IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 78, Original

STATE OF CALIFORNIA,
Plaintiff,

vs.

STATE OF ARIZONA and the
UNITED STATES OF AMERICA,
Defendants.

BRIEF IN OPPOSITION TO MOTION FOR LEAVE TO FILE COMPLAINT

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OPPOSITION TO MOTION FOR LEAVE TO FILE COMPLAINT

The State of Arizona, appearing by its Acting Attorney General John A. LaSota, Jr. and Assistant Attorneys General Anthony B. Ching and Russell A. Kolsrud, respectfully requests this Court to deny the Motion for Leave to File Complaint filed by the State of California against the State of Arizona and the United States of America.

The State of California has available to it another forum within which to adjudicate any issues presented in its Complaint, and further, a quiet title action is inappropriate litigation for this Court. Therefore, the State of Arizona respectfully requests this

Court to decline to accept jurisdiction and deny Plaintiff's Motion for Leave to File Complaint.

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State of Arizona

By
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STATEMENT IN OPPOSITION TO MOTION FOR LEAVE TO FILE COMPLAINT

The action sought to be maintained in this Court purports to quiet title to lands located enterely within the State of California. This is not a "boundary" dispute, but merely a question of uncertainty as to the description of the confines of ownership of land belonging to California, the United States of America, Arizona, and citizens who possess property interests in adjacent lands. This "uncertainty" does not rise to the seriousness or dignity of a claim appropriate to invoke the original jurisdiction of this Court. Further, this Court should not invoke its original jurisdiction where

there is available another forum which may grant relief to the parties regarding the alleged issues in this action.

ARGUMENT

I. Facts

The State of Arizona agrees generally with the Background as stated in California's Motion, however, it should be emphasized that this is not a boundary line dispute to which this Court normally invokes its original jurisdiction. *E.g., Michigan v. Wisconsin,* 272 U.S. 398 (1926).

The boundary between the State of Arizona and the State of California was settled by the "Interstate Boundary Compact of Arizona and California" (1966). This Compact determined the political boundary between the states and defined their jurisdictional reach. It settled the question of which parcels of land lie within the State of Arizona or the State of California. There is no longer any confusion as to the correct boundary for the enforcement and administration of the laws of the respective states.

This quiet title action will not establish any boundary line between Arizona and California. The dispute, if any, is merely a survey problem. The uncertainty is to describe the confines of ownership of lands located within an established boundary of California. Therefore, this Court is faced with a land title problem and not a boundary dispute between states. A title dispute poses complex factual issues and is better determined by the U.S. District Court.

II. Availability of Another Forum

The original jurisdiction of this Court is invoked sparingly and only in appropriate cases. *Arizona v. New Mexico,* 425 U.S. 794 (1976); *Illinois v. City of Milwaukee,* 406 U.S. 91 (1972); *Massachusetts v. Missouri,* 308 U.S. 1 (1939). This is especially true when another forum is available which can adjudicate the issues and grant the appropriate relief. *Arizona v. New Mexico.* A quiet title action against the United States is statutory and must be brought in the District Court. 28 U.S.C. § 1346(f) (1976) states:

> (f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States.

This suit could have been properly brought in the U.S. District Court to quiet title against the United States. *Buchler v. United States,* 384 F.Supp. 709 (1974). Additionally, Arizona would consent to such an action and waive any immunity it may possess under Title 28, U.S.C. In the event a suit is filed in the U.S. District Court, Arizona will intervene and have the issues adjudicated therein. *See W. H. Pugh Coal Company v. United States,* 418 F.Supp. 538 (1976), wherein the state of Wisconsin intervened in the District Court in the quiet title action against the United States. Consequently, it is clear that the appropriate forum for this litigation would be the U.S. District Court. All factual issues can be litigated therein and full relief granted to all parties, including any other citizens who may have claims.

III. Inappropriate Litigation For the Supreme Court

If this Court accepts jurisdiction of this case, the Court will not be involved in adjudicating complicated legal issues but merely involved in survey problems presenting complex factual issues. As pointed out by California's Motion, much of the land in question has not yet been surveyed. California attempts to involve this Court in the supervision of a survey of this land which will take years or decades. Negotiation, not litigation, is the answer to whatever disputes that may arise.

This Court in *New York v. New Jersey,* 256 U.S. 296 (1921), declined to accept jurisdiction in a suit between states because the problem involved was one more likely to be solved by cooperative study and conference on the part of the states rather than proceeding in litigation. This Court pointed out that in order to confer jurisdiction, the threatened invasion of rights had to be of very serious magnitude and must be established by clear and convincing evidence, citing *Missouri v. Illinois,* 200 U.S. 496 (1906).

As in the present case, any possible disputes in the survey process would more likely be solved by negotiation between the parties rather than litigation. Talks have already begun by both California and Arizona to solve these problems through possible legislation and exchange of property. A negotiated settlement would be in the best interests of all parties and eliminate the necessity of litigation. Therefore, this Court should decline to accept jurisdiction and allow the parties to come to a negotiated settlement.

CONCLUSION

For all the enumerated reasons, California's Motion should be denied.

RESPECTFULLY SUBMITTED this 14th day of April, 1978.

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PROOF OF SERVICE

ANTHONY B. CHING, a member of the bar of this Court, certifies that all parties required to be served have been served on this 14th day of April, 1978 by mailing three copies of this brief, air mail postage prepaid and addressed to:

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