

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MAY 14 2004

PATRICK FISHER
Clerk

JOE CRAIG MCKOWN;
SHANNA BURT,

Plaintiffs-Appellants,

v.

UNITED STATES DEPARTMENT
OF AGRICULTURE; FARM
SERVICE AGENCY; NANCY L.
SMITH, Acting Director,

Defendants-Appellees.

No. 03-2212
(D.C. No. CIV-02-743-LCS/KBM)
(D. N.M.)

ORDER AND JUDGMENT *

Before **EBEL**, **ANDERSON**, and **BRISCOE**, Circuit Judge.

After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiffs-appellants and siblings, Joe Craig McKown and Shanna Burt, appeal the final decision of the United States Department of Agriculture (the USDA) finding that they have an obligation to refund \$10,598 in overpayment under a Production Flexibility Contract (PFC) and that no further payments were due to either plaintiff. Plaintiffs-appellants contest the validity of the USDA's determination that they must refund the money after the agency found that they failed to complete the appropriate forms in a timely way after filing for bankruptcy. In their arguments, plaintiffs-appellants allege that the agency misled them about what forms they were required to complete and that it acted in bad faith during a failed mediation.

The parties appeared by consent and designation before a magistrate judge for the District of New Mexico. The magistrate judge found that the USDA's actions had not violated the Administrative Procedure Act, and that the agency was not bound by conditions that it had accepted during the course of failed mediation.

We may hear appeals from the decisions of magistrate judges entered by consent and designation, see Colo. Bldg. & Constr. Trades Council v. B.B. Andersen Constr. Co., 879 F.2d 809, 811 (10th Cir. 1989), and we review conclusions of law de novo. See Elder v. Holloway, 510 U.S. 510, 516 (1994).

Upon review of the record and the parties' briefs, we AFFIRM the decision of the magistrate judge for substantially the reasons stated in his decision. See McKown v. United States Dep't of Agric., No. CIV 02-0743 (D.N.M. July 7, 2003).

Entered for the Court

Stephen H. Anderson
Circuit Judge