular Dec Term 1859 #
March 20. 1860

Vicente P Gomez }
The United States } No 393

Ordered by the Court
that all proceedings in the
above cause be suspended
until after the decision of the
Supreme Court is rendered
in the same

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U.S. Dist Court South Dist Cal

Regular December Term 1860
Tuesday March 27th A.D. 1861

Vicente Gomez

The United States

No. 393

Whereas it has come
to the knowledge of this Court, that a decree
heretofore rendered by this Court in this case
was fraudently obtained by misrepresentation
of the then District Attorney P. Ord and other
counsel in the case. And it appearing to the
satisfaction of the Court from testimony on record
in the case, that the then District Attorney,
counsel for the United States, was at the time
of making the said decree interested in the
land claimed in said cause adversely to the
United States and representing to the Court
that there was no objection to the confirmation
of the Claim aforesaid on the part of the
United States. A decree was entered without
an examination by the Court into the merits
of said claim, thus deceiving the Court and
obtaining a decree in his own favor under
the false pretence of representing the interest
of the United States.

It is therefore ordered that
all proceedings heretofore had in said cause be
set aside and the cause be put on the Calendar
and set for trial de novo according to law

U.S. District Court Southern Dist of Cal.
Regular December Term 1860 Wednesday March 27th 1861

Vicente Gomez
vs
The United States } No. 393

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On motion and application of U. S. Dist Atty leave is granted to take testimony under the rules of this Court.

Vicente P. Gomez } District Court of the
vs } United States for the
The United States } Southern District of
California.

The testimony of Don Camilo Boronda a witness on behalf of the United States.

I was born in California near the Presidio of San Francisco, and am sixty six years of age. I have always lived in California, and have resided in San Juan since 1835. The land in the vicinity of San Juan I know well, as well as the former owners, but I am not acquainted with all the persons there now, as there are so many foreigners. I knew the lands of Don Julian Arana, and those of Don Francisco Arros, I know La Jaramia and also the valley of the Tulares. I know a river in that vicinity called "Panoche", I know

of no land by the name of Pauone, the name of that river. "Pauone Grande" refers to a river. And there is a small river called "Pauone Chico". I have lived within twenty leagues of this neighborhood since 1835 - I know the father of Vicente S. Gomez very well. I have known Vicente for the last ten years and I never heard of his having any grant of land there, I have never heard of any encession made in that neighborhood but that of Ains and that of Urzua. Under the Mexican government there were no persons settled in that neighborhood except those two families.

Subscribed and sworn to }
before me this 30th day }
of May A.D. 1861 }
(Seal) H. J. Thibault }
Notary Public }
City and County of San Francisco }

It is hereby stipulated that the foregoing deposition may be read in evidence upon the trial of this cause subject to all objections to the substance thereof. All objections to the form and manner of taking the same are hereby waived.

Shafter Park & Heydenfeldt
for plaintiff
E. L. Gidd
Special Counsel of the Plaintiff

Filed June 11th 1861 G. L. Mix Clerk

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

Vicente, P. Gomez }
Appel. } No 393.
vs }
The United States }
Apples }

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It is hereby stipulated
that the above entitled cause be continued to
the December Term 1861 from the June Term
1861.

May 22^d 1861

J. R. Hitchcock
U. S. Dist Atty.

Filed October 24th 1861.

G. L. Mix Clerk

U. S. Dist Southern District California
December Term AD 1861
Monday Dec 2nd 1861

Vicente Gomez }
Applee } No. 393.
vs }
The United States }
Appelant }

It is ordered that in
account of the absence of the U. S. Dist
Atty all motions pending in this cause before
this Court be and the same are hereby

continued until the next term of said
court.

San Francisco Nov 30th 1861

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Dear Sir,

Letter from
Claimant
Attorneys.

We are attorneys for the
Claimant in the case of the "Pawnee Grand"
The United States vs Geney.
There is a motion
pending to set aside an order made by
Judge Ogier granting a new trial. The
Claimant is the moving party, and the
motion I suppose is ripe for a hearing.
As it is entirely unknown whether an Atty
has been appointed for the Southern District,
I have concluded that it would be imprudent
for me to make a long and probably bootless
journey to Los Angeles with a view to a
hearing at the coming Dec Term at the
District Court in which the Cause is pending.
If however the motion should be brought on
by any one having authority to do it, and
the case cannot be continued to the June
term 1862. I should wish that an order
might be entered allowing us to file a brief
for the Claimant in say 60 days.
In the event that the case should be passed to a
hearing on the motion, will you please
exhibit this letter to the Court in support of
the application above named. Perhaps

some one of our brethren would oblige us so far as to make the application in our behalf. Will you please write me concerning the matter so soon as it shall have been disposed of -

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I sent the moving papers some time since to Mr Fitcher with a request that he would serve them upon the Dist Atty and file them in your office. Will you please advise me if they are on file now and have been regularly served.

Yours very Respectfully
O. L. Shafter for
Shafter and Heydenfeldt.

Telegraphed to V. C. Howard today
for greater certainty.

Received Dec 11th 1861
Answered Dec 12th 1861.

Stipulation
for
Continuance.

The United States }
vs }
Greene, P. Gomez, }
In the Dist Court of
the United States for
the Southern District.

It is hereby stipulated
that the above entitled cause be continued to
the Regular Term of said Court to be held
at Monterey, on the first Monday in June
1863, then to be heard on a pending motion
to vacate an order granting a new trial
in said action.
Jan'y 20 1862

Shafter and Heydenfeldt
Attys for Claimant.

E. S. Gould
Special Counsel of the U.S.

Filed Jan'y 30th 1862.

John O. Wheeler
Clerk

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

Vicente P. Gomez }
or App't } No. 393
The United States App'l }

To the District Atty for
the Southern Dist of California -

Sir - Please to take
notice that the Claimant in the above entitled
proceeding, will on the first Monday of December
1861, or as soon thereafter as a successor to
Judge Ogier shall have been appointed & qualified,
move the said Court to vacate the order heretofore
entered in said proceeding in March 1861 granting
a new trial to the said United States.

The said notice will be based upon the
affidavit herunto annexed and the Exhibit

referred to therein, & the filed Deeds in the case.
May 31st 1861. Shafter Park & Haydenfeldt
Attys for Claimant.

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

Vicente P. Gomez }
vs } No 393.
The United States }

I O. L. Shafter of lawful age depose
and say that I am one of the Atty &
Counsel of the Claimant in the above entitled
proceeding - & that as such I in the month
of Oct. or early in Nov. 1860 addressed a
letter to J. R. Gitchell Esq then the Dist Atty
for said District, requesting him to consent that
the hearing on the motion for new trial pending in
said case might be postponed & the case
continued from the then ensuing ^{con} term of said
District Court, to the June term thereof 1861 -

That in reply to said application
I received about the 20th of Nov. 1861, a letter
from Mr. Gitchell, an exact copy whereof is
hereto annexed marked A.

That relying
upon the state of things disclosed in said letter,
I took it as settled that no action could or would
be taken in said proceeding at the said Dec
term 1860, & did not consider that under the
circumstances it would be judicious or proper

for me to make a journey to Los Angeles from San Francisco for the purpose of attending to the motion.

I further state that I was first informed about the 29 of May 1861 that the Court had granted the said motion for new trial late in said term & on its own motion.

I further state that from what on full examination I believe to be the facts of the case there are in my opinion meritorious and tenable grounds upon which the said motion for new trial can be resisted, should the order granting the same be vacated, and the motion be reopened for hearing—

O. L. Shafter.

In the Dist Court of the United States for the Southern District of California—

Vicente P. Gomez

vs
The United States

Monterey June 13th 1862

Whereas an affidavit of O. L. Shafter regularly sworn to of which the within statement of Mr O. L. Shafter in his own handwriting is substantially a copy, and also a notice regularly served on G. R. Gitchell U. S. Dist Atty of said Southern District of which the annexed notice is substantially a copy and also a copy of a letter from said Gitchell to said Shafter of which the annexed letter is

the original - were regularly served and filed in
said cause on the the 31st of May 1861 &
whereas the same have been mislaid. Now it
is stipulated and agreed that the annexed
notice statement and letter may be filed and
used in said cause with like force and effect
and in lieu and stead of those that are mislaid.

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E. L. Gould Sharp & Shafter
Special Counsel U. S. for Claimants
B. C. Whiting U. S. Atty. p. Sharp

U. S. Atty's office
Los Angeles Nov 15th 1860

Shafter & Heydenfeldt

Gentlemen

Yours of the 10th

inst has been received.

In the case of the
Panoche Grande no mandate has yet been
returned from the Supreme Court. And for all
this Court officially knows the case is still
pending above. No action can be taken on
motion for new trial until return of proceedings
of Supreme Court.

Yours Truly

J. R. Gitchell
Filed June 3rd 1862 John O. Wheeler Clerk

U. S. Dist Court Southern Dist Cal

Regular June Term AD 1862

Monterey Friday June 13th 1862

Vicente P. Gomez
Appels

No. 393

The United States
Appelles

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Now on this day
come the parties by their respective Attorneys,
The United States represented by the United
States Dist Atty assisted by E. L. Gould Esq
and the Claimants by Geo. H. Sharp Esq of counsel.
Whereupon the hearing
of the argument in support of the motion
heretofore made for vacating the order of this
Court made on the 21st March 1861 setting
aside all proceedings herein and reinstating
this cause for trial de Novo, coming on,
Claimants file "Certified copy of order made
in the Supreme Court of the U. S. at its Dec
Term 1859 directing that all proceedings in this
Court be suspended etc"

Whereupon said motion
is argued by Counsel and submitted.

And is granted leave to file brief
within fifteen days and five days
thereafter in which to file counter brief.

Supreme Court of the United States
December Term 1859

The United States vs Vicente P. Gomez
Appeal from the District Court of the United States for the Southern District of California.

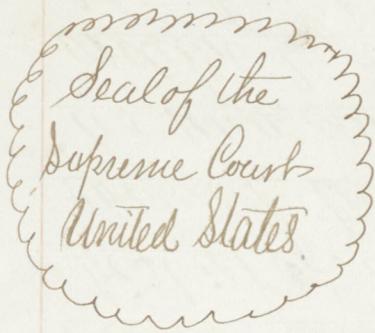
299
D. T.
1858

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On consideration of the motion made in this cause on a prior day of the present term to wit on Friday the 27th day of January A. D. 1860. by Mr Attorney General Black to rescind the order and decree of this Court of the 31st day of January 1859 docketing and dismissing this appeal and to revoke and cancel the mandate issued by this Court to the District Court of the United States for the Southern District of California, and of the argument of counsel thereupon had as well in support of as against the said motion, it is now here ordered by this Court that the aforesaid decree of this Court docketing and dismissing this Appeal, be and the same is hereby rescinded and annulled, and that the mandate issued by this Court to the District Court of the United States for the Southern District of California in this case be and the same is hereby revoked and cancelled, and it is further ordered by this Court that the Clerk of this Court do forthwith send a certified copy of this order to the Aforesaid District Court of the United States for the Southern District of California—
for Mr. Jas: Wayne—

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I, William Thomas Carroll, Clerk
of the Supreme Court of the United States
do hereby certify that the preceding two pages
contain a true copy of the order made by
the said Supreme Court in the case of the
United States, Appts vs Vicente P. Gomez
at December Term AD 1859, as the same
remains on the records of said Supreme
Court.



In testimony whereof I
hereunto subscribe my name
and affix the seal of said
Supreme Court at the City
of Washington this 23^d
day of October AD 1860.
Wm. Thos. Carroll
Clerk Sup Ct U. S.

Filed June 13th 1862

John O. Wheeler
Clerk

U. S. District Court Southern District of Cal.

Regular June Term AD 1862
Monterey Monday Aug 4th 1862

Vicente P. Gorney
Appellant

D.C. No. 393

L.C. No. 559.

The United States

"Panoche Grande"

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On this day the Court delivers its opinion in this case granting the motion heretofore made by the Appellant herein praying the Court to vacate and set aside the order of Hon Isaac H. Ogier late Judge granting a new trial in this cause.

And it is hereby ordered that the previous order of this Court, made and entered on the 21st day of March 1861 setting aside all proceedings had in this case and placing the same on the Calendar de Novo be and the same is hereby vacated and set aside.

Justice Court First Term

Regular June Term AD 1862
Monterey Aug 25th AD 1862

Vicente P. Gorney

Appellant

D.C. No 393.

The United States Appellee

On motion of
B. C. Whitney U. S. Dist Atty.
It is ordered

that an appeal be allowed the United States
to the Supreme Court of the United States from
the decision and decree of this Court confirming
the claim of Claimant herein.

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Vicente P. Gomez }
Pls } No 393-
The United States }

An order for
appeal having been heretofore to wit: on the 25th
day of August 1862 entered in this cause, and
the Claimant being desirous of moving the Court
to set aside said order. It is hereby stipulated
and agreed that the Transcript herein be withheld
and all further proceedings stayed until
the next term of this Court to be held at
Monterey so as to give the Claimant an
opportunity to make such motion.

Los Angeles October 6th 1862
B. C. Whiting
U. S. Dist Atty
for the Southern District of
California

Filed October 6th 1862

John O. Wheeler
Clerk

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

Vicente P. Gomez }
of }
The United States }

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State of California }
County of Los Angeles }
William

Mc. Gowan of lawful age being duly
sworn deposes and says.

That about the
Month of December A.D. 1857. for a valuable
and fair consideration he succeeded to the
interest of the claimant in the land in contro-
versy in this matter, and is still interested therein.
That at the time he so purchased he was informed
advised and believed that the claim of the said
Gomez, presented in this case, was and had been
confirmed by a decree of this Court on the 5th day
of June A.D. 1857, and affiant purchased
under that impression and guarantee, and
the deed to him recites the fact of such confir-
mation. Affiant further says, that he had no
connection with any of the parties interested in
this case or their attorneys in any way ⁽²⁾ shape ⁽¹⁾
manner or form, nor did he advise nor was he
coignizant of any of the proceedings in said
case until the said purchase made as aforesaid.
Nor was he informed nor had he heard that there
was any suspicion question or doubt as to the
regularity, propriety, and fairness, of any of

the proceedings had or steps taken in said case
up to that time.

Wm M^o Garrahan

Subscribed and sworn to
before me this 1st day of
December A.D. 1862.

H. P. Ramirez

U. S. Commissioner South Dist. Cal^a

Filed this 1st day of December
A. D. 1862

John O. Wheeler
clerk
H. P. Ramirez
Depty

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

Vicente P. Gomez

^{of}
The United States

You are hereby
notified that at the opening of said Court
at the Court Room thereof in Los Angeles
on Monday the first day of December A. D.
1862 or as soon thereafter as Counsel can be
heard a motion will be made on behalf of
claimant in said cause to vacate and set
aside the order of said Court heretofore entered
granting an appeal in said cause, and that

such motion will be based on the papers on file
in said cause.

Me^{rs}. Douglass, Sharp & Lloyd
Attys for Claimant

393 SD
PAGE 111

Dated Nov 24th 1862

(Endorsed)

See Service of the within
notice is hereby admitted.

Nov 25-1862

B. C. Whiting

U. S. Dist Atty for the
Southern Dist California

Filed this 1st day of December AD 1862

John O. Wheeler
Clk

F. P. Ramirez
Deputy

United States Dist Court Southern Dist
of California

Regular December Term AD 1862
Monday December 1st 1862

Vicente P. Gomez

vs
The United States

No. 393

Panoche Grande

In this case the
Attorney for the Claimant appeared, (and
the United States District Attorney being present

moved the Court to vacate and set aside the order heretofore made by this Court, in this case on the Twenty Fifth day of August AD 1862 allowing an appeal on behalf of the United States to the Supreme Court of the United States from the decree of Confirmation made and entered by this Court in this case. The Claimants Attorney produced and read and filed the notice of the motion served upon the United States District Attorney, also read and filed the affidavit of John W. Garahan, after hearing the argument of Claimants Counsel the Court continued the further hearing of the motion until tomorrow at ten O'clock A. M.

U. S. Dist Court Dist Cal
Regular Sec. Term Tuesday December 2^d AD 1862

Vicente P. Gomez

vs
The United States

S. C. No 393.

On taking up yesterdays motion in this case, this morning the Court intimated that there was a stipulation dated October 6th 1862 and filed on the same day, whereby it was agreed that this motion should be taken up at the next term of this Court, to be held at Monterey.

Whereupon the United States District Attorney and the Counsel for Claimant stated that the motion to vacate and set aside the order of appeal was

taken up yesterday by consent of both parties. After the hearing the argument of the

taken up yesterday by consent of both parties. After the hearing the argument of the U. S. Dist Atty in opposition to the motion the motion was submitted to the Court and taken under advisement.

393 SD
PAGE 113

U. S. Dist Court Southern Dist Cal

Regular, December Term 1862
Thursday Decr 4th 1862

Vicente P. Gomez

No 393 -

The United States

In this case the Court delivers an opinion on the motion submitted the day before yesterday and -

Ordered that the Appeal taken on the Twenty Fifth day of August 1862 by the United States to the Supreme Court of the United States from the final decree of Confirmation herein be vacated and set aside and

It is further ordered that the order of this Court made on the said 25th day of August ad 1862 allowing said appeal be and the same is vacated and set aside.

And the motion of the United States District Attorney for leave to take an appeal on behalf of the United States to the Supreme Court of the United States from the said final decree be and the same is denied -

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District Court of the United
States Southern District of
California

393 SD
PAGE 114

I Fletcher M. Haight United States District Judge for the Southern District of California do hereby certify the foregoing to be a full true and correct Transcript of the proceedings and decisions and papers in evidence in the case of Vicente Gomez against the United States in this Court.

In Witness whereof
I have hereunto signed
my name and affixed
the seal of this Court this
the _____ day of

District Court of the United States
in the Southern District of California

In return to the writ of Certiorari hereto annexed, I, Fletcher M. Haight Judge of said Court do hereby certify that I have caused the files records and entries in the above entitled cause to be fully searched and the foregoing is a true full and complete transcript, containing copies of all proceedings had in said cause and all papers on file and all entries in the minutes as well as all matters on the record in said cause. Given at Monterey this _____ day of September in the year of our Lord eighteen hundred and sixty five.

United States District Court South of San Diego
 United States of America
 South of San Diego

I John Wheeler Clerk of the
 United States District Court and for the Southern District of
 California do hereby Certify the above and foregoing to be a
 full true and correct transcript of the Record of the
 proceedings and of the decisions of the said Court, of
 the documentary evidence and of the testimony of the
 witnesses upon which the same is founded on file in my
 office in Case No 393 on the Docket of the said Court
 wherein Vicente P Gomez is the Claimant against the
 United States for the place known as Paucho Grande
 And I further Certify that the Terms of said Court
 held and during which the said proceedings were
 had were as follows to wit:

Reg June Term	1854	Commenced	June 1, 1854	and ended	June 8, 1854
Reg Dec "	1854	"	Dec 7, 1854	"	Apr 16, 1858
Reg June "	1858	"	June 7, 1858	"	June 19, 1858
Reg Dec "	1858	"	Dec 6, 1858	"	May 14, 1859
Reg June "	1859	"	June 6, 1859	"	June 18, 1859
Called Sept "	1859	"	Sept 6, 1859	"	Sept 6, 1859
Called Sept "	1859	"	Sept 12, 1859	"	Dec 2, 1859
Reg Dec "	1859	"	Dec 5, 1859	"	June 2, 1860
Reg June "	1860	"	June 4, 1860	"	June 13, 1860
Special Aug "	1860	"	Aug 6, 1860	"	Nov 23, 1860
Reg Dec "	1860	"	Dec 3, 1860	"	Apr 16, 1861
Reg Dec "	1861	"	Dec 2, 1861	"	Dec 11, 1861
Special January "	1862	"	January 23, 1862	"	May 10, 1862
Reg June "	1862	"	June 2, 1862	"	Sept 8, 1862
Special Octo "	1862	"	Oct 1, 1862	"	Oct 7, 1862
Reg Dec "	1862	"	Dec 1, 1862	"	Dec 4, 1862

In Witness Whereof I hereunto set my hand and affix the Seal
 of said Court at Monterey this 21st day of August
 AD 1865
 John O. Wheeler Clerk

393 SD
 PAGE 115



First Court of the United States
Northern District of California

V. P. Gomez } Claim for the
 } place called
The United States } "Paroche Grande"

~~393~~ SD Docket No. 278, Transcript No. 569
PAGE 118

United States of America
Northern Dist. of California vs:

Vicente Prefecto Gomez -

Being duly sworn de-
poseth and saith that he is well acquainted
with the tract of land claimed in this
case known by the name "Paroche
Grande" - that it lies to the south of,
and adjoining to, the place known
by the name of "Real de los Aguilas"
and is situated wholly within the
Southern District of California and south
of the 37th parallel of North latitude -

Subscribed & sworn }
before me this 17th } Vicente P. Gomez
Jan. 1857 }
W. H. Chevers.

Deputy Clerk
U. S. Dist. Court,
N. D. of Cal.

393

393
No. ~~278~~

U. S. Dist. Court.

The United States,

- vs -

V. P. Gomez,

Affidavit of
V. P. Gomez.

393 SD

PAGE 117

Filed July 19, 1857.

W. H. Cheever,

Deputy.

Filed & proved by
W. H. Cheever
Clerk.

State of California }
County of San Francisco }

393 SD
PAGE 118

Manuel Castro and
Henrique Combustion being duly sworn, each
for himself deposes and says, that he knows
Vicente P. Gomez, that he has heard that
said Gomez owns the Rancho called "La
Panocha Grande" situated in the County of
Mariposa or Monterey, that said Rancho
is in the Southern ^{United States} Judicial District of the
State of California, and that he knows of
other Ranchos situated farther North of
the said Rancho "La Panocha Grande", the Titles
to which are being tried in the District Court
of the United States for the Southern Judicial
District, in the State aforesaid.

Sworn to and Subscribed
before me this 23rd day
of February, A.D. 1857.
as Witness my hand
and Official Seal



W. H. Tracy
Notary Public

Manuel Castro
H. Combustion

398
U.S. Dist Court
No 278

Vicente Pabecto
Gomez
1857

The United States

Affidavits of

Mau Castro

and

J. C. Camberton

393 SD

PAGE 119

Filed March 2, 1857

W. H. Chivers,
Deputy

Filed 4 June 57
W. H. Chivers
S. C. C.

No. 278.

The United States

vs.
Vicente Gomez.

N^o 569 of Transcript

for "Paroché Grande"

An appeal from the U.S. State
Land Commission for Cal.

393 SD

PAGE 120

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

Vicente Gomez, by his Attorney, hereby gives
notice that it is his intention to prosecute the
appeal in the above entitled cause, from the
decision of the Commission to ascertain and
settle the private land claims, in California,
rejecting his said claim. The Transcript of which
was filed in the Clerk's Office of said Dist Court on
the 1st of October A.D. 1855.

E. O. Crosby

Attorney for Claimant
Appellant.

No 278 - 393

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

The United States
vs

Vicente Gomez

Notia of appeal

Filed March 18, 1856,
by Chevers,
Deputy.

Filed to preserve
at law for
appell.

393 SD

PAGE 121

B
E.O. Crosby Att.
for appellant

Recd. San Francisco. May June 1st.
1857. of John. A. Murray, Clerk U.
S. Dist. Court, S. D. of Cal.
One small package marked
"Official Business, Columbus Sims,
Esq., Clerk U. S. Dist. Court, Los-
Angeles. Cal." Which said package
contains the transcript, and papers
on file in this Court in the case
of the U. S. ads. Vicente Gomez
No. 278, in this Court, for place
called "Pavuche Grandi" to be
delivered as per address.

Sloan & Hartman
Attys for Claimants

278.

U. S. Dist. Court.

Vicente Gomez,

— vs —

The United States.

Recpt: of Atty's fee
Clt for Transcript.

Filed June 1, 1857,

W. H. Cherris,

Deputy.

393 SD

PAGE 123

At a *Special* Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the *fourth Room* in the City of SAN FRANCISCO, on *Monday* the *ninth* day of *March* in the year of our Lord one thousand eight hundred and fifty-seven.

393 SD

PAGE 124

Present:

Hon. M. H. McAllister, Circuit Judge, &

The Honorable OGDEN HOFFMAN, District Judge.

The United States,

vs
Vicente Gomez,

D. C. 278. L. C. 569.

It being represented to the Court that the lands claimed in this case

lie in the Southern District of California, Now therefore on motion of E. W. F. Sloan, Esq., made in open Court, Ordered by the Court that the Clerk of this Court send to the Clerk of the District Court for the Southern District of California, said Manuscript together with a certified copy of this order.

Endorsed, Filed March 9th. 1857.

John. a. Monroe, Clerk.

By W. H. Chevers, Deputy.

I, John. a. Monroe, Clerk of the District Court of the United States for the Northern District of California, do hereby certify the foregoing to be a full, true, and correct copy of the original now on file, and remaining of record in my office, My testimony whereof I have hereunto set my hand,



and affixed the seal of the said Court this first day of June, A. D. 1857.

John. A. Monroe, Clerk
by W. St. Chenevix, Deputy.

392

^{Southern}
United States District Court,
District of California.

Vicente Gomez.

vs.

The United States.

Certified Copy of Order
transmitting returns of
to Southern District.

Filed 4 June 1857

Chenevix
CLERK.

Ataylor
DEPUTY.

393 SD

PAGE 125

Clerk's Office, U. S. Dist. Court,
Nor. District of California,
San Francisco. June 1st. 1857.

Sir, 393 SD
PAGE 126

I herewith transmit to you transcript Nos. 378 in this Court, and 569 in the Land Com. wherein Vicente Gomez is the Appellant, and Claimant of the place called "Paucho Grande", together with all the papers on file in this Court in the said case, consisting of the Notice of Appeal, and Affidavits of the Claimant, of Manuel Castro, and of J. C. Cambuston, and also certified copy of the order under which the said papers are sent to you. Your receipt for the same is respectfully solicited.

C. Sims, Esq.,
Clerk, U. S. Dist. Court,
Los Angeles.

Your Obt. Servt.
John A. Monroe, Clerk,
by W. H. Cheever, Deputy.

393

Vicente Gomez

vs

The U States

Letter of Clerk Watts.
St. Court transferring
Cause to fourth dist
June 1/57.

393 SD

PAGE 127

✓ Filed 4 June 57
At Taylor
Supt. Ct.

DE

United States of America, } SS.
SOUTHERN DISTRICT OF CALIFORNIA.

THE PRESIDENT OF THE UNITED STATES,

TO

P. Oro U.S. Dist Ct

393 SD

PAGE 128

GREETING:

TAKE NOTICE, That a Petition, a copy of which is herewith served upon you, has been filed against ~~you, and each of you~~ ^{the United States}, in the District Court of the United States, in and for the Southern District of California, on the *4th* day of *June* 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

Vicente Gomez praying said Court to review the decision of the U.S. Board of Land Commissioners of the 6th March 1855. rejecting his claim to the lands known by the name of "Rancho Parochu Grande" situate in the Southern District of California

and that you, ~~and each of 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 that judgment by default will be taken against you, ~~and each of you~~, and the prayer of the said petitioner will be granted, with costs.

In witness whereof, I have hereunto set my hand, and affixed the Seal of the said Court, this *1st* day of *August*, in the year of our Lord, one thousand eight hundred and fifty-~~seven~~, at Los Angeles aforesaid.

Clerk.

C. Lewis
J. M. Coleman
Clk.



No. 393

Marshals fees
For serving petition 2.00
Summons 2.00
Copying " 20

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF CALIFORNIA,
U. S. DISTRICT COURT.

Vicente Gomez
Defendant

vs.
The United States
Plaintiff

SUMMONS.

Appear at 10 o'clock
August 1857

C. E. Thorn
J. J. Coleman

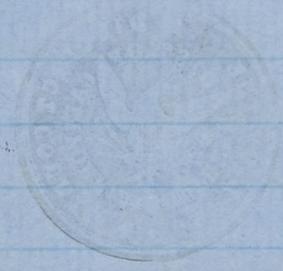
393 SD
PAGE 123

I served this Summons, along with the proper copy of the Petition, upon *C. E. Thorn*
acting District Attorney

at *Los Angeles*, in the Southern District of California, on *Monday*
the *10th* day of *August*, A. D. 1857, on *California*

Sworn to and subscribed before me, *12th*
August 1857

C. Sims Clerk. *James C. Ferris* Marshal.
J. J. Coleman Def.



In the District Court of the United States
Eastern District of California.

Vicente P. Gomez
Appellant

Case No 393

393 SD

PAGE 130

Al

The United States
Appellee

"Bancroft Grants"

Trms 569.

This cause coming on to be heard on appeal
from the decision of the United States Board
of Land Commissioners, to ascertain and settle
the private land claims, in the state of Califor-
nia under the act of Congress approved March
3^d 1851, an a transcript of the decision and
proceedings of said Board, and the papers and
evidence upon which said decision was found-
ed, and the other evidence adduced by the
appellant before this Court, and it appearing
to the Court that said transcript and the no-
tice of appeal have been duly filed according
to law, and counsel for respective parties
having been heard.

It is ordered adjudged
and decreed, that the decision of said Board
of Land Commissioners be and the same is her-
by reversed, and that the claim of appellant
is good and valid and the same is hereby con-
firmed to him as follows, to wit, three leagues
of land ^{more or less} situated in the County of Monterey
state of California, bounded on the north
by the lands of Julian Urena, on the south by

the hills, on the east by the valley of the
Sulans, and on the west by the lands of
Francisco Arias, as is more fully set forth
and described by the title issues for the
same, and the descriptio accompanying the same.

And it appearing to the Court that on the
5th day of June A.D. 1857, the lands in this case
described had been surveyed by the Court
to said claimant and appellant, and it having
been omitted to sign and enter a decree therefor
at the date last aforesaid: It is ordered that
the same be done now for them.

Charles K. Ogden
U S Dist Judge

Case No ~~393~~ 300
393

In District Court
Southern District
" "

Nicola P. Kamm
Appellant
vs

The United States
Appellee
" "

Verdict

Filed this 7th day of
January A.D. 1858. Term
pro Term (5th June A.D. 1857)
of the Court
J. McAlmon

Recorded on Page 248

7 393 SD
PAGE 132

In The District Court of the
United States Southern District of California
Vincent P Gomez }
vs } Case No 393
The United States } Panoche Grande

393 SD

PAGE 134

I Mitchell W District
Attorney for the Southern District of
California being duly sworn says that
since the trial and confirmation in
this case he has been informed and
believes that the pretended grant in
this cause is false and fraudulent
and that no such grant ever issued
and that there is no evidence in the
Archives in the office of the Surveyor
General of the U S for the State of
California showing that any such
grant had ever been issued. And
further that the confirmation of this
claim in this Court was procured by
fraud in this that at the time of the
trial in this Court Pacificus Ord,
the then District Attorney for the United
States for the Southern District of California
was the owner in fee of two leagues of the
land claimed in this case, deriving his
interest from the said Claimant Vincent
P Gomez by a proper deed of

of conveyance, that upon said trial
said Ord made no opposition to the
confirmation of said claim but appeared
on behalf of the United States and
assented in open Court to the entering
of the decree therein

and further assent with not
W R Mitchell

Sum of \$1000 before me
this the 11th day of January
1860

W R Mitchell
U S Dist Court
County of Utah Calm

No 393

U S Dist
Court
County of Utah Calm

U S
Dist Court

U S Dist Court
County of Utah Calm
1860

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

Vicente P. Gomez

Appellant

vs

The United States

Appellee

Case No 392.

"Sanvela Grant"

Transcript No. 569

393 SD

PAGE 136

Verree

This cause came on to be heard on appeal from the decision of the United States Board of Land Commissioners, to ascertain and settle the principal land claims in the State of California, under an act of Congress approved March 3, 1857, and a transcript of the decision and proceedings of said Board, and the papers and evidence upon which said decision was made, and the other evidence adduced by the appellant before this Court, and it appearing to the Court that said transcript and notice of instructions to appear have been duly filed according to law, and counsel for the respective parties, having been heard,

It is ordered and decreed that the decision of said Board of Land Commissioners be and the same is hereby reversed, and that the claims of said

Appellant is good and valid, and the same is hereby confirmed to him as follows, to wit the tract of land situate in the County of Fresno State of California known by the name of "San-ahn Brandt" bounded northerly by the lands of Don Julian Urrea, southerly by the hills, easterly by the valley of the Tulare, and westerly by the lands of San Francisco Ariza, containing ~~about~~ four square leagues of land and no more provided that quantity is contained within the boundaries aforesaid, and provided also that if a less quantity is contained within the boundaries aforesaid that confirmation of such less quantity is hereby made to said claimant, and for a more particular description of which said lands reference is hereby made to the map contained in the Transcript in this case.

Witness my hand

my hand in open Court this 5th day of February A.D. 1858. And it also appearing to this Court that he has appeared to me on the ~~5th~~ ^{5th} day of June A.D. 1857 at a regular term of this Court holden in the County of Monterey, State of California, the claim of the appellant in this case has been confirmed by this Court, but that it has been omitted by the Court to sign the decree of confirmation at the time the claim was made. It is thus far further ordered by this Court

That the same be signed as for this,
hence under my hand in open Court
this 5th day of February A.D. 1888. (8)

James K. Ogilvie
U.S. District Judge
for the S. Dist. of Cal.

393 SD
PAGE 138

No 393

In U.S. District Court
Southern District

Michael P. Baumgardner

Mr Appellant

The United States

Appellee

Deem

Filed this 5th February
1858 for the ^{5th Jan 1857} ~~5th Jan 1857~~
of Alexander Leary
Clerk

Recorded on Page ~~248~~ 271

393 SD

PAGE 39

In the District Court of the United States for the Southern District of California. Los Angeles.
December Term 1857.

393 SD

PAGE 140

On Motion of P. D. Attorney of the United States for the Southern District of California, it is Ordered by the Court, that appeals to the Supreme Court of the United States, be allowed the United States in the following cases - Viz.

- N^o. 20. Anastasio Ferrillo ~~et al~~ vs the United States, decided Jan 12. 1857.
- ✓ " 153. Manuel Angrisola " " " " Feb 20. "
- " 288. William S. Johnson, et al " " " " 7. "
- " 187. Leander Ransom " " " " June 2. "
- " 231. Valentin CoTa, et al " " " " 4. "
- ✓ " 274. Thomas Coal. " " " " 6. "
- " 393. Vicente Gomez. " " " " 5. "

The above motion is as ordered 7th Dec 1857

No 21

Order of Deputies

Filed this 15th March 1868
C. Smith Clerk
of the Court

J

393 SD
PAGE 141

United States of America
Southern District of California }

Vicente Gomez
vs
The United States

Appeal from the
Land Commissioners
No
for Rancho Grande.

393 SD
PAGE 142

And now comes the
United States by Edmund M Stanton
her Special Counsel in that behalf
and moves the Court to open the
decree and restate it upon the
docket with leave to take testimony on
behalf of the United States for the
reason following

- 1st That the said decree was
imprudently entered
- 2^d That new evidence has been discovered
material to the United States to show
that the said claim is fraudulent
and invalid.

Edmund M Stanton
Counsel for the United States

No 393

Vicente Gomez
The United States

Motion to open
decrees —

Filed 4th July 1858
C. Lewis Clerk
J. H. Coleman
S. W.

4K

393 SD

PAGE 143

No 393

D. P. Gorney

W. W. Montrose

393 SD

PAGE 144

on motion of E. W. Laper
of counsel for claimant
and on consent of the
DR. Gitchell Esq. United
States District City - It is
ordered that the motion in
this case heretofore made
by G. W. Stanton Esq. Special
Counsel be that the case
in this case be opened and
for leave to introduce new
evidence and also the
motion heretofore made
now pending a for leave
to file the same date of
the Supreme Court of
the United States and the
proceed under the same
now pending in this case as
under a final decree
be and they are hereby set
down for argument and
for final submission

Court on Monday the
first day of June
1869.

James McQueen
Attorney at Law

No 393

W. D. Cook

County Clerk of Union

O. L. Linn
apptd

vs

W. D. Cook

Filed in Office
this 8th Nov 1869

James M. L.

L

U S Dist Court
Southern Dist of Cal

393
Incarate Gomez
vs
The United States

Joucohe Grande

393 SD

PAGE 146

Now comes J. P. [unclear]
U S Dist Ath for the Southern
District of California and suggest
to the Court that a part of the
files in this case have been
lost to wit a motion filed
by the Government on the 7th of December
1858 to open decree and reinstat
cause together with the affidavit
upon which said motion was
founded - And moves the
Court for leave to file
copies of said motion and
affidavit

No 393

US Dist
Court

O'Connor
vs
The Estates

Filed in Office
this the 10th day
of 1860

C. Sims
clerk

M 393 SD

PAGE 47

U S District Court
Southern Dist of California
Vicente Gomez }
 as } No 393
The United States }

393 SD
PAGE 148

Now Comes W Mitchell
U S District Attorney and moves the
Court for a continuance of this cause
until the next regular term of this Court
for cause assigned in the annexed
affidavit

W Mitchell
U S District Attorney

W Mitchell being duly sworn
says that he cannot safely proceed
in the trial of this cause without a
proper copy of the Records of the County
of Monterey State of California, showing
the deed of conveyance from Vicente P
Gomez the claimant in this cause to
Pacificus Ord - late U S District Attorney
for the Southern District of California, for
two leagues of the land claimed in this
cause; That said copy of the record
was in Los Angeles at the commencement
of this term in the possession of J Hartman Esq
~~who was as affiant believed employed as affiant~~
~~affiant in the trial of this cause.~~
That affiant has only learned since

the arrival of the steamer on the 7 Inst
that said copy of the ^{is and} is not now in
the possession of said J Hartman Esq

Affiant further says that he failed
to procure a certified copy of said
record, believing that this cause would
be tried principally by counsel specially
appointed in this cause - that
since the opening of ^{present} this term of this
Court, E L Gould Esq appeared in
Court and represented himself ^{to affiant} as
specially employed by the Government
to prosecute this cause, and believing
such to be the case affiant trusted the
preparation of this cause to said Gould

And further if this cause is con-
tinued until next term will be able
to procure said records

And further affiant saith not
W R Mitchell

Subscribed and sworn to before
me this the 11th day of Janu-
ary A D 1860

C J Sims

W Dist Clerk
Southwest of
Cala

No 393

W R Mitchell Esq
Southwest of Cala

Attendant of S.
W R Mitchell Esq
Dist atty

Filed 11th Jan'y
A D 1860. C J Sims or

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

The United States

Case No 393. U.C.

Appellee

393 SD

PAGE 150

Micenta P. Gomez

"Pancho Verde"

Appellant

In L.C. No

Now comes Isaac Hartman and in behalf
of himself and E. W. F. Sloan makes the
Court to strike the names of Hartman & Sloan
from off the petition for review in this case
purporting to have been filed in this court
as of the date of June 4. 1857. For the follow-
ing causes, to wit.

- 1st Because the said petition for review
was never written, signed, and filed by said
Sloan or Hartman, or either of them, nor by
any other person for them with their consent
- 2^d Because the said Sloan and Hartman
nor either of them have ever been the Attor-
neys for the claimant and appellant in the
above entitled cause.

Isaac Hartman for self
and E. W. F. Sloan

No 393.

The United States
vs
Vicenta P. Gomez

—————
Motion

Filed in office
this 11th Jan^y
1860

C. Sims
Clerk

393 SD

PAGE 151

2

Vicente Gomez
vs
The United States

Pinoche Grande
No 393

393 SD
PAGE 152

It is admitted upon
the part of the Claimant that the said
Claimant conveyed by deed to Pacificus
and former District Attorney two Tracts
of the land claimed in this case previous
to the confirmations thereof

and it is further stipulated
that a copy of said deed may be
placed on record, when produced
and considered as evidence in this
cause

Shaftes Park Weydenfield
Atty for Claimant

W. C. S. C. C.
W. C. S. C. C.

No 393

U.S. Dist. Court
South - West Coast

Private Property

The United States
Stipulation

Filed in office
this 11th day

1860

J. M. Clark

M 393 SD

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This indenture made the twenty fourth day of
November A. D. Eighteen hundred and fifty six by and
between Vicente Perfecto Gomez, of Monterey County Cal-
ifornia of the first part and Pacificus Ora of
San Angelo County California of the second part
Witnesseth that the said party of the first part for
and in consideration of the sum of one dollar, in hand
paid the receipt whereof is hereby acknowledged, has
granted, bargained and sold, and by these presents
does grant bargain and sell unto the said party of the
second part his heirs and assigns forever, all the right,
title, and interest of the said party of the first part in
law and in equity in and to that certain tract or
parcel of land lying in the County of Monterey, State of
California, bounded and described as follows, to wit: The
one undivided half of that place known by the name of
Panoche Grande, bounded on the North by the lands of
Julian Ursua, on the South by the hills (Sierrita) on the
East by the Tulare Valley, and on the West by the lands
of Francisco Arias of the extent of four square leagues,
More or less, for a more full and perfect description
of the said land reference is made to the petition in
the claim of the said Vicente P. Gomez, No 569 filed
before the United States Land Commissioners for
California on the 9th of February A. D. 1853 and the
documents maps and evidences therein filed and now
pending on appeal in the District Court of the
United States for the Southern District of Cal-

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ifornia. Together with all and all and singular the hereditaments and appurtenances, rents, issues, and profits thereof, and also all the estate, right, title, interest, claim, or demand whatsoever of him the said party of the first part in law or equity of, in, and to the said premises and every part and parcel thereof. To have and to hold to the said party of the second part his heirs and assigns to the sole and only proper use and benefit of the said Pacificus Ord. his heirs and assigns forever.

In Witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written. Vicente P. Gomez (Seal) Witness to signing sealing and delivery W. F. Swasey, State of California County of San Francisco. In this Twenty fourth day of November A. D. one thousand Eight hundred and fifty six before me W. F. Swasey a Notary Public in and for said County personally appeared Vicente P. Gomez to me personally known to be the individual described in and who executed the annexed instrument and acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned the contents thereof having been first interpreted and explained by me. In Witness whereof I have hereunto set my hand and affixed my official

Seal the day and year first above written W. F.

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See the day and year just above written W. F.
Crawley Notary Public (Notarial Seal) Filed
Wednesday the 26th day of November A. D. 1857
at 1 O'clock P. M. Recorded at the request of
P. Ord in book A of deeds for the County of
Merced on folios 122, 123, 124 C. G. Hector, Recorder
of Merced County. Filed for Record Friday
the 26th day of March A. D. 1858 at 8 O'clock
and 10 Minutes A. M. and recorded at request of
P. Ord. Esq (Written instantaneous instructions) in
book A of deeds for 118 & 119 James Sayles Jr. Recorder
Fresno County. Received for Record May 3^d
1858 at 5 O'clock P. M. Recorded at Request of
Alex. S. Taylor.

The Words "Gonzales" on the 2^d page and "instantane-
ous" on this page traced (not being on record) by me
J. S. Robert County Clerk and Ex-
officio County Recorder in and for the
County of Monterey and State of California
do hereby certify that the foregoing three pages
is a true full and correct copy of a deed
of conveyance now on Record in my office made
by Vicente P. Gomez, to P. Ord. Recorded in
Book "C" of Conveyances on Pages 317 & 318.

In Witness whereof I have set my
hand and affixed the Seal of County
Recorder Monterey County. This the
Fifteenth day of January A. D. 1864
J. S. Robert
Recorder Monterey Cal.



No 393

"

"

Per request of
D. Lott Esq.
J. S. R.

Filed in office
this the 2^d day of
February 1860 by
virtue of stipulation
dated 11 Jan'y 1860
O. S. R.

W

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

The United States

Case No 393

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Appelles

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vs

Barcelo Grande

Vicente P. Gomez

Appellant

In L.C. No

Isaac Hartman being duly sworn upon his oath says, that whilst in attendance upon this Court at its June Term A.D. 1857 at Monterey in said District Pacificus DeLay, then U.S. District Attorney for said District, asked this officiant to present this cause to the Court for confirmation on behalf of claimant, stating that there was no objection to a confirmation, on the part of the United States. Officiant not suspecting there could be anything wrong about a claim to which the government made no objection, consented to present the case to the Court. On the same day this communication took place and whilst this officiant was sitting at the bar table in the Court House, the Court then being in session, the said DeLay passed to this officiant the transcript in this cause requesting him to read it to the Court. Officiant did as requested without further remark.

After affiant finished reading, said Ord re-
-mained to the Court that there was no oppo-
-sition on the part of the government to a con-
-firmation. Whereupon the Court replied that
there being no objection the claim would be
confirmed as a matter of course. Affiant
said no further attention to the case at the
time. At the evening December term of said
Court at Los Angeles the said Ord remained
to this affiant that it was omitted at the
time of the confirmation of said claim as
aforesaid to have the deed therein signed by
the Judge and enrolled, and requested affiant
to draw up a deed and present it to the
Judge to sign in pro terme. Affiant again
did as requested, but he states that he did not
know or suspect at the several periods aforesaid,
nor until sometime after the last men-
-tioned period, that said claim was fraudulent
and that the said Pacific Ord had an inter-
-est therein at the time of trial and confirma-
-tion, of two square leagues of the same. Affiant
learned that such was the fact, not until some-
-time in the summer of the year A.D. 1858, when
the same was communicated to him by either
Edwin M. Stanton, E. L. Good or Daniel Gibbs
Esq.

Affiant further says that on examining

The files in this case sometime in the month of November A.D. 1857, for the first time disclosed on file a petition to review the decision of the late Board of Equal Commissions. This petition is filed as of the 4th day of June A.D. 1857, and bears the signature "Hartman & Swan" as attorneys of claimant. Affiant says that at the date of the filing of this petition a partnership did exist between the said E. W. F. Swan and this affiant in the practice of law, the firm name & style being "Swan & Hartman" and never was signed otherwise by them or either of them. Affiant says that neither the body of said petition or the signature thereto is in the handwriting of affiant or the said E. W. F. Swan or of any clerk or person in their employ, nor did this affiant authorize any person to write sign and file said petition, and he is informed by said Swan and believes the same to be true, that he the said Swan never knew or heard of the said petition until a few days since, when this affiant called the attention of the said Swan thereto by inquiry. Affiant says he has no knowledge who wrote and caused said petition to be filed, nor by whom authorized and directed the same was done.

that he has never been the Attorney of the
appellant in this cause except as herein stated.
That he has never rendered any service there-
in except upon the request of the said Pacific
Ore, and that he has never received any
fee or reward for such service either directly
or indirectly, and that at the time of the
presentation of said case to the District Court
aforesaid he was utterly ignorant as to the
real parties in interest in said claim, except
as informed by the record.

Isaac Hartman

Sworn and subscribed to before me this
11 day of January, A.D. 1860.

C. J. W. Clark
Notary Public
Fourth Dist. of
Calif.

No 393

The United States

"

Nicolas P. Gomez

— " —

Affidavit

— " —

Filed in Office

the 11th January

1860

C. Jones
clerk

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

The United States

Case No 393

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Vicente P. Gomez

"Barucha Grande"

Isaac Hartman being duly sworn upon his oath says that about the month of September or October A.D. 1854, Daniel Kitch Esq of the City of San Francisco delivered to this affiant in the City of San Francisco a copy of a deed from Vicente P. Gomez to Pacifico Ord Esq for two leagues of land in the above claim, certified to by the Recorder of the County of Monterey, requesting affiant to deliver the same to D. K. Kitch Esq U.S. District Attorney for the Southern District of California. Affiant brought said copy of deed with him to Los Angeles and had it in his possession in the month of December when E. L. Gould Esq arrived in Los Angeles sometime in the same month representing himself to be specially employed in this case on behalf of the United States. Said Gould requested this affiant to deliver the aforesaid copy of deed to him. Affiant refused to do so stating to said Gould that he had given his receipt to Daniel Kitch Esq for the same and that he would deliver it to the said Kitch on return it to the said Kitch. Said Gould suggested that affiant return it to said Kitch, which affiant afterwards did in the City of San Francisco, somewhere about

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The 15 day of December aforesaid, receiving back
his receipt therefor. Affiant further states
that he has since been informed by said
Kitch, that he delivered said certified copy
of deed to said Gould, and that said Gould
has carried the same with him to the City
of Merkington. Affiant also states that at
the time he had said certified copy of deed
in his possession he informed said Kitch
of that fact, and that he was ready to de-
liver it to him at any time. This was before
said Gould requested the sum of affiant,
And further affiant saith not

Isaac Hartman

Given to and subscribed before me this
11 day of ^{January} ~~December~~ A.D. 1860.

Witness
Chas W West
Clerk Southern
Dist. Court

No 393

Monte P. Gomez

vs

The United States

— — — — —

Affidavit

— — — — —

Filed in office
this 11th day
and 1840

Chris A

Vicente T. Gomez } In the Dist. Court
 vs Appellant } of the U.S. for the
 United States } Southern District of
 Appellee } California

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And now comes Vicente T. Gomez
 appellant herein a file in open
 court the mandate of the Supreme
 Court of the United States filed on
 the 1st day of December 1858 & rendered
 herein Whereupon it is by the
 Court ordered and adjudged & decreed
 that the said mandate be carried
 into effect & that the said Gomez
 proceed under the decree of this Court
 hereupon rendered as under a final
 decree -

This decree signed in open Court
 this 1st day of May 1859 -

No 393
Vicente R. Gomez
vs
United States

Final order
of
court upon
petition mandamus
of the Supreme
Court of the United
States

~~Filed May 17 1859~~
Jims
abm et al
Madison, Wis., 8th
1860. 1860.
Jims et al

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 Southern District of
California _____

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greeting:

Whereas, lately, in the District Court of the United States, for the Southern District
of California before you, _____ in a cause
between Vicente P. Gomez, appellant, and the
United States, appellees, wherein a decree
was rendered in favor of the said appellant,
whereupon the said appellees prayed an
appeal which was allowed by the said District
Court to remove the said cause to the Supreme
Court of the United States _____

UNITED STATES OF AMERICA

THE PRESIDENT OF THE UNITED STATES OF AMERICA

OFFICE

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PAGE

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 _____

agreeably to the act of Congress, and the rules of the said *Supreme Court* _____ in such case made and provided, fully and at large appears.

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And whereas, in the present term of *December*, in the year of our Lord one thousand eight hundred and *fifty eight* 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 appearing that the appellants (the United States) have failed to have their cause filed and docketed in conformity to the rules of this court, It is now here ordered and decreed by this court that this appeal from the District Court of the United States for the Southern District of California be and the same is hereby docketed and dismissed, and that this cause be and the same is hereby remanded to the said District Court. — Jan: 31st

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You, therefore, are hereby commanded that such _____ 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 eight*.

COSTS
Clerk,.....\$ _____
Attorney,....\$ _____
\$ _____

Forced by

Wm. H. Carroll

Clerk of the Supreme Court of the United States.

No 393

No. 299, December Term, 1858.

MANDATE
SUPREME COURT UNITED STATES.

United States vs. Honey

~~*Paul Henry*~~

James A. Orr

Above rendered on the 15th day 1860

*When rendered made
January 18th 1860*

C. J. Taney

Supreme Court of the United States
December Term 1859.

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No 299 of
Sec. Term
1858.

The United States App ^{ts}	Appeal from the District Court of the United States
vs	for the Southern District of California. —
Vicente P. Gomez —	

On consideration of the motion made by Mr. Attorney General Black on a prior day of the present term of this court, to wit: on Friday the twenty seventh of January A. D. 1860, to rescind the decree made by this court dismissing this appeal at the last term of this court, to wit: on the 13th of January A. D. 1859, and to revoke the mandate issued by this court to the District Court of the United States for the Southern District of California. It is now here ordered by this court that all further proceedings under the said mandate be suspended in the said District Court and that the Judge of the

said District do surcease any and all further proceedings in the said case until the further order and direction of this Court. And it is also now here further ordered that the clerk of this Court do forthwith send to the Judge of the District Court of the United States for the Southern District of California, a copy of this order under the seal of this Court. And it is also now here further ordered by the Court that Counsel in opposition to the aforesaid motion of the Attorney General shall be heard on the next motion day in this Court.

13th Feb. 1850.

I, William Thomas Carroll, Clerk of the Supreme Court of the United States do hereby certify that the foregoing is a true copy of the order of said Supreme Court made this date in the above entitled cause, as the

same remain in the records of said
Court. —

In testimony whereof
I hereto subscribe my
name and affix the seal
of said Court at the City
of Washington this 13th
day of February A.D. 1860.
Wm. Carroll
Clerk Supr. Court U. S. —



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SUPREME COURT, U. S.

No. 299 —

December Term, 1858.



United States - app^t

vs

Vicente P. Gomez

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Order of Court
13th Feb: 1860

Filed in Office
this 21st March 1860
@ Sims

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Whereas it has come to the knowledge
of this Court, that a decree heretofore
rendered by this Court in ~~the~~ this Cause
~~of~~ - - - - - was fraudulently obtained
by misrepresentation of the then
District Attorney and other Counsel
in the Cause and it appearing to
the satisfaction of the Court from
testimony we heard in the Cause that
the then District Attorney Counsel for
the U.S. was at the time of making
of said decree ^{was} interested in the
land claimed in said Cause and
to the U.S. and representing to the
Court that there were ^{no} objections
to the confirmation of said ^{claim}
the Court up the U.S. obtained
was obtained

A decree without an examination
by the Court into the merits of
said claim. Thus deceiving the
Court and obtaining a decree in
his favor under the false pretense
of representing the interest of
the U.S. ~~and~~
It is therefore ~~ordered~~ that all proceedings
heretofore had in said Cause
be ~~set~~ set aside and the
Cause be put on the calendar
and set for trial de novo
to accountancy & survey

Jose Lonto Sepulveda et al
vs
The United States

Case No.

Deposition of

taken before ^{*D. L. Noel*} ~~*C. Sims*~~, United States Commissioner for the District of California, at the United States Court House, in the City of Los Angeles, on _____, the _____ day of _____ A. D. 185____, at _____ o'clock _____ M., on said day, on behalf of the _____ by the _____ to be used as testimony in a certain cause now pending in the _____ being Case No. _____, on the Docket of _____ said Court, wherein _____ are appellants, and _____ are appellees.

Present _____ Attorney in behalf of the appellants
and _____ in behalf of appellees.

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Gordon

Filed March 21/61

Edmund C. Bell
John D. Winterburn

1903 SD
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Nicolas Gomez

The United States

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

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The testimony of Jose Camilo Boronda a witness on behalf of the United States.

I was born in California, near the Presidio of San Francisco, and am sixty six years of age. I have always lived in California, and have resided in San Juan since 1835. The land ~~is~~ in the vicinity of San Juan I know well, as well as the former owners, but I am not acquainted with all the persons there now, as there are so many foreigners. I know the lands of Don Julian Mezua, and those of Don Francisco Arias, I know ~~the~~ La Ferrania, and also the valley of the Tubares. I know a river in that vicinity called "Paroche" I know of no land by the name of Paroche, the name of that river. "Paroche Grande" refers to a river. And there is a small river called "Paroche Chica". I have lived within twenty leagues of this neighborhood since 1835. I know

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The father of Vicente & Gomez very well.
I have known Vicente for the last
ten years, and I never heard of
his having any grant of land there.
I have never heard of any ^{concession} ~~grant~~
~~of the lands founded~~ ~~with~~
made in that neighborhood but that
of Arias and that of Uguad. Under
the Mexican government there were no
persons settled in that neighborhood
except those two families.

Subscribed and sworn to
before me this 30th day }
of May, A.D. 1861. } *Joseph examined & sworn.*

J. J. Thibault

Jose Canuto Boronda

Notary Public

City and County of San Francisco

It is hereby stipulated that the
foregoing deposition may be read in
evidence upon the trial of this cause
subject to all objections to the sub-
stance thereof. All objections to the
form or manner of taking the same
are hereby waived.

Shafter & Key, clerks
f- 24/6

E. L. Good
Special Counsel of the U.S.

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U.S. District Court
Vicente Gomez
United States.

Testimony of
Jose C. Boronda
on the part of U.S.

Filed June 11th 1861

G. L. Mix
Clerk

W

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Vicente P. Gomez } In the District
393 SD } Court of the
PAGE 181 } United States
185 } for the Southern
The United States } Dist of California
Oppus } No 393.

It is hereby stipulated that
the above entitled case may be
continued to the Dec. Term
1861 from the June Term 1861.

May 22, 1861 } L. R. Litchell
} W. S. Dist Ct.

No. 393.
Superior
for
Continuance

Vicente Gomez
vs
United States

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Filed October 29, 1861

G. L. Mix
Clerk

U

Shafter Park & Hyde
debt copy for Gomez

San Francisco
Nov. 30. 1861

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Madam

We are attorneys
for the Claimant in the Case of the
"Parake Grande" ~~vs.~~

The United States ~~vs.~~ Govt.

There is a motion pending
to set aside an order made by Judge
Ogier granting a writ of habeas corpus.

The Claimant is the moving party &

The motion I suppose is ripe for
a hearing. As it is entirely unknown

whether an attorney has been appointed
for the Southern Dist. I have concluded
that it would be unprovided
for me to make a long & ^{fruitless} bootless

journey to Los Angeles with a view

to a hearing at the coming Dec. Term
of the District Court in which the
Cause is pending. If however the
Motion should be brought on by
any one having authority to do
it, and the Cause cannot be
continued to the June term 1862,
I should wish that an order
might be entered allowing us
to file a brief for the claimant
in say 60 days. In the event that
the Case should be pressed to
hearing on the motion, will you please
exhibit this letter to the Court in support
of the application above named. Perhaps
some one of our brethren would oblige
us so far as to make the application in
our behalf. Will you please write me
concerning the matter so soon as it shall
have been disposed of.

I sent the moving papers some time
since to Mr. Getwell with a request
that he should serve them upon the

Just atty & file them in your office
Will you please advise me if they are
on file now & have been regularly
Served?

Yours very Respectfully

O. S. Shepley for

Shepley & Heydenfeldt

I have telegraphed to W. E. Howard
today for greater certainty

No 393

U. S. District Court
S. Dist. Cal.

N. Gomez

^{vs}
U. States

Letter from claimants attorneys

Rec^d Dec. 11th 1861

Ans^d. Dec 12th 1861

2

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The United States }
 vs. }
 Vicente P. Gomez }
 } of the District
 } Court
 } of the United
 } States
 } Southern District

It is hereby stipulated that
 the above entitled cause be
 continued to the the regular
 term of said Court to be held
 at Monterey on the first Monday
 in June 1862, then to be heard on
 a pending motion to vacate an
 order granting a new trial in
 said action.

Jan 20. 1862

Sheepstun & Haydenfeldt
 Attys for Claimant

E. L. Gould
 Special Counsel of the U. S.

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United States

vs.

V. P. Gomez.

Stipulation.

Ga

Continuance

Filed Jan 30, 1862

John Wheeler
Clerk

Z

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Supreme Court of the United States.
December Term 1859.

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299
of
D. C.
1858.

The United States. Appeal from the District
vs. App'ts. Court of the United States
Vicente P. Gomez. for the Southern District
 of California.

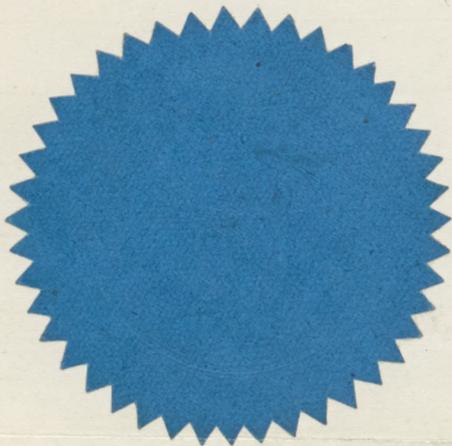
On consideration of the motion made in this cause on a prior day of the present term to wit, on Friday the 24th day of January A.D. 1860, by Mr Attorney General Black to rescind the order and decree of this court of the 31st day of January 1859 docketing and dismissing this appeal, and to revoke and cancel the mandate issued by this court to the District Court of the United States for the Southern District of California, and of the arguments of course thereupon had as well in support of as against the said motion, it is now here ordered by this court that the aforesaid decree of this court docketing and dismissing this appeal

be and the same is hereby rescinded and annulled, and that the mandate issued by this court to the District Court of the United States for the Southern District of California in this case be and the same is hereby revoked and cancelled, and it is further ordered by this court that the Clerk of this court do forthwith send a certified copy of this order to the aforesaid District Court of the United States for the Southern District of California.

Yrs. M^{rs}. Jus. Wayne.

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I William Thomas Carroll, Clerk of the Supreme Court of the United States, do hereby certify that the preceding two pages contain a true copy of the order made by the said Supreme Court in the case of the United States, App'ts vs Vicente P. Gomez at December Term A.D. 1859, as the same remains on the records of said Supreme Court.



In Testimony Whereof,
I hereunto subscribe my
name and affix the seal
of said Supreme Court
at the City of Washington
this 23^d day of October A.D. 1860.
Wm. T. Carroll
Clerk Sup. Ct. U.S.

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SUPREME COURT, U. S.

No. 299

December Term, 1858.

The United States
vs
Appellee
Vicente P. Gomez

Certified Copy of Order
made Decr Term 1859.

Filed June 13 1862
John Whelan
Clerk

B
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United States District Court of the U.S. Southern District
The United States of California vs. Aug. 4th 1854

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Vicente P. Gomez vs. In this ^{case} there was a decision adverse to the claimant by the Board of Land Commissioners and an appeal to the District Court. When the case came up for hearing before the District Court a decree was entered by consent of the then District attorney confirming the claim. Subsequently there was an effort to appeal by the District attorney and both sides seem to have supposed there was an appeal. The case was docketed and dismissed by the Supreme Court of the United States and a mandate issued to this Court. It subsequently appearing that no appeal had been regularly taken the mandate was recalled and the case left as it was originally in this Court. The decree confirming the claim was duly entered in the District Court on the fifth day of February 1858. A Term had elapsed before any motion to review or set the decree aside. At the December term 1860 an order was made by the Judge on his own motion setting aside the decree and which was filed the 21st of March 1861. With the mode and manner & reasons for the exercise of the power assumed by my predecessor no fault can be found. A more gross case of fraud by those charged with the care of public rights does

rarely been presented. The late District Attorney
Pardue's Ord. by owning about two thirds of the
land claimed consents to a decree of confirmation
reversing the opinion of the Land Commission
and decreeing a confirmation to the claimant
for three leagues of land. The case was one
to say the least ^{one} of doubt and a confirmation
of the grant ~~land~~ amount claimed would
not probably have taken place if the matter had
been contested. It is not therefore surprising that
they preferred on learning the facts should have
been indisputable and set the whole aside. The
only question presented deserving of much
consideration is ~~whether~~ ^{had the} the court power after
the lapse of a term to set aside or vacate a
decree duly entered. The decree was made in
open court both parties being represented. Whether
the parties were faithfully or honestly represented
does not affect the case so far as the question
of jurisdiction is concerned. Involved in the
question of jurisdiction is the finality of the
decree made and signed the fifth day of
February 1858. This decree was final - there
was nothing left to be done but to carry it
into execution. It follows that after the
lapse of a term the court could not
alter change or modify it unless to correct
some clerical error. Judicial discretion is

under any circumstances little better
than irresponsible despotism and when
its exercise contravenes established principles

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it cannot be allowed. In the particular
case under consideration it is to be
regretted that the power to do the
act complained of did not exist for
the order itself was one which an honest
Judge might well stretch his ^{judicial power} prerogative
to make. With great reluctance I decide
that ^{the} order of this Court made and entered
the 2nd March 1861 must be set aside.
The parties of course are not without remedy
by appeal or otherwise but no case can
confess jurisdiction when it does not
exist by law however desirable its exercise
in the particular case -

Blitcher M. Wright
District Judge of Southern
District of California

No 393

U. S. Dist Court
South² Dist Cala

Vicente Gomez

^m
The United States

Opinion

Filed Aug 4 62
John Whelan

United States District Court,
Southern District of California.

The United States

vs

Vicente P. Gomez.

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In reply to the argument of Mr Gould for ^{the} Government, we deem it sufficient to say that his argument is almost wholly inapplicable to the questions raised upon the motion.

If it would add anything to the weight of authority to which the Court is referred in our brief heretofore filed - we might refer the attention of the Court to that portion of Mr Gould's brief in which he virtually abandons his position by asserting that in these land cases the Courts are no longer governed by law and principle but have relaxed those wholesome rules, and established arbitrary regulations, an unmitigated law of their own - illustrating the idea by saying that the Courts have been driven to discredit the testimony of a Mexican or forsooth a person

a little sunburnt, and having
no reason therefor, invented a most
ridiculous one, that the color
seriously impaired the memory,
of our Tribunals of Justice, if true,
a most humiliating confession,

He thinks however this assault
upon the Courts Springs more from
the feelings than the reason of the
learned Counsel, the former having
been much colored by disastrous
results in the Courts - and that
he has mistaken the medium
through which he saw the intruders
for their complexion,

It might be found upon
examination of the testimony of
his favorite Spanish Witnesses, that
their testimony was even more highly
colored than their skins, and that
the true theory of the Courts in
those particular cases, was that
the Golden hue to which he
refers was owing more to a metallic
than a solar or moral effect, -

Perhaps however the Counsel obtained
his idea that the Courts had ceased
to be governed by principles of law -
from the action of the Court in making

the order now sought to be vacated again in another portion of his argument the Counsel tacitly admits that his position is untenable and as if his Client was a Criminal, he Claims for the Government the benefit of a doubt, and surmises that we will not say our right to have the order in question cancelled is clear. He says candidly and emphatically, that our right to have it cancelled is perfectly clear and in no way doubtful and in reply to this part of his argument we insert it is simply "petitio principii" -

The use sought to be made of the alleged deposition of Gomez annexed to the brief of the Counsel, is a novel & most singular style of argument, upon a question of law to a Court of law, and seems to be lowering the profession to the Counsel's idea of the present standard of the Court,

As to whether the decree of confirmation is final or interlocutory - we refer the Court particularly the annexed extracts of the opinion of Judge Hoffman and his discussion of that question, - In the case of

the United States vs Francisco Rico
and S. A. Castro decided in U. S.
District Court Northern District of
California on 9th December 1861, Judge
Hoffman in his opinion says,

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" The only objection presented on the
" part of the United States, is, that
" the grant is false and fraudulent,
" and the signature of the Governor and
" seals upon the papers forgeries,

" Proofs in support of this allegation
" have been taken, and the question
" is now presented, whether these proofs
" are admissible, and whether the Court
" has jurisdiction, at this stage of this
" cause, to reopen it for further proofs,
" and to review and reverse the decree
" heretofore rendered,

" It may be observed that the
" proofs offered are of a nature to
" leave no doubt as to the fraudulent
" character of the claim, and if the
" Court has jurisdiction to receive them
" and decree accordingly, the claim must
" certainly be rejected,

" Prior to the decision of the Supreme
" Court in the case of the United States
" vs Topall, it had been supposed,

both by the Bench and the Bar
that the jurisdiction of the Court
was limited to deciding on the validity
of Claims, together with such questions
as to extent and boundary as might
be ~~incidentally~~ incidentally presented;
but that the location and survey
were to be determined by the Surveyor
General, under the instructions of the
proper executive department of the
Government,

In the case referred to, it was
decided by the Supreme Court that
this Court has the power to direct
a Survey to be made, and to review
and correct the Surveys of the Sur-
veyor General, made in pursuance
of its decree; and the Court declare
that "the jurisdiction of the District
Court over the cause does not termin-
ate until the issuance of a Patent
Conformably to its decree," W. J. W.
Trussett, 21 How, Page 450 -

It is contended that the Supreme
Court have, by this declaration, in
effect affirmed the jurisdiction
of the District Court over the whole
cause until the Patent is issued and
that it has power at any time prior thereto

to reopen it for proofs, on a proper showing, and to ~~reconsider~~ review and reverse the decree it may have previously entered. But such I do not conceive to be the true construction of the language of the Supreme Court.

1st The doctrine enunciated by the Supreme Court, though it embrace in general terms all cases, must have more especially reference to the case before them.

" If, then, the Construction of their Language Contended
" for, be wholly inadmissible with respect to the
" Case under Consideration, it follows that it would
" be equally inadmissible with reference to other Cases.

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" The Claim of Fossett had already been finally
" passed upon by the Supreme Court. By its decree,
" delivered at a previous term, it had been adjudged
" to be valid to the extent of one league, to be taken
" at the election of the grantee or his assigns, within
" the Southern, Eastern, and Western boundaries men-
" tioned in the grant, and this Court was directed
" to declare those boundaries.

" The boundaries within which the league was
" to be taken, were accordingly declared by this
" Court, but no Survey was made and approved,
" nor was the precise location of the league fixed
" by its decree. On appeal, the Supreme Court
" held that the decree of this Court declaring
" the three external boundaries of the tract within
" which the league was to be taken was not a final
" decree, but that the league be Surveyed and located
" by the Surveyor General, under the direction of the
" Court. In answer to the objection that this
" Court had no means of ascertaining the
" specific boundaries of the Confirmed Claim, and
" no power to enforce the execution of its decree, the
" Supreme Court observed, in effect, that the Court
" had power to enforce the execution of its decree
" by the Surveyor General, and added that its
" jurisdiction over the Cause did not terminate

„ until the issuance of a Patent Conformably to
„ its decree.

„ It will be perceived that the principle
„ thus laid down referred exclusively to the
„ jurisdiction of the Court to enforce a decree
„ admitted to be final: and it surely affirmed
„ its right to take such further proceedings to
„ secure the due execution of its decree as might
„ be necessary. But it could not have been in-
„ tended to declare that in that case this
„ Court would have had the authority to reopen
„ the Cause and to take further proofs as to
„ the Validity of the grant, or the extent of the
„ granted land, and to reverse the Solemn
„ adjudication of the Supreme Court by
„ which those questions had been finally
„ determined. If, then, the language of the
„ Supreme Court cannot be interpreted, as is
„ claimed, with reference to the Case before it,
„ neither can it be so interpreted with reference
„ to other Cases.

„ It is urged that the fact that this Court
„ has jurisdiction after decree and Survey to
„ correct the latter, proves that the whole Cause
„ remains sub-judici until Patent issued, that
„ the decree is therefore not a final decree, but
„ that it may be vacated or modified on a
„ proper Showing, such as would authorize the
„ granting of a rehearing, or ~~may~~ ^{leave} to file a
„ Bill of review, and that the purchasers from the

1 Confirmed are bound by the rules applicable
2 to all purchasers pendente lite.

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3 It has already been shown that the Supreme
4 Court could not in the passage referred
5 to have intended to declare that its own ad-
6 judication could be reversed by this Court,
7 and that therefore the power over the Cause
8 which was held not to terminate until the
9 issuance of the Patent, must be taken to
10 mean not the power over the whole Cause,
11 including every question of Validity and
12 authenticity already determined by that Court
13 or the Supreme Court, but power to enforce the
14 execution of the decree, and to control and
15 modify the action of the Surveyor General under
16 it.

17 That the decree of this Court, affirming
18 the Validity and extent of the Claim, is a final
19 decree, is evident from the fact that every ap-
20 peal which has yet been taken to the Supreme
21 Court and passed upon without objection,
22 has been from such a decree.

23 It is therefore too late to say that those
24 decrees were not final, at least in the sense
25 of being appealable. Again, the Surveyor is,
26 by Law, authorized to Survey Claims which
27 have been "finally Confirmed."

28 Unless, then, the decree Confirming the Claim
29 be a final decree of Confirmation no Survey
30 can regularly be made, and yet until

11 a location be made and the lines run, the
12 Court is without the means of making any
13 other decree than the general decree of Con-
14 firmation.

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15 It is plain therefore that this Decree
16 is regarded by the Law as the final decree
17 of Confirmation under which the Survey is
18 to be made, and this is evidently the view of
19 the Supreme Court, as explained in the Case of
20 *Hendricks vs. Castro*, 23 How 442.

21 In that Case it is stated that "though in the
22 Case of *Tossatt* it was held that if questions
23 of a judicial nature arose in the settlement of
24 the location and boundaries of grants the Dis-
25 trict Court was empowered to settle those ques-
26 tions upon a proper case, submitted to it before
27 the issue of a Patent, yet that it was not expected
28 that the Surveyor would make returns to the Dis-
29 trict Court in every instance, nor was it implied
30 that the validity of a Survey depended on the
31 recognition of that Court, or its incorporation into
32 a decree of the Court."

33 From these observations it is clear that
34 the interposition of this Court may be invoked
35 in a proper Case to arrest a location by the
36 Surveyor General in its final Decree, yet
37 its interposition is not in every Case necessa-
38 ry; that the Survey is valid if not objected
39 to, and the decree of the Court remains not
40 only its final decree, in a technical sense, but

its last act in Connection with the ~~Case~~ Cause.
Again, the proceeding by which this Survey has
been brought into Court has been taken under
the provisions of the act of 1860, by which the pow-
er of this Court to correct Surveys as declar-
ed by the Supreme Court to exist, was regula-
ted and defined. By the provisions of this
act only those Surveys made by the Surveyor,
under the provisions of the Thirtieth Section of
the act of 1851, can be ordered to be returned,
and those Surveys must be, as has already been
remarked, of lands finally Confirmed.

The fourth Section provides that on the
return of the Survey evidence may be taken
as to any matter necessary to show the true
and proper location of the Claim; and the
Court is authorized to approve the Survey
or to correct and modify it, and the Sur-
veyor to Cause a New Survey to be made
in Obedience to the direction of the Court.

It is clear that this Act in no manner
authorizes or Contemplates the introduction
of evidence as to any matters except those
necessary to show the true location of the
Claim which has been Confirmed, and the
power of the Court is limited to making
a decision upon the Correctness of the
Survey, and giving the proper instruction to
the Surveyor. All testimony therefore, re-
lating to the Validity and authenticity

" of the Claim is in a proceeding under the
" Act of 1860, clearly inadmissible. If, then,
" the meaning of the Supreme Court in the
" passage cited from its Opinion in *W. S. vs*
" *Tassatt* were doubtful, the subsequent def-
" inition and regulation by Statute of the power
" of the Court as to Surveys made after final
" decree, must be taken as a restriction of its
" jurisdiction to the matters specified in the
" Statute, and as a Legislative definition of the
" extent, and nature and mode of exercise of its
" powers after final decree.

" But the meaning of the Supreme Court,
" as explained by *Budricks* and *Castro*, can
" not, I think, be mistaken, and it merely af-
" firms the jurisdiction of this Court to
" enforce the execution of the final decree
" of Confirmation, for the exercise of which
" the subsequent Statute prescribes more precise
" regulations.

" The proceedings under the act of 1860
" are, therefore, closely analogous to a Bill in
" Equity, filed to enforce the execution of a
" decree. In such Cases it is clear that the
" original decree, though obtained by fraud
" cannot be set aside, except by original bill,
" nor can the fraud be set up on the answer
" to the Bill to enforce it.

" 16 Cal R 550-1. *Caldwell vs Giles* 1 Pil
" Ch, 120. 1 Bland, 120. 4 J. B. Marshall, 497.

1 Sandf., Ch. R., 103. Daniels, Ch., 1788.
2 Hills, Ch., 548.

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But whatever be the true
view to be taken of this question, it is enough
to say that in a proceeding to correct a
Survey, under the act of 1860, this Court
has no jurisdiction to review and reverse
the final decree whereby the genuineness
and validity of the Claim have been
established.

No other objection being
made the Survey is approved."

From which we think the
Court must conclude that the
decrees of confirmation in these
cases & in the case now before
the Court are final
Sol A Sharp
of Counsel for Claimant &c

No. 393

United States
District Court
Southern Dist California

The United States
vs.
Vicente P. Gomez,

Brief for
Claimant

Filed July 7/1862
John S. Whelan clk

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3
Sol A. Sharp
for Claimant

District Court of the United States
Southern District of California

The United States

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vs
Francisco P Gomez

MMME

This is a motion on behalf of Claimant to set aside the following Order made and entered in said Cause

U States Dist Court Cal^a
Regular December Term Ad 1860
Thursday March 21st Ad 1861

Francisco Gomez

vs

No 393

The United States

MMME

Whereas it has come to the knowledge of this Court that a Decree heretofore rendered by this Court in this Case was fraudulently obtained by misrepresentation of the District Attorney P Ord and other Counsel in the Case and it appearing to the satisfaction of the Court from testimony on record in the Case that the then District Attorney Counsel for the U

" States was at the time of Making
" the said Decree interested in the land,
" Claimed in said cause adversely to the
" United States and representing to the
" Court that there was no objection
" to the Confirmation of the Claim aforesaid
" on the part of the United States, a
" decree was entered without an examination
" by the Court into the merits of said
" Claim thus deceiving the Court and
" obtaining a decree in his own favor
" under the false pretence of representing
" the interest of the United States,

" It is therefore Ordered, that all
" proceedings heretofore had in said cause
" be set aside, and the cause be put on
" the Calendar, and set for trial de novo
" according to law"

Which Order above set forth was filed
in the case, March 21st 1861.

The Court will observe that the
order seems to be made upon the
Court's own motion for the purpose
of setting aside "All proceedings had
in the case" including a decree which
was ordered at the same term of this
Court 1857, apparently on the 5th day of

Since of that year - upon which day the following entry was made in the minutes of said cause and signed by the Judge

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"Now, on this day, this cause coming on to be heard, the parties appearing by their respective attorneys, the appellant by Sloan & Hartman, Esqs., and the appellees by P. Ord, United States district Attorney, and after argument of counsel aforesaid, the same is submitted to the Court for final adjudication,"

"Whereupon the Court, being fully advised in the premises, delivered its opinion, confirming the Claim of the appellant to the extent called for in the transcript and papers - three leagues, or sitios de ganado mayor; and a decree was ordered to be entered up in conformity to said opinion."

No formal decree seems to have been drawn up and signed on that day; but one was signed and filed on the 7th of January, 1858, *nunc pro tunc*, as of the 5th of June, 1857, which recites, among other things, that the cause came to be heard "on the transcript of the decision and proceedings of said board, and the

papers and evidence upon which said decision was founded, and other evidence adduced by the appellants before this Court; and it appearing to this Court that the said transcript and notice of appeal have been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, and adjudged, and decreed, &c" (see decree).

The decree was afterwards on Feb'y 5th, 1858, amended on motion and the amended decree was then filed, signed and entered *non pro tunc* as of the 5th of June 1857.

So it appears that this extraordinary order was made long after the expiration of the term at which the decree was entered -

The present motion is based upon the Notice, the Affidavit of Mr Shafter the letter of Mr Gitchell to Mr Shafter and the papers and minutes on file in the cause.

It is desired to call the attention of the Court particularly to the Stipulation on the back of Mr Shafter's statement showing that this present motion was regularly made & filed at the same term at which the order now sought

to be set aside was made that is
to say May 31st 1861 or December
term 1859

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On the 13th day of February 1860, the
Supreme Court of the United States
issued a mandate to this Court in
the nature of a Supersedeas surceasing
all proceedings in this cause until
further order of the Supreme Court
That order or mandate of the
Supreme Court was filed in this
cause and the minutes show that
the following order was entered in
this cause,

" U. S. Dist Court South
" Dist Cal., Regular
" December term A. D. 1859
" Tuesday March 20th 1860.

" Vincente P. Gomez }
" vs. } No 393.
" The United States }

" Ordered by the
" Court that all proceedings in the above
" cause be surceased until after the
" decision of the Supreme Court is ren-
" dered in the same,

In support of our motion we rely upon the following grounds,

Surprise which ordinary prudence could not have guarded against.

That Messrs. Shafter & Hayden felt the Attorneys then representing the Claimant were taken by surprise and that no prudence or foresight on their part could have anticipated or guarded against this unparalleled action of the Court in making of its own motion ^{in order} setting aside the decree is most manifest.

Made as it was in the face and teeth of a surceasing mandate of the U. S. Supreme Court duly filed in this cause and of the order of this Court made in pursuance thereof, Surceasing all proceedings in the cause until further order of the said Supreme Court, - No notice of the revocation by the Supreme Court of this mandate had been received, either by the Counsel or the Court, and the Surceasing mandate was in full force.

This appears by the statement of Mr Shafter and the letter of Mr Mitchell U.S. Dist Attorney to Mr Shafter.

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11

This Court had no jurisdiction to make the order in question

Because of the succeeding mandate of the Supreme Court and of its own succeeding order,

We do not think this point requires any discussion - we think the effect of the mandate was to take away all jurisdiction over the cause from this Court - if it did not extend so far it certainly operated to prevent this Court from making the order in question with any sort of dignity or propriety. -

111

This Court had no jurisdiction to make the order setting aside the decree, the term at which the decree was rendered, having expired long before making the order.

The whole subject was res adjudicated at the term at which the decree was rendered, the decree is a solemn judgment of the Court and passed under the view of the Court

It is the determination of the Court upon the issues presented by the pleadings which ascertained & fixed absolutely and finally the rights of the parties in this cause in relation to the subject matter in litigation and ended the cause so far as this Court was concerned after the lapse of the term at which it was rendered,

The order in question did not propose to correct ^{or} any Clerical Error or Misprecision in the decree, but to vacate and annul it altogether -

After the lapse of term no power remains in the Court to set aside the judgment or grant a new trial except as provided by Statute, unless the right is saved by proper motion during the term, (See) Baldwin vs. Krarmer 2 Cal. 582, Morrison vs. Dopman 3 Cal. 255, Gaydam vs. Pitcher 4 Cal. 281, Carpenter vs. Hunt 5 Cal. 406, 407, Rott vs. Rott 6 Cal. 22, Shaw vs. McGregor 8 Cal. 521

In the Case of Albersetal vs Whitney et al
1st Storys Reports page 310. The head
note of the Case is as follows

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"The Judiciary Act of 1789 Ch 20
Sec 32 gives no authority to the Courts
of the United States to make any amend-
ments in judgments except as to defects
and want of form"

"The doctrine of the English Courts
in all Cases of Ordinary Suits (excluding
fines and recoveries) is, that judgments and
Records are amendable only, (1st) where
the Case is within the reach of some
Statute; and (2nd) where there is something
to amend by"

"At Common Law no judgment was amend-
dable after the term at which it was entered"

Justice Story in the Opinion announce
es the following doctrine

"The power of this Court to
grant amendments is dependent upon Stat-
ute, and so far as it has been provided
for, it, is by the 32nd Section of the Judiciary
Act of 1789 Ch 20

Now upon the foundation of this
Section no authority is given to the Courts
of the United States to make any amend-
ments in judgments except as to defects
and want, of form"

It is plain that at the Common

Law no Judgment was amendable after the term at which it was entered And amendments Could be made in the process pleadings and proceedings only while the Cause stood in paper and before Judgment The authority to amend them even in England in Cases of this Sort is dependent upon and limited by Statute Mr Tidd in his excellent work on Practice has laid this down as the Clear doctrine of the Courts in all Cases of Ordinary Suits (excluding fines and recoveries) in the English Courts of Justice. Judgments and Records are there never allowed to be amended except in the first place where the Case is within the reach of Some Statute; or in the next place where there is something to amend by"

In Cameron vs Roberts 3 Wh. 391 it was held "That Circuit Courts have no power to Set aside their Decrees in Equity on Motion after the term at which they are rendered"

In the Case of Brush et al vs Robbins 3 McLean 486 A Motion was made to Set aside a Judgment and was opposed on the ground that a Judgment Could not be Set aside on Motion after the

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expiration of the term at which it was entered. The Court say "At Common

Law whilst the proceedings are in paper an amendment could be allowed and a judgment could be set aside before the adjournment of the term at which it was entered; but at a subsequent term the Court had no power to change the record of a previous term. 3 Rayd. 38. 2 Strange 1110. By various Statutes in England and in this Country power is given to the Courts to amend, in many cases which they could not exercise at Common Law."

The late Decisions in England under their Statutes constitute no rule for the action of Courts in this Country. Our Statutes extend the power of amendment in many respects so far as the English Statutes; but it has not been decided under the Acts of Congress that this Court may set aside a judgment of a previous term on motion. Such a power might be dangerous, and it does not appear to be necessary for the attainment of Justice. The motion is overruled."

In Ex parte Shtald vs The United States 12 Pet 488 and 491

The United States Supreme Court
said

"No principle is better settled or of
more universal application than that no
Court can reverse or annul its own final
decrees or judgments for errors of fact
or law after the term at which they have
been rendered unless for Clerical mistakes
3rd Wheat 591 3 Peters 431, or to restate
a Cause dismissed by mistake 12 Wheat. 10.
from which it follows that no change or
modification can be made which may
substantially vary or affect it in any ma-
terial thing. Bills of review in Cases
in Equity and writs of Error *Cram v. Obit*
at law are exceptions which cannot af-
fect the present Motion"

In relation to the suggestion of the
Court to the Counsel of the Govern-
ment - as to whether decrees of
Confirmation in these cases are inter-
locutory or final, all we have to say
is they have never been held to be
interlocutory, but on the contrary have
been held repeatedly by Judge Hoffman
to be final and conclusive of what
they purport to be, that is of the validity
of the claim - no proceedings under

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the Act of June 1860, in regard
to a survey or location can in any
way affect or vary the decree,
confirming the validity of the claim
this doctrine was announced by Judge
Hoffman in the case of The United
States against Francisco Pico for the
place called Rio del Estanislau
lately decided.

All of which is respectfully
submitted

John A. Stark
of Counsel for Claimants

No 393

U. S. Dist Court

South Dist Cal

U. S.

V. ^{vs} Gentry

Proof of Claim

Filed July 7. 62

John Wheeler

Vicente J. Gomez?

No. 393.

vs.

The United States

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An order for appeal having been heretofore, to wit: on the 25th day of August 1862 entered in this cause, and the claimant being desirous of moving the Court to set aside said order. It is hereby stipulated and agreed, that the Transcript herein be withdrawn and all further proceedings stayed until the next Term of this Court to be held at Monterey so as to give the claimant an opportunity to make such motion

Los Angeles October 6th 1862.

P. C. Whiting
U. S. Dist Attorney
for the Southern
District of California

W^d 393
U. S. Dist Court
South Dist Cal

J. P. Gomez
in
The United States

Reputation
not to send up papers on
appeal —

Filed Oct 6. 1862

John D. Whaley
Clk

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

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Francis J. Gomez

No. 393

vs.

The United States

you are hereby notified
that at the opening of said court at the
courtroom thereof in Los Angeles on Monday
the first day of December A. D. 1862 or
as soon thereafter as counsel can be heard
a motion will be made on behalf of claimant
in said cause to vacate and set aside the
order of said court heretofore entered granting
an appeal in said cause, and that such
motion will be based on the papers on file
in said cause.

Dated Nov 24th 1862,

Wm Douglas Sharp & Lloyd
Attys. for Claimant

No 393

Wants Plaintiff
vs.
The United States.

Notice.

Filed this 1st day
of December 1862.

J. M. Under
Clerk
J. P. Ramirez
Atty.

Due service of
the within notice
is hereby admitted

Nov 25 / 862

M. Whiting
U.S. Dist. Atty.
for the Southern
Dist. California

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

Vicente P. Gomez

vs.
The United States

State of California
County of Los Angeles

William McCar-

rahan a lawful agent being duly
sworn deposes and says of
That about
the month of December ad 1857 for a
valuable and fair consideration
he succeeded to the interest of the
claimant in the land in contro-
versy in this matter, and is still
interested therein; that at the time
he so purchased he was informed
advised and believed that the
claims of the said Gomez, presented
in this case, was, and had been
confirmed by a decree of this
Court on the 5th day of June ad.
1857, and affiant purchased un-
der that impression and guarantee
and the deed to him recites the facts
of such confirmation, affiant

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further says, that he had no connection with any of the parties interested in this Case or their attorneys in any shape way manner or form nor did he advise, nor was he cognizant of any of the proceedings in said case until the said purchase made as aforesaid. Nor was he informed, nor had he heard that there was any suspicion question or doubt as to the regularity, propriety and fairness of any of the proceedings had or steps taken in said case up to that time.

Subscribed & sworn to
before me this 1st day of
December 1862

Wm McCarahan

J. J. Lanning
Not. Commissioner, Southern Dist of Cal.

EXCP
SD

U.S. Dist Ct. Sarchew Dist

N.º 243.

Vicente P. Gomez
vs.

The United States

affidavit of
J. M. Garaban

Filed this 1st day
of December A.D.
1862

John W. Richardson

U.S. Attorney

Deputy.

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D

M. D. [unclear] Clerk of Court -

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 Southern District
of California.

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Greeting:

Whereas lately, in the District Court of the United States for the Southern District
of California before you, in a cause

between Vicente P. Gomez, appellant and The United
States, appellee, the decree of the said District
Court entered on the 5th day of February A.D. 1858
is in the following words, to-wit:

"This cause coming on to be heard on appeal from the
United States board of land commissioners to ascertain
and settle the private land claims in the state of
California, under act of Congress approved March 3^d
1857 on a transcript of the proceedings and decisions
of said board and the papers and evidence upon which
said decision was made and the after evidence
adduced by the appellant before this court, and it
appearing to the court that said transcript and
notice of intention to appeal have been duly filed
according to law and counsel for the respective
parties having been heard, it is ordered, adjudged
and decreed that the decisions of the said board of
land commissioners be and the same is hereby
reversed and that the claim of said appellant is good
and valid, and the same is hereby confirmed to
him as follows to-wit: the tract of land situate
in the County of Fresno State of California, known
by the name of "Panoche Grande" bounded northerly
by the lands of Don Julian Ursua, southerly by
the hills, easterly by the valley of the Tulares, and

westerly by the lands of Don Francisco Arco containing four square leagues of land, and no more, provided that quantity is contained within the boundaries aforesaid, and provided also that if a less quantity is contained within the boundaries aforesaid, that confirmation of such less quantity is hereby made to said claimant: and for a more particular description of which said land reference is hereby made to the map contained in the transcript in this cause.

And it also appearing to this court that heretofore to wit on the 5th day of June, 1854 at a regular term of this Court holden in the town of Monterey State of California the claim of the appellant in this case had been confirmed by this Court, but that it had been omitted by the Court to sign the decree of confirmation at the time the same was made, it is therefore further ordered by this Court that the same be signed now as for then."

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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 *sixty five* 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 recorded,* adjudged and decreed by this Court that the decree of the said district Court in this cause be and the same is hereby reversed.

And it is further ordered that this cause be and the same is hereby remanded to the said district Court with directions to dismiss the petition of the claimant.

19 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 Salmon P. Chase Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and sixty five.

COSTS OF _____
Clerk..... \$ _____
Attorney ... \$ _____
\$ _____

Trusted by

L. W. Middleton

Clerk of the Supreme Court of the United States.

No. 139, December Term, 1865.

No. 393 S. D.

MANDATE

SUPREME COURT UNITED STATES.

A. Stearns, Comer

Filed April 8th 1871

Edward Arthur Clark

By Wm. H. Wood Clerk

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Vicente P. Gomez } for the District Court
vs } of the United States
The United States } for the Southern District
of California.

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No 393.

I O Shafter of lawful age do hereby
say that from one of the Atty, Counsel
of the Plaintiff in the above entitled
proceeding - & that as such in the
Month of Oct. or early in Nov. 1860
addressed a letter to J. R. Getchell
Esq then the Dist. Atty. for said District,
Requesting him to consent that the hearing
on the motion for new trial pending in
said case might be postponed & the
Case continued from the then ensuing
Dec. term of said District Court to the June
term thereof 1861.

That in reply to said application received
about the 20th of Nov. 1860, a letter from
Mr Getchell, an exact copy whereof
is hereto annexed & marked A.

That relying upon the state of things
disclosed in said letter, took it as
settled that no action could or would

be taken in said proceeding at
the said Dec. term 1860, & did not
consider that under the circumstances
it would be judicious or proper for

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me to make ^{the} journey to ~~Los Angeles~~ Los
Angeles Monterey for San Francisco for the
purpose of attending to the motion.

I further state that I was first
informed ^{about the 23rd middle of May 1861} that the Court had

~~granted~~ the said motion for new
trial late in said Dec. term, & its
non motion.

I further state that from what a full
examination I believe to be the facts of the
Case, there are ^{in my opinion} meritorious & tenable grounds
upon which the said motion for new
trial can be resisted, should ^{the} ~~it~~
creating the same be omitted, & the motion
be reopened for hearing.

O. L. Shuffin.

In the District Court of the United States
for the Southern District of California
Vicente P Gomez

vs.

The United States.

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Monterey June 13th

AD 1862. Whereas, an affidavit
of O L. Shafter regularly sworn
to, of which the within statement
of Mr. O L. Shafter in his own
handwriting is substantially a
copy, and also a notice regularly
served on G R Gitchel, US District
attorney of said Southern District
of which the annexed notice is
substantially a copy and also a copy
of a letter from said Gitchel to said
Shafter, of which the annexed letter is
the original - were regularly served
& filed in said cause on or about the
31st of May 1861. & whereas the
same have been mislaid. Now it is stipulated
& agreed that the annexed notice, statement
& letter may be filed & used in said cause
with like force & effect, as if they had
of those that are mislaid.

E L Good Sharp & Shafter
Special Counsel U.S. for claimant.
Pl. Whiting U.S. atty in that

W & S Atty office
Los Angeles Nov 15th 1860

Shafter & Heydenfeldt

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Saturday

Yours of the
10th Inst has been received

In the case of the Panola
Grants, no mandate has yet
been returned from the Supreme
Court and for all this Court
officially knows the case is
still pending above

No action can be taken
on motion for new trial
until return of proceeding
of Supreme Court

Yours Truly
J. R. Mitchell

Gutchell's Letter
Nov. 19. 1860

- Mr. The mandate
I filed when the
trial was granted

U. S. Dist Court
Los Angeles

Gomez

vs

U. S.

no. of no. for vacating
order granting new trial

Filed June 3/62

John M. Wheeler
Clerk

A 393 SD

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Is the for elements

Copy

Vicente P. Gomez appt } of the District Court
vs. } of the United States
The United States Appr } for the Southern
District of California.
No. 393.

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To the District
Atty for the Southern
Dist of California.

Sir - Please to take
notice that the Chairman in the above
entitled proceeding, will, on the first
Monday of December 1861, or as soon thereafter
as a successor to Judge Ogier shall
have been appointed & qualified, move
the said Court to vacate the order
heretofore entered in said proceeding
in ~~April~~ ^{March} 1861, granting a new trial
to the said United States.

The said motion will be based upon
the affidavit hereto annexed & the
Exhibit referred to therein, & the files ^{the case.} & records, in

May 31. 1861

Shepley Park & Hyde Street
Atty for Plaintiff

The President of the United
States of America

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To John B Williams Esq
United States Commissioner
Greeting

Know ye

That we with full in your
prudence and competency have
authorized and by these presents do
authorize you to examine and take
the testimony of E W F Sloan Esq of
the City of ~~San Francisco~~ San Francisco State of
California as a witness in a cause now
pending in the District Court of the United
States for the Southern District of California
wherein Vicente P Gomez is appellant
and the United States appellee on the
part of the appellee, on oath upon the
interrogatories annexed to this Commission
and and to take and certify the deposition
of the witness and return the same to
this Court according to law

Witness the Hand Isaac S Ogier Judge
of the District Court of the United States
for the Southern District of California
at the City of Los Angeles this twentieth
day of January At one thousand
eight hundred and Sixty
Attest My Hand the Seal of said
Court this day of your last above
written

@ Jimsell

Interrogatories to be propounded to C. W. Sloan, the witness named in the foregoing Commission.

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Interrogatory 1st. Look upon the annexed paper here shown you, purporting to be a petition for a review of the decision of the Board of Land Commissioners in this case filed on the 4th. of June 1854 in the Southern District Court, purporting to be signed by Hartman & Sloan as Attorneys, and state if you have any knowledge of the same, if the same is in your hand writing or that of your former partner Hartman. Or of any clerk or person in your employment, or if you know in whose hand writing the same and the signature thereto is, if you ever authorized any person to write and sign or file the same on behalf of you or your partner Hartman, or whether the firm name was ever signed in the manner as is to said petition, and state fully all you may know relative to the same.

Interrogatory 2nd

State if you are the C. W. Sloan whose name appears in an order of the Southern District Court in this cause, as the Attorney upon whose motion this cause was transferred from the United States District Court for the Northern District of California to the United States District of the Southern District, and at whose instance and request you made said motion.

you or the said firm of Swan & Hartman
were ever in point of fact the Attorneys for
claimant - and whether you or said firm
ever had and contract for or received any
fee or reward for services in this cause,
and statefully what else you know concern-
ing the matters about which you have
been interrogated?

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Vicente Gomez
app't.

v.
The U. States - appelle.

} Docket No 393
Transcript No. 569

} June Term 1857

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The Hon. the District Court of the
United States for the Southern District of
California - On Transfer from U.S. Dist. Court, Northern
District of California.

The petition of Hartman and
Sloan, attorneys for Vicente Gomez or
those claiming under said Gomez.

That this cause is an appeal from
the decision of the U.S. Board of Land Commissioners
to ascertain and settle private land claims in
California.

That the land claimed for ~~you~~ by
your petitioner is the land described in the
Expediente, making a part of the evidence
proceedings, pleadings etc. in the Transcript
No. 569 of said Board of Land Commissioners,
above alluded to, together with the accompanying
map or diseno, filed and endorsed in said
Transcript, and that the said land is known
as the "Rancho Panoche Grande" and is
within the jurisdiction of this Hon. Court.

That after considering the claim of your
petitioner and the proofs filed in support
thereof said Board on the 6th day of March
1855 decided the said claim to be invalid.

That a transcript of the Record of said
proceedings was filed in this Court on the
4th day of June 1857, being transferred
by consent of this Court from the Dist. Court
of the U. S. for the North. Dist. of California
and that said Transcript record was filed in

said Northern District Court on October
the first 1855 and a notice of appeal filed in
said Northern Dist Court on 18th March 1856,
by E. B. Corby said claimants attorney.

Your petitioners pray that such decision
of said said may be reversed and that this
Court may confirm his title to said
land.

Hartman & Sloan
Attorneys for Claimant
and those under him

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W. J. Hill, Clerk
North Dist. of Cal

Vicente Gomez

He & J. L. Latta

Petition for review

J. Hill & Son
Attorneys
for
Vicente Gomez

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

Vicente ^{P.} Gomez

v.

The United States.

} D. C. 393 ; L. C. 569.

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The deposition of E. W. F. Sloan,
the witness named in the Commission annexed,
being, on this twenty fifth day of January, A. D.
1880, duly sworn and examined upon the
several interrogatories thereto annexed, doth
depose and say as follows, to wit:

Answer to Interrogatory 1st -

I have looked at the paper annexed to this
Commission, and purporting to be a petition
for review of the decision of the Board of Land
Commissioners in the case mentioned in the
first interrogatory, signed "Hartman & Sloan,
attorneys for claimant and those under him,
and have no knowledge whatever of said paper.
It is not in my handwriting nor in that
of my former partner, Hartman, nor in that
of any clerk which I now have or ever had
in my office, or in the office of any legal

form of which I have been a member at any time. I speak of the signatures as well as the body of the paper, which seem to be in the same handwriting. I do not know in whose handwriting the body and signatures of said paper are. I never authorized any person to draft or sign said petition, or any petition whatever in said case, either on behalf of myself or Hartman, or both. When Hartman was my co-partner, the partnership name or firm was "Sloan and Hartman". I have no further knowledge touching said petition. I was never employed as an attorney or counsellor in the said case, either alone or in connection with any one else.

Answer to Interrogatory 2nd

I have no doubt but that I am the same person whose name appears in the order referred to in the second interrogatory, which directed the transcript and papers in said case to be transferred from the Northern to the Southern District of California. I have no distinct recollection of having applied for such order in this particular case, but I do remember, that at the solicitation of some member of the bar, to have presented certain affidavits which

to have presented certain affidavits which

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he handed me, showing that the lands described in that particular case lay within the Southern District, and that the transcript from the Board of Land Commissioners had by mistake been lodged in the clerk's office of the District Court for the Northern District, and upon such showing to have obtained an order similar to that mentioned in said second interrogatory. I cannot remember, with absolute certainty, at whose instance I made the application, - my best recollection is, that it was at the request of Pacificus Od, late District Attorney of the U. S. for the Southern District of California. Whoever it was, represented that it was inconvenient either to remain in Court or to appear that morning when the order was made, and at his request I attended to it as a matter of professional courtesy. I have never been the attorney or counsel of the claimant in said case, or of any person claiming an interest in the same; nor have I any knowledge that the firm of Sloan & Hartman were ever in fact attorneys or of counsel for said claimant, or ^{for} any other party in interest. I never had any contract for or received any fee or reward for services in said case. I have no knowledge whatever of any contract for, or of any fee or reward paid, or secured to be paid, directly or indirectly to Hartman, either

individually or as a member of the firm of
Sloan & Hartman. I have never been in-
formed, nor have I any reason to believe,
that Hartman ever was employed as an
attorney or counsellor at law to render any
services in said case, during the existence
of our partnership.

I know no other facts bearing
upon or relating to this case.

E. W. F. Sloan

Sworn to and subscribed of
before me this 2^{5th} day
of January, A. D. 1860.

Wm. B. Williams
J. J. Court.

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

Vicente P. Gomez

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The United States

$\frac{1}{2}$ D.C. 393 : L.C. 569.

City and County of San Francisco, $\frac{1}{2}$
Northern District of California $\frac{3}{4}$

Be it known, that on this twenty fifth day of January, A. D. 1860, under and by virtue of the foregoing Commission to me directed by the Hon. District Court of the United States for the Southern District of California, I caused the within named E. W. F. Sloan, the deponent in said Commission mentioned, to come before me in said City and District, and he being then and there duly sworn, in answer to the several interrogatories annexed to said Commission gave the foregoing answers, by me reduced to writing in presence of said deponent, and the same was by him subscribed and sworn to before me.

In Testimony Whereof, I
have hereunto set my hand and

seal the day and year above written,
in the city and District aforesaid.

Wm. B. Williams 
U. S. Commissioner
for the District of Calca.

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(Copy)

N^o 569.
Vicente Gomez }
vs. }
The United States }

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In this case on
hearing the proofs and allegations
it is adjudged by the Commission
that the claim of the Petitioner
is not valid, and it is therefore
decreed that his application for
a confirmation thereof be denied

Alpheus Titch }
R. Aug. Thompson }
A. B. Farwell }

Commissioners

(Entered)

N^o 569. Vicente Gomez. Pioche Grande
Decree. Filed in Office March 6 1855
Geo Fisher Secy Recorded in Record of
decisions Vol 2 pages 553 Geo Fisher Secy

Handwritten flourish or signature

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

E. A. BEALE, Surveyor General of the United States for the State of California, and as such, having in my office, and in my charge and custody, the papers of the late Board of Commissioners to ascertain and settle the private land claims in California; by virtue of the power vested in me by law, I hereby Certify, that the ~~un~~ preceding, and hereunto annexed page, numbered from one to — inclusive, exhibit a true, full, and correct copy, of an original document together with the endorsement thereon as the same appears on file in Case No 369 in the Decret of said Board of Commissioners



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, this 27 day of March 1863

E. A. Beale, U. S. Surveyor General, for California.

Office of Land Commission
Rejecting Land Commission
James
The U.S.



[Faint handwritten text in brown ink, possibly a signature or date, located on the right page.]

In the Dist. Court of the U.S. Northern
District of California.

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Vicente P. Gomez }
v. }
The United States }

It is always the rule
for the Court to allow a decree to be
entered nunc pro tunc, when the
fault of the Court occasioned the
delay, or justice requires it.

2 Pidds Pr. 840

57 Eng Com. Law 97 3.

6 Serg & Rawl 126

The Court having the power to order the entry
of the decree nunc pro tunc, it will be
presumed that a proper case on which to
make the order was presented to the Court
and the propriety of making it cannot
be called in question on this motion - it
could only be done on a motion to set
aside the order.

The enrollment relates back to the time of
the decree nunc pro tunc and is the
same thing as if it had been done at
the time to all intents and purposes -
6 Johns Chy. 76.

It will protect intermediate acts &c.

A Decree is considered final after the term at which it was rendered has expired.

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Jenkins v. Eldredge
1 Woodbury & Minors 62.
Simms v. Thompson 1 Devaux 203.

In the case of *The U.S. v. Pacheco* et al., 20 How. P. 261, - 2-3 & 4. The claimants Amuse (Crittenden & Blair) took the ground that an appeal must be taken within six months after the rendering of the Decree. The Court held (Ch. Justice delivering the opinion) that an appeal might be taken within five years under the Judiciary Act of 1789 & 1803, subject to the rules for taking writs of error.

"Writs of Error shall not be brought but within five years after rendering or passing the judgment or decree complained of."
Jordan's Digest §497. P. 132

This rule is similar to and was

adopted & drawn from the Order of the House of Lords of 24 March 1725; it is not so strongly worded however, for that provides that the appeal must be taken within Five years, from the signing and enrollment of the decree -

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In the Case of Smyth & others vs.elay 1 Browns Par. Cases 453. It was decided by the High Court of Parliament, that, when a decree was rendered in 1731, but not signed or enrolled till 1764 when it was done inure per tunc for 1731; that the decree pronounced by the Court was to be considered by legal relation to have been enrolled on the same day it was pronounced, and an appeal taken within five years from the actual date of enrollment & signing, but more than five years subsequent to the rendering of the decree would not lie - it came too late -

This rule cannot work harshly in any case because the decree being the sentence of the Court is rendered publicly & the facts entered on the minutes of the Court (Newlands Chy Pr 184) both parties are cognizant

of the fact and either party may
have the more extended authenti-
cation of it signed

The signing of the
decree is a ministerial act merely
& not a judicial one.

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Life & Fire Ins Co of N.Y. v. Malsam & Sons
& Peters 304

No appeal can be taken from the order
entering Decree non pro tunc - be-
cause) where the determination com-
plained of is merely the result of the
exercise of discretion on the part of
the Judge ~~is~~ - it would be an ap-
peal from a discretion to a dis-
cretion

1 Barb Chy Pr. 376.
26 Wend. 155.
18 do 319

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U.S. Dist Court. Southern Dist

Vicente P. Gomez

v.

The United States

Mem of authorities,
in matter of duty
to set aside order
allowing appeal

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9
McDonnell Shurt & Lloyd
for claimant

Hon. Edward Bates

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letty Gen^l of United States, Sir,

Yours of June 1st was rec^d. by last mail & amidst other avocations there has not been time to make an examination of documents but I reply briefly & will as soon as practicable give you a more extended answer.

In regard to the case of Vicente Gomez you say the clerk has flatly refused a transcript. The clerk has been always ready & willing to oblige me to give copies of any and all papers in the office. Whether he should give a transcript as on appeal when no appeal is pending is a matter which I will not now discuss.

As to the merits of the case I know no more of them than you for the reason they have never been before me and it is time for a Judge to examine a case when it is presented judicially for his decision. I ought

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to add I have looked at the papers only so far as necessary to guide me in the order I have made, copies of which you probably have. I shall cause to be sent to you as early as practicable copies of these orders & my opinions on which they were founded. The clerk has never refused as he is bound me to give copies of papers to any one requiring them and in the case of the Government has never demanded repayment.

It will be seen when you receive copies of the papers that no order of the kind or nature suggested as matter of complaint has been made in this Court & as to the opinion which seems to have been compounded with an order it will be necessary to ascertain what the allegations ^{in the bill} were on which it was founded.

~~It was alleged in a bill filed in the Circuit Court of U. S. that certain parties were endeavouring to ~~obtain~~ ^{obtain} a transcript made out as on appeal under the pretence that the atty general had required one~~

Of this bill filed in the Circuit Court of the D.C.,
a copy will be sent. I was applied to for an
inspection & refused it. No order was made and
perhaps I may have ^{been} in error in conformity with
most Courts of giving reasons unnecessary to
the decision of the application. I intended merely
to lay down for the guidance of the Clerk
rules in regard to papers -

1st That all papers in the office were public
records and any one applying for copies was
entitled to it on payment of fees.

2^d That a transcript to be used a transcript
on appeal should not be given or made
at the expense of the Government where no
appeal was pending and where in the case
before me it was distinctly alleged & sworn to as
information & belief that the ~~letty~~ name of
the Atty General was used without his
authority or consent.



John A England

PAGE

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Compared

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U. S. District Court

Southern Dist of Cal^o393 SDPAGE 265

Vicente Gomez.

vs.

The United States.

Rancho

"Panoche Grande"

a	Transcript of the Record.	Filed —	4/6/57.
b	Notice of Appeal.		18/3/56.
c	Affidavit of V. P. Gomez.		19/1/57.
d	" " Man ^l Casho & J. C. Camberton.		4/6/57
e	Letter of Clerk North ^o Dist Ct. re.		4/6/57
f	Certf Copy order transmitting transcript re		4/6/57
g	Summons.		4/8/57
h	Decree	7/1/58 as of	5/6/57
i	Decree	5/2/58 " "	5/6/57.
j	Paper marked 20 (1)		15/3/58
k	Motion to open decree		7/7/58
l	Order		8/11/59
m	Motion to open decree re		10/1/60.
n	Stipulation		11/1/60
o	Affidavit of Hartman		11/1/60
p	" " " "		11/1/60
q	Motion		11/1/60
r	Affidavit of J. R. Eitchell		11/1/60
s	" " " " " " re	11/1/60 as of	7/12/58
t	Mandate Supreme Court.	Erased	4/5/59.
u	Final order on filing mandate	18/1/60	4/5/59.

V	Deposition of E. W. F. Sloan	filed	1/21/60
W	Copy deed V. P. Gomez to P. Ord.		2/2/60
X	Testimony of Jose C. Boronda		11/1/61.
Y	Stipulation for Continuance		29/10/61.
Z	" " "		30/1/62
A'	Mo of Mo for vacating order granting new trial		3/6/62
B'	Cert'f copy of order made by Sup Court.		13/6/62
C'	Stipulation not to send up papers on appeal		6/10/62
D'	Affidavit of Wm M. Garrahan		1/12/62.
E'	Notice.		1/12/62
		<i>Miscellaneous papers</i>	
	Order.	(1)	21/3/61.
	Letter from Amits Alajs	(2)	
	Brief of Claimant	(3)	7/7/62
	Brief " "	(4)	7/7/62
	Opinion	(5)	4/8/62
	Mandate Supreme Court	(6)	8/24/62
	Letter	(7)	
	Opinion	(8)	
	Mem of authorities	(9)	
	Cert'f Copy decree of S. C.	(10)	

No 393. S. D.

U. S. District Court
Dist of Cal

The United States
vs

Vicente Gomez

List of papers &c

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In the District Court for the Southern
 District of California - Los Angeles
 December Term 1852 -
 The United States

vs.
Bicente Gomez - }
 In this case a decree of confirmation
 was ordered the fifth day of June 1852
 The decision was then made and
 entered in the minutes and the
 minutes signed by the Judge as
 usual. On the twenty first day of
 March 1851 my predecessor Judge
 Bevier made an order vacating the
 decree entered the fifth ^{day of} June 1852 of
 his own motion as the order made
 in the case states. After the term
 at which the decree was rendered a
 notice of motion to vacate the decree
 seems to have been given but the
 order made recites that the court had
 been imposed upon by reason of the
 consent of the district attorney who was
 a party in interest and on his motion
 vacates the decree. A motion was made
 to vacate this order setting aside the decree
 mainly on the ground that the court
 had no jurisdiction to alter or change

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1st appeal must be brought within five years from
 the determination of the cause by the court & judgment entered
 in the minutes.
 It is competent for a court to make an order for the entry of
 a decree or judgment when no other motion is made the decree relates
 back to the time of the decision of the case to which it is made.

or reverse or modify its own decree
 except for to correct some clerical
 error after the term had elapsed at
 which the decree was rendered. For
 the particular reasons which induced
 the order of my predecessor see 23^d Howard's
 Reports page 326.

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Upon that motion which was continued
 for several terms and finally heard at
 the June term 1852 at Monterey I held
 that all jurisdiction over the decree ended
 with the term at which it was rendered
 and no circumstances could confer any
 jurisdiction ~~to~~ on the court to vacate
 a decree after the term at which it
 was rendered. The decree in the case
 was not drawn up and finally signed
 and entered until the fifth day of
 February 1858. The decree finally signed
 after the usual decree of confirmation
 had this clause added. "And it also
 appearing to this court that heretofore
 to wit on the fifth day of June 1857 at
 a regular term of this court holden ⁱⁿ at
 the town of Monterey State of California,
 the claim of the appellant in this case
 had been confirmed by this court, but
 that it had been omitted by the court
 to sign the decree of confirmation at the

3-

time the decree was made, It is therefore further ordered by this Court that the same be signed now as for then!

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The other words the same pro tunc clause was added to the decree.

The order made vacating the order of Judge Ogier was made the fourth day of August 1857. Some short time after this order an ex parte application was made for leave to appeal from the final decree heretofore made at New York 1857 & formally ^{signed &} entered the fifth day of February 1858. An appeal was granted as a matter of course upon application of the District Attorney and without any reference to the particular ~~of the~~ state of the case as has been the usual practice in this District. Shortly afterwards a stipulation was filed signed by the District Attorney that ~~the~~ a transcript be withheld and all proceedings stayed to give the defendant an opportunity to move a motion to vacate the order granting an appeal. This motion came on to be heard by consent of the respective parties at the present term at Los Angeles and involves three questions only one of which however was debated by the respective counsel.

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First. On appeal having been allowed but the record still remaining in this court whether the court could vacate the order allowing the appeal from the final decree. No objection being made to the jurisdiction and the question coming up on an application for the allowance of an appeal I held that the motion could be entertained.

Second. There are five years for an appeal and the next question is when do the five years begin to run, from the time the judgment is pronounced and decree entered in the minutes or from the time ~~the time~~ it is formally drawn up and signed and entered in the register of decrees.

In the Judiciary act of 1789 Statutes at large Vol. 1. page 84. it is enacted "and writs of error shall not be brought but within five years after rendering ^{or passing} the judgment or decree complained of" &c.

By the act of 1803. Statutes at large vol 2. page 244, it is enacted "and from all final judgments or decrees rendered or to be rendered in any circuit court or in any District court acting as a circuit court in any cases of equity" &c.

5 When the matter or sum in dispute shall exceed the sum of two thousand dollars "4c" and such appeals shall be subject to the same rules regulations and restrictions as are prescribed by law in cases of writs of error "4c"

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This section adopts the rules regulations and restrictions contained in the act of 1789 with respect to the time within which a writ of error may be brought "4c". See Brightley's Digest page 261 & cases there cited.

In the case of United States vs. Packer 20 Howard's Rep. 261 it was held that as the act of Congress passed on the 3^d March 1851, does not specify the time within which an appeal must be made to the Supreme Court from the District Courts of California the subject must be regulated by the general law respecting writs of error and appeals. An appeal therefore must be taken within five years from the final decree. The first inquiry therefore is when does the time begin to run from the time the decision is pronounced and entered in the minutes or not until the decree is formally drawn up and ^{signed} entered. My first

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impressions were that until the decree was actually entered the time for appealing did not begin to run but upon examination I find the highest authorities hold differently. It will be remembered that that the acts of 1789 and 1803 place writs of error and appeals on the same ground. In the case of *Fleet vs. Young* 11 Wendell Rep. 522 the Court of Errors in New York held that the time began to run for bringing out the writ of error commencing running from the time of the entry of the rule for judgment and not from the time of filing the record. The Statute of New York is similar to the law of Congress. The Chancellor said in the case cited "The language of the Statute as contained in the recent revision is, that the writ of error shall be brought within two years after the rendering of the judgment or final determination of the Court & not after" &c. It will be perceived that the law of Congress of 1789 and the Statute of New York are substantially the same. Both the law of Congress and the Statute of New York

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differ from the English statutes
as they ~~were~~ ^{were} when this decision
was ~~given~~ ^{made}. By the English statute
a writ of Error could be brought
within twenty years after the
Judgment record signed & filed
and judgment entered, by rule
of the House of Lords an appeal
must be brought within five
years after the enrolment of the
decree. In the case of Fleet No. Young
supra the Chancellor discusses the
difference between the New York
statute and the English statute &
also says "In point of principle, it
is not very material whether one
construction or the other is adopted,
as the plaintiff in error may himself
obtain permission to make
up the record, if the adverse
party neglects to do it within a
reasonable time after the actual
rendition of the judgment, Jackson
vs. Parker 2. Cowles R. 385, and
it is not necessary to wait for the
filing of the record before a writ
of Error can be sued out. It is
sufficient if the judgment is signed
and filed at any time before the

actual return of the writ of error
although after the return day is
~~passed~~ past." Arnold vs. Seaboard
14th John R. 417"

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The case of Lee vs. Gilletson before
the former Supreme Court of ~~North~~ ^{to} 11
Hill page 27 is also an authority in
point. This was a motion by the
Defendant for leave to draw up
a statement of facts from the special
report ~~of the~~ made by referees, and
to have such statement settled &
inserted in the judgment record,
to the end that the defendant might
bring a writ of error. It was objected
that more than two years had elapsed
since the decision ^{of the motion to set aside the report} but not since
judgment was perfected by filing the
Record &c. The opinion of the Court
was delivered by Brownson J. He said
"Although it does not appear upon
the papers that a rule for judgment
was entered at the next term after
the Report was made, there can
be no doubt that it was done.
And besides if the rule was never
entered it would be almost a
matter of course to allow it to be
done nunc pro tunc. But I think

9. the question of limitation does not turn on the time of entering the rule for judgment, but on the time when the final determination was made on the motion to set aside the report. The rule for judgment was undoubtedly entered in May Term 1837; and if the date from that, the time for bringing a writ of error had expired before the motion for ^arehearing was made which was in May 1840.

The question then is, whether the limitation dates from the final determination of the court which was in July 1840, or from the subsequent filing of the judgment record in January 1841. The statute ~~provid~~ provides that "all writs of error upon any judgment or final determination rendered in any cause shall be brought within two years after the rendering of such judgment or final determination & not after." The judgment or final determination in this cause was rendered in July ^{term} 1840, when the motion which had been made to set aside the report of the referees was denied. The record

which was afterwards filed was not the judgment, but only a written Memorial of the judgment which had been previously rendered. The Court of Errors arrived at the same conclusion on this question in *Hest vs. Jovings*. It follows, that the time for bringing a writ of error was already expired, and we ought not to put the plaintiff to the expense and ourselves to the inconvenience of settling a case, when we see it can do no good." I have made this long extract from the opinion of Judge Bronson because so far as this point is concerned it is stated with his usual clearness & ability and renders it unnecessary to add any thing more on the point.

Third, the last point and which was the one principally discussed on the argument is the effect of the *Nulla pro tunc* clause added to the decree signed & entered the 5th February 1858 in the case of *Lee vs. Tillotson*. It *supra* it is said such an order would have been a matter of course. The effect of it of course if it has any effect is to make the judgment relate

11. back to the time when the decree should have been filed & entered.

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It is hardly necessary to discuss the powers & jurisdiction of the Court to make an order null & void or the effect of such order. All who are in any degree familiar with the practice of Courts are aware that it is matter of frequent occurrence. The propriety of the order in the particular case is not of course to be considered, if there was power to make it it must stand until in some way duly vacated. The Counsel for claimant referred to many authorities which it is deemed unnecessary to notice with perhaps one exception. In the case of John Smyth & others appellants vs. Richard Thomas Clay Respondent 1st Brown's Parliamentary Cases 453 Case No 5 of appeals the decree was actually enrolled within five years from the time of bringing the appeal but more than twenty years after the decree was actually rendered. It is unnecessary to examine this long case but it seems to have been held that the enrolment of any decree pronounced by the Court of Chancery

is deemed
12. as being by legal relation the act
of the same day on which the
decree was pronounced.

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I have come to the conclusion
that the time has passed for any appeal
in this case & shall order accordingly.

Hletcher M. Wright
District Judge of U. S. for
Southern District of California

U.S. District Court
Southern District
of California

Vincente P. Gandy

vs.
The United States

Opinion as to
time for appealing.

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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 *Monday* the *ninth* day of *March* in the year of our Lord one thousand eight hundred and fifty-seven.

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Present :

The Honorable OGDEN HOFFMAN, District Judge. and

M. Hall McAllister, Circuit Judge

The United States

vs

Quinto Gomez

D. C. 278: L. C. 569

It being represented to the court that the lands claimed in this case lie in the Southern District of California: Now therefore, on motion of E. W. F. Sloan, E. S. Crady Esq. of Counsel for appellant made in open Court, ordered by the Court that the clerk of this Court send to the clerk of the District Court for the Southern District of California said Transcript together with a certified copy of this order,

No 278.

United States District Court, Northern
District of California.

The United States
vs
Vicente Gomez

ORDER.

Sending Trans^{ns} to Dist

Filed March 9. 1857

John A. Murre,
CLERK.

By W. St. Charles
DEPUTY.