

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

2019 0R401050001
CIVIL CASE NUMBER

A1

) IN THE MAGISTRATE'S COURT

) COMPLAINT & MOTION
) FOR RESTRAINING ORDER

Richard E. Boggs
7001 St. Andrews Rd., #124
Columbia, S.C. 29212

PLAINTIFF

vs.

Peter Rae
10715 David Taylor Dr., Suite 200
Charlotte, N.C. 28262

DEFENDANT

SS# _____
DOB _____
DL# _____ STATE _____
RACE W SEX M
PHONE (704) 506-3523

2019 JAN 18 AM 9:29
JULIEN FROM MAGISTRATE

1. The Harassment or Stalking occurred in **RICHLAND COUNTY, SC.**
2. Plaintiff alleges that the following conduct occurred by the defendant on the times, dates and places listed and such conduct falls within the definition of:
 HARASSMENT (Sec. 16-3-1700 (A)), or STALKING (Sec. 16-3-1700(B) or (C)).
3. On Aug. 17, 2018 at 12: 15 o'clock PM at 504 Gleneagle Cir., Irmo, S.C. 29063 (location) which is in **RICHLAND COUNTY**, South Carolina, the conduct complained of occurred when the defendant:

Rae claims to be a "Special Agent" for the IRS Criminal Investigation Div. but has provided no official credentials/ID despite numerous requests by the Plaintiff. Rae and co-worker Pamela Prado did, without prior notice or permission, make two appearances at the Plaintiff's family's residence for no legitimate purpose other than to harass, intimidate, and cause mental or emotional distress. Both Rae and Prado did unlawfully surveil the Plaintiff's family's residence from a block away for approximately 45 mins - 1 hour between the two visits.

4. On Jan. 17, 2019 at : o'clock M at _____
(location) which is in **RICHLAND COUNTY**, South Carolina, the conduct complained of occurred when the defendant:

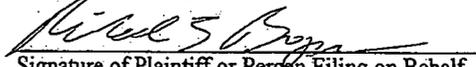
Rae did make two separate phone calls to Plaintiff's spouses' personal mobile phone and her employers private business phone for no legitimate purpose other than to harass, intimidate, and cause mental or emotional distress. On her business phone, Rae

left a voicemail message stating he was an "IRS Special Agent" and "...wanted to talk to her about HER taxes..." even though she is not the target of Rae's unlawful criminal inquiry. Apparently, the Plaintiff is the target of some undisclosed investigation.

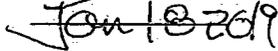
A2

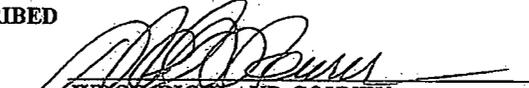
MOTION

5. Plaintiff requests: (Check one or more)
- That the defendant be temporarily enjoined from abusing, threatening to abuse or molesting the plaintiff or members of the plaintiff's family.
 - That the defendant be temporarily enjoined from entering or attempting to enter the plaintiff's place of residence, employment, education or other location
 - That the defendant be temporarily enjoined from communicating or attempting to communicate with the plaintiff in a way that would violate Article 17, Chapter 3, Title 16 of the 1976 South Carolina Code of Laws, as amended.


Signature of Plaintiff or Person Filing on Behalf
Of Plaintiff

**SWORN TO AND SUBSCRIBED
BEFORE ME THIS DAY:**


JUN 18 2019


JUDGE, RICHLAND COUNTY

**NOTICE TO DEFENDANT: YOU HAVE THE RIGHT TO EMPLOY COUNSEL
TO REPRESENT YOU.**

PROOF OF SERVICE

Personally appeared before me _____, who being duly sworn, says that he served the within Complaint & Motion for Restraining Order / Summons / Rule to Show Cause (circle all which apply) on the within named defendant personally by leaving with _____ a copy of the same at _____ in said County and State on the _____ day of _____ 20____, and that deponent is not a party to this proceeding.

DEPUTY/CONSTABLE

STATE OF SOUTH CAROLINA

2019OR4010500001
CIVIL CASE NUMBER

COUNTY OF RICHLAND

IN THE MAGISTRATE'S COURT

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SUMMONS
(RESTRAINING ORDER)
(Harassment and Stalking)

Richard E Boggs
7001 St Andrews Rd # 124
Columbia, SC 29212

PLAINTIFF(S)

VS.

Peter Rae
10715 David Taylor Dr Suite 200
Charlotte, NC 28262

DEFENDANT(S)

TO: Peter Rae :

The above named Plaintiff having filed a Petition for Restraining Order, copy attached:

YOU ARE HEREBY SUMMONED TO APPEAR before the:

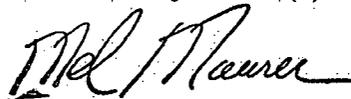
Central Court
2500 Decker Boulevard
Columbia, SC

on ~~March 6, 2019~~ at ~~1:00 PM~~ to show cause why the Restraining Order prayed for by the Petitioner should not be granted.

IF YOU FAIL TO APPEAR, the relief prayed for by the Plaintiff may be granted.

NOTICE: THE NON-PREVAILING PARTY IN THIS ACTION IS ASSESSED A FILING FEE OF FIFTY-FIVE DOLLARS (\$55.00). THE COURT MAY HOLD A PERSON IN CONTEMPT OF COURT FOR FAILURE TO PAY THIS FILING FEE. §16-03-1750(D).

January 24, 2019



(MAGISTRATE)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

2019OR4010500001
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

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**SUMMONS
(RESTRAINING ORDER)
(Harassment and Stalking)**

Richard E. Boggs
7001 St Andrews Rd # 124
Columbia, SC 29212

PLAINTIFF(S)

VS.

Peter Rae
10715 David Taylor Dr Suite 200
Charlotte, NC 28262

DEFENDANT(S)

TO: Richard Boggs :

The above named Plaintiff having filed a Petition for Restraining Order, copy attached:

YOU ARE HEREBY SUMMONED TO APPEAR before the:

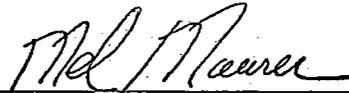
Central Court
2500 Decker Boulevard
Columbia, SC

on ~~March 6, 2019~~ at 1:00 PM to show cause why the Restraining Order prayed for by the Petitioner should not be granted.

IF YOU FAIL TO APPEAR, the relief prayed for by the Plaintiff may be granted.

NOTICE: THE NON-PREVAILING PARTY IN THIS ACTION IS ASSESSED A FILING FEE OF FIFTY-FIVE DOLLARS (\$55.00). THE COURT MAY HOLD A PERSON IN CONTEMPT OF COURT FOR FAILURE TO PAY THIS FILING FEE. §16-03-1750(D).

January 24, 2019



(MAGISTRATE)

State of North Carolina
Mecklenburg County

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Civil/Domestic Violence Papers Return: Cover Letter

Date: 1/30/19

The enclosed civil/domestic violence paper(s) are being returned for the reason(s) listed below:

There is no charge for DV orders that are to be rendered for service.

Not sufficient copies for service to be processed.

Defendant's address is not Mecklenburg County.

Address provided is not complete.

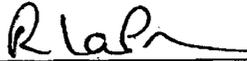
Unable to determine enclosed documents.

Received paperwork after the scheduled court date.

Other: _____

Please make the necessary corrections and return ATTN: Domestic Violence Unit to the address listed below. For any additional information, please call Rebekah at (980) 314-5908

Thank you,



MCSO Domestic Violence Unit

**MECKLENBURG COUNTY SHERIFF'S OFFICE
DOMESTIC VIOLENCE ENFORCEMENT TEAM**

DEFENDANT/ PLAINTIFF SHEET

Defendant: Boe, Peter Date received: 1/29/19
 Plaintiff: Boggs, Richard Court Date: 3/16/19

Observations of Defendant / Plaintiff during Service of Order

Check all that Apply: Defendant Plaintiff			Spontaneous Utterances
Cooperative	Uncooperative	Argumentative	
Intoxicated	Excited	Indifferent	
Confused	Carefree	Profane	
Crying	Combative	Insulting	
Other:			

DATE	TIME	D/S	ATTEMPTS INFORMATION	MIN
			Spoke with Plaintiff/Copies Made	30
1/29/19	1350	3097	Attempted listed address of 10915 David Taylor Dr. Apt 200, made contact with the defendant. The defendant was made aware of the court date and given a copy of the order.	60

State of North Carolina/Mecklenburg County
OUT OF STATE AFFIDAVIT OF SERVICE

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PERSONALLY APPEARED before me, the undersigned authority, O. Durant x3097
Deputy Sheriff of Mecklenburg County, so being duly sworn, deposes and says that in the County of
Mecklenburg, State of North Carolina, serving the defendant by the laws governing service of Civil
Process within the State of North Carolina, he/she delivered to the within named Defendant/ Respondent
at the following time(s) and place(s) to wit:

Received Date/Time: 1/29/19 / 1:30 PM

Defendant/ Respondent: Peter Rae

Division: _____ Case Number: 201908401050001
(If Applicable)

Type(s) of Process: Summons Complaint Lis Pendens Notice Child Support A&P
(Check All That Apply) Other: _____

On: 1/29/19 at: 1:30 am/pm

Individual Service: The Defendant/Respondent listed above was served personally at
10715 David Taylor Dr. Suite 200 on
the date and time listed above. (Location, Address)

Substitute Service: Service was completed by leaving a true copy of the process listed above
with _____ at _____
(Name, Relationship) (Location)
on the date and time listed above. (Address)

Corporate, LLC, Partnership, Association or Government Service: By leaving a true copy
of the process listed above with _____
(Name, Title)
at _____ of the said entity
on the date and time listed above. (Location, Address)

Non-Service: Service of the process listed above was not completed at _____
(Location)
_____ on the Defendant/Respondent listed above for
(Address)
the following reason: _____ on
the date and time listed above.

Garry L. McFadden,
Sheriff Mecklenburg County NC

By: O. Durant x3097 1/29/19 / 1:30
Deputy Sheriff Date/Time
Mecklenburg County Sheriff's Office

Sworn to and subscribed before me,

This 30 day of Jan 20 19

R. Barbara Lapan
Notary Public

My commission expires: Aug 11, 2023

700 East Fourth Street Charlotte, NC 28202 Phone: 704-336-2543 Fax: 704-432-3763

<http://www.mecksheriff.com>

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Richard E. Boggs,)	C/A No. 3:19-551-MGL-SVH
)	
Plaintiff,)	
vs.)	
)	REPORT AND
Peter Rae,)	RECOMMENDATION
)	
Defendant.)	
)	

Richard E. Boggs (“Plaintiff”), proceeding pro se, initiated this action by filing complaint and motion for restraining order against Peter Rae (“Rae”), an Internal Revenue Service (“IRS”) special agent, seeking the court to enjoin Rae from contacting Plaintiff and his family.

This matter is before the court on motion filed by the United States of America (“USA”) seeking to substitute the USA for Rae as defendant and seeking dismissal of Plaintiff’s complaint for lack of subject-matter jurisdiction. [ECF No. 11]. Plaintiff filed an opposition to the USA’s motion. [ECF No. 14].¹ The motion is ripe for disposition.

¹ Plaintiff also submitted two sets of “supporting documentation,” totaling over 450 pages, consisting primarily of complaints, letters, and documentation Plaintiff submitted to various governmental entities concerning his ongoing dispute with the IRS [ECF No. 10, ECF No. 19], all of which the undersigned has disregarded as non-standard items not permitted to be filed or otherwise responsive to the issues raised in the pending motion to dismiss.

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Pursuant to the provisions of 28 U.S.C. § 636(b), and Local Civ. Rule 73.02(B)(2)(e) (D.S.C.), this matter has been referred to the undersigned for all pretrial proceedings. Because the motion to dismiss is dispositive, this Report and Recommendation is entered for the district judge's consideration. For the reasons that follow, the undersigned recommends the district judge grant the USA's motion, substituting the USA as defendant in the present action and dismissing the case for lack of jurisdiction.

I. Factual and Procedural Background

As has been previously addressed by the court in *Boggs v. United States*, 3:18-CV-3506 ("*Boggs V*"), Plaintiff is subject to an ongoing investigation, conducted by Rae, of possible offenses committed by Plaintiff in connection with the administration or enforcement of the internal revenue laws. [*Boggs V*, ECF 28-2 ¶¶ 1, 3].²

On January 18, 2019, Plaintiff filed a complaint and motion for restraining order in the Magistrate's Court of Richland County, South Carolina, alleging Rae made contact in person and through phone calls with Plaintiff, Plaintiff's spouse, or his spouse's employer on a number of occasions, "for no legitimate purpose other than to harass, intimidate, and

² A district court may take judicial notice of materials in the court's own files from prior proceedings. See *Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989) (noting the most frequent use of judicial notice is in noticing the content of court records); *Fletcher v. Bryan*, 175 F.2d 716, 717 (4th Cir. 1949).

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cause mental or emotional distress.” [ECF No. 1-1 ¶¶ 3, 4]. Plaintiff states Rae held himself out as a special agent of the IRS Criminal Investigation Division, but provided no official credentials, and unlawfully surveilled Plaintiff’s home. Plaintiff seeks an order enjoining Rae from abusing him or his family, from entering or attempting to enter Plaintiff’s residence or place of employment, and from communicating with Plaintiff and his family in a way that violates South Carolina law. *Id.* ¶ 5.

On February 22, 2019, the USA removed this action pursuant to 28 U.S.C. § 1442(a).³ In its motion to dismiss filed on March 1, 2019, the USA argues it should be substituted in this action as a defendant and as the real party in interest, and the matter should be dismissed as barred by the doctrine of sovereign immunity as well as the Anti-Injunction Act and the Declaratory Judgment Act, where, as here, Plaintiff “seeks to enjoin Special Agent Rae from conducting his lawful duties as a criminal investigator for the IRS.” [ECF No. 11-1 at 1].

³ This is the sixth case filed by Plaintiff and addressed by this court wherein Plaintiff challenges the IRS’s efforts to assess and collect taxes from him. *See Boggs v. United States*, 3:16-CV-1178 (dismissing action sua sponte for failure to allege any non-frivolous, cognizable claims), *Boggs v. United States*, 3:16-CV-2865 (same), *Boggs v. Logic Technology, Inc.*, 3:17-CV-2166 (granting USA’s motion to dismiss), *Boggs v. United States*, 3:18-CV-1915 (same), *Boggs V*(same).

A. Standard of Review

Dismissal is appropriate under Fed. R. Civ. P. 12(b)(1) where the court lacks subject-matter jurisdiction. A motion to dismiss under Rule 12(b)(1) examines whether a complaint fails to state facts upon which jurisdiction can be founded. It is the plaintiff's burden to prove jurisdiction, and the court is to "regard the pleadings' allegations as mere evidence on the issue, and may consider evidence outside the pleadings without converting the proceeding to one for summary judgment." *Richmond, Fredericksburg & Potomac R.R. Co. v. United States*, 945 F.2d 765, 768 (4th Cir. 1991) (citing *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir.1982)). The court is "not required to accept as true the legal conclusions set forth in a plaintiff's complaint." *Edwards v. City of Goldsboro*, 178 F.3d 231, 244 (4th Cir. 1999). Indeed, the presence of a few conclusory legal terms does not insulate a complaint from dismissal when the facts alleged in the complaint cannot support the legal conclusion. *Young v. City of Mount Ranier*, 238 F.3d 567, 577 (4th Cir. 2001).

Pro se complaints are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). A federal court is charged with liberally construing a complaint filed by a pro se litigant to allow the development of a potentially meritorious case. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). When a federal court is evaluating a pro se complaint, the plaintiff's allegations are assumed to be true. *Fine v. City of*

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N.Y., 529 F.2d 70, 74 (2d Cir. 1975). The mandated liberal construction afforded to pro se pleadings means that if the court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so. Nevertheless, the requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts that set forth a claim currently cognizable in a federal district court. *Weller v. Dep't of Soc. Servs.*, 901 F.2d 387, 390–91 (4th Cir. 1990).

B. Analysis

Plaintiff opposes substitution of the USA as the defendant in this case, arguing Rae “acted outside any legal authority as a purported ‘law officer of the US,’” and thus Plaintiff’s action against Rae is “as an individual” in that Rae “willfully, intentionally, and with malice acted outside his official capacity, authority, and jurisdiction.” [ECF No. 14-1 at 4–5]. However, it is undisputed all alleged actions taken by Rae were taken in the course of Rae’s investigation of Plaintiff.

As has been held by multiple courts in this district, plaintiff’s claims for relief “are properly viewed as claims against the United States because the United States is the proper defendant in actions against IRS employees in which the taxpayer alleges misconduct by the IRS employees with respect to taxes.” *Riley v. Bartlett*, No. 6:14-350-TMC-KFM, 2014 WL 4746289, at *2 (D.S.C. Aug. 13, 2014), *report and recommendation adopted*, No. CIV.A. 6:14-

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350-TMC, 2014 WL 4417708 (D.S.C. Sept. 8, 2014), *aff'd*, 615 F. App'x 794 (4th Cir. 2015); *Aderinto v. Tax Payer Advocate (IRS)*, No. C.A. 308-1551-JFA-BM, 2008 WL 2077910, at *3 (D.S.C. May 14, 2008) (“Hence, the United States, not the IRS or individual Internal Revenue Service (IRS) employees, is the proper defendant in a taxpayer’s action alleging misconduct by the Internal Revenue Service with respect to taxes.”); *see also Johnson v. Barr*, C.A. No. 7:11-cv-104-BO, 2012 WL 7983770, at *1 (E.D.N.C. Oct. 2, 2012) (“Courts in the Fourth Circuit have recognized that the United States, and not its individual employees, is the proper party in a suit based on actions taken by IRS employees in their official capacity.”); *Portsmouth Redev. & Hous. Auth. v. Pierce*, 706 F.2d 471, 473 (4th Cir.1983) (“This is a suit against a federal official for acts performed within his official capacity, and, consequently, it amounts to an action against the sovereign.”).

In determining the proper defendant in this suit, it does not matter that Plaintiff believes the IRS has no legal authority to investigate him and that Rae has conducted his investigation improperly. Plaintiff’s allegations concern actions taken by Rae only in the course of his work as an IRS agent, and Plaintiff does not argue otherwise in opposition to the USA’s motion to dismiss. [ECF No. 1-1, ECF No. 14-1 at 4]. Accordingly, the court deems this case to be against the USA.

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issue injunctive relief in suits seeking to restrain the assessment or collection of taxes.” *Judicial Watch v. Rossotti*, 317 F.3d 401, 405 (4th Cir. 2003); *see also id.* (“it is clear that the Anti-Injunction Act extends beyond the mere assessment and collection of taxes to embrace other activities, such as an audit to determine tax liability, that may culminate in the assessment or collection of taxes”). In *Judicial Watch*, the Fourth Circuit delineated “safeguards and remedies” Congress has provided “[w]ith respect to alleged misconduct by individual IRS employees,” and rejected the argument the court could issue an injunction, even where plaintiffs in that case “attribute[ed] a non-tax related purpose to the IRS’s actions.” *Id.* at 407, 410.

Similarly, the Declaratory Judgment Act authorizes courts to issue declaratory judgments “[i]n a case of actual controversy within its jurisdiction, *except* with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986” 28 U.S.C. § 2201(a) (emphasis added). This Act “removes subject matter jurisdiction with respect to suits to ‘declare the rights and other legal relations of any interested party’ with respect to federal taxes” *Felkel v. United States*, 861 F. Supp. 507, 509 (D.S.C. 1994) (noting the Declaratory Judgment Act and Anti-Injunction Act, together, “have been held to reflect congressional intent to require taxpayers to litigate tax controversies either in Tax Court, *see* 26 U.S.C. § 6213(a), or to ‘pay first, litigate later’ through a suit for a tax

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refund, *see* 28 U.S.C. § 1346(a)(1); 26 U.S.C. § 7422, whenever disputes arise regarding the payment of taxes”).

In sum, the court is without subject-matter jurisdiction over Plaintiff’s complaint seeking to enjoin the investigative activities of an IRS agent taken within the scope of that agent’s employment.

III. Conclusion and Recommendation

For the foregoing reasons, it is recommended the district judge grant the USA’s motion to dismiss. [ECF No.11].

IT IS SO RECOMMENDED.



November 19, 2019
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge

The parties are directed to note the important information in the attached “Notice of Right to File Objections to Report and Recommendation.”

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

RICHARD E. BOGGS,
Plaintiff,

vs.

PETER RAE,
Defendant.

§
§
§
§
§
§
§
§

Civil Action No. 3:19-00551-MGL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION,
SUBSTITUTING THE UNITED STATES OF AMERICA AS THE DEFENDANT,
AND DISMISSING PLAINTIFF'S COMPLAINT**

Plaintiff Richard E. Boggs (Boggs), proceeding pro se, filed this action seeking an injunction against Peter Rae (Rae). The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting the United States of America (USA) be substituted as the defendant for Rae and the USA's motion to dismiss for lack of subject matter jurisdiction be granted. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which a specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). The Court need not conduct a de

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novo review, however, “when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge’s] proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982); *see* Fed. R. Civ. P. 72(b).

The Magistrate Judge filed the Report on November 19, 2019. Boggs filed his Objections to the Report (Objections) on November 25, 2019. The USA filed its response to the Objections on December 9, 2019 (Response). The Court has reviewed the objections but holds them to be without merit. It will therefore enter judgment accordingly.

The majority of Boggs’s objections are restatements of facts alleged, purportedly supporting his action. Because these do not address the reasoning of the Report, they will be treated as conclusory objections and, thus, only require review for clear error. *Orpiano*, 687 F.2d at 47. The Court finds no error in the Report and therefore will overrule these objections.

Boggs, however, does raise three objections directly applicable to the Magistrate Judge’s legal reasoning. All three are without merit and will be addressed in turn.

First, Boggs objects to the invocation of the Anti-Injunction Act (AIA), asserting the AIA’s bar on tax cases is limited to cases involving exactions. This misstates the scope of the AIA tax exception. The AIA exception “extends beyond the mere assessment and collection of taxes to embrace other activities, such as an audit to determine tax liability, that may culminate in the assessment or collection of taxes.” *Judicial Watch, Inc. v. Rossotti*, 317 F.3d 401, 405 (4th Cir. 2003). This would include any investigation undertaken by the Internal Revenue Service. Thus, the AIA specifically disallows the suit Boggs attempts to bring. Accordingly, the Court will overrule this objection.

Second, Boggs objects to the Report disclaiming the applicability of the Declaratory Judgment Act (DJA). Boggs provides no legal basis for his objection, merely asserting the DJA

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is applicable because “the defendant(s) lacked the authority to do what he / they did.” Objections at 9. This is merely a conclusory objection and, thus, requires review for only clear error. *Orpiano*, 687 F.2d at 47. As the Court stated above, it finds no error in the Report and therefore will overrule this objection.

Finally, Boggs asserts the Report incorrectly asserts sovereign immunity, claiming immunity was waived by the government in 5 U.S.C. § 702, the Administrative Procedures Act (APA). The APA, however, “is not a grant of jurisdiction,” and “merely suggest[s] that sovereign immunity will not be a defense in an action in which jurisdiction already exists.” *Lonsdale v. United States*, 919 F.2d 1440, 1444 (10th Cir. 1990). The APA alone is insufficient to demonstrate a clear waiver of sovereign immunity applicable to this case. Consequently, the Court will overrule this objection.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Boggs’s objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court the USA is substituted as the defendant for Rae, the USA’s motion to dismiss is **GRANTED**, and Boggs’s complaint is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

IT IS SO ORDERED.

Signed this 16th day of January 2020 in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

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NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within sixty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

Republic/State of South Carolina)
 Subscribed and Affirmed)
 County of Lexington)

I, James B Houster, the undersigned mailer/server, being of sound mind and under no duress, do hereby certify, attest and affirm that the following facts are true and correct, to wit:

- That on the 8th day of July 2020 on behalf of Richard E. Boggs, a human being, the undersigned personally deposited the following documents (listed below) inside the envelope, sealed them and transmitted them via the carrier indicated in item 2 below, to wit:

Item #	Document Description	Number of pages
1	Table of Contents	1
2	Table of Authorities	2
3	20-1672 Appeal Informal Opening Brief; Corp Disclosure	10

Total of 3 documents with combined total of 13 pages.

- That I personally mailed said document(s) via:

X United States Postal Office, by **Certified Mail #** see below
 Return Receipt Requested

at said City and State, one (1) complete set of **ORIGINAL** COPIED (circle one) documents, as described in item 1 above, properly enveloped and addressed to (addressee(s) and address(es)):

#	Recipient(s)
1	Clerk U.S. Court of Appeals, Fourth Circuit 1100 East Main St., 5 th Fl. Richmond, VA 23219 Certified Mail # <u>7018 1830 0000 9622 6979</u>
2	Robert J. Branman U.S. DOJ Tax Division, Appellate Section Post Office Box 502 Washington, D.C. 20044 Certified Mail # <u>7018 1830 0000 9622 6986</u>

- That I am at least 18 years of age;
- That I am not related to Richard E. Boggs by blood, marriage, adoption, or employment, but serve as a "disinterested third party" (herein "Server"); and further,
- That I am in no way connected to, or involved in or with, the person and/or matter at issue in this instant action.

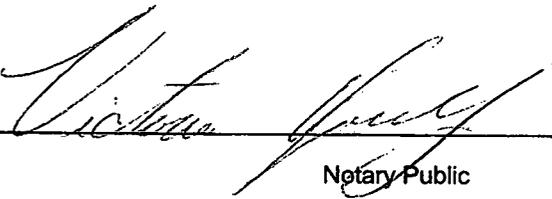
I now affix my signature to these affirmations.

(Signature): James B Houster, Mailer/Server
 (Printed name): JAMES B HOUSTER

NOTARY PUBLIC'S JURAT

Subscribed and sworn to (or affirmed) before me on this 3 day of July, 2020, by Richard E. Boggs, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

WITNESS my hand and official seal.



Notary Public SEAL

My Commission Expires On: 12-10-29



In The
United States Court of Appeals
For The Fourth Circuit

Richard E. Boggs Pro Se
Petitioner/Appellant

v.

United States of America, Peter Rae
Respondent/Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA AT COLUMBIA

Appellant's Opening Informal Brief

Counsel for

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Issue 1: The District Court Improperly Removed This Case from State Court and Improperly Substituted the United States of America (USA) As the Defendant.

Facts in support of Issue 1:

- 1) The lower court failed to properly consider and interpret 26 USC § 7608 in regard to IRS agent authority relating to Subtitle A (Income). This fact is undisputed, and the Plaintiff argues this point repeatedly throughout, despite the magistrate's statement to the contrary in her R & R¹. This fact is confirmed on pg. 3 of the judge's Order [EN 27].
 - a. IRC 7608 could not be clearer and more unambiguous in its language as to authority of any IRS enforcement officer/agent. Accordingly, it sets the foundation for authority for other agent actions such as those specified in IRC § 7602. The court and the DOJ choosing to ignore IRC § 7608 does not make it any less relevant.
 - b. Even the IRS's own manual² instructs that IRC § 7608 "provides the initial authority", not IRC § 7602 as the DOJ claims.
 - c. The USDC failed to even mention this controlling statute here, but did muster a vague, doubtful rendering in 3:18-cv-03506 magistrate's R&R [EN 36] pg. 7, footnote 3 by stating:

Petitioner argues throughout his filings that Respondent does not have jurisdiction to issue summonses. However, 26 U.S.C. § 7608(b)(2)(A) appears to provide for Rae's authority to issue the summonses.

¹ See EN 20 pg 6.

² See IRM 9.1.2.2 (09-06-2013)(1)

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Although the magistrate erred in stating “Petitioner argues throughout his filings that Respondent does not have jurisdiction...” since Petitioner only argues lack of **authority** - “appears” is insufficient to base a ruling and leaves doubt as to the court’s reliance to base a decision. This alone is sufficient grounds to reverse the lower court ruling³.

- 2) Peter Rae (hereafter “Rae”) declared in his 28 February 2019 sworn declaration [see 3:18-cv-0551 ECF No 28-2] that he is a “duly commissioned Special Agent employed by the Internal Revenue Service’s Criminal Investigation Division”. “Agents” are granted enforcement authority from IRC 7608(a) relating to enforcement of Subtitle E **ONLY!**
- 3) The District Court erred in its Notice of Removal [EN 1] in referring to Rae as “a sworn law enforcement officer of the United States of America”. Rae, or ANY IRS “agent”, is NOT a “law enforcement officer” according to 26 CFR § 1.274-5(k)(6)(ii):
 - a. ***Law enforcement officer.*** The term *law enforcement officer* means an individual who is employed on a full-time basis by a governmental unit that is responsible for the prevention or investigation of crime involving injury persons or property (including apprehension or detention of persons for such crimes), who is authorized by law to carry firearms, execute search warrants, and to make arrests (other than merely a citizen's arrest), and who regularly carries firearms (except when it is not possible to do so because of the requirements of undercover work). The term “law enforcement officer” may include an arson investigator if the investigator otherwise meets the requirements of this paragraph (k)(6)(ii), but **does not include Internal Revenue Service special agents.**

³ A tax must be imposed by clear and unequivocal language. Where the construction of a tax law is doubtful, the doubt is to be resolved in favor of whom upon which the tax is sought to be laid. (See *Spreckles Sugar Refining v. McClain*, 192 U.S. 397, 416 (1904); *Gould v. Gould*, 245 U.S. 151, 153 (1917); *Smietanka v. First Trust & Savings Bank*, 257 U.S. 602, 606 (1922); *Lucas v. Alexander*, 279 U.S. 573, 577 (1929); *Crooks v. Harrelson*, 282 U.S. 55 (1930); *Burnet v. Niagra Falls Brewing Co.*, 282 U.S. 648, 654 (1931); *Miller v. Standard Nut Margarine Co.*, 284 U.S. 498, 508 (1932); *Gregory v. Helvering*, 293 U.S. 465, 469 (1935); *Hassett v. Welch*, 303 U.S. 303, 314 (1938); *U.S. v. Batchelder*, 442 U.S. 114, 123 (1978)).

- 4) Special Agent Rae acted outside the scope of his statutory authority as dictated by IRC^{A31} § 7608 when issuing summons and harassing the Plaintiff and Plaintiff's spouse regarding Subtitle A tax. IRM 5.17.5.13 (3) clearly states "Official immunity applies only when the officer or employee of the Government is acting within the scope of his or her authority". IRM 5.17.5.13 (4) goes on to state "Officials and employees of the United States are liable in their own right, in criminal and civil actions instituted in federal or state courts, for their actions done outside of the scope of the duties of their office or employment. Thereby making the "sovereign immunity" defense moot and Rae personally liable for his actions. This alone is sufficient grounds for reversal of the USDC ruling.

Issue 2: The District Court Failed to Provide the Plaintiff Review as Required By 5 USC § 706.

Facts in support of Issue 2:

- 1) The District Court is compelled by 5 USC § 706 to hold unlawful and set aside agency action(s) found to be in excess of statutory authority.
- 2) The District Court, apparently blinded by its biased determination to find in favor of the government, ignored the foundational statute (26 USC § 7608) which clearly defines the extend and limitation of authority bestowed upon IRS agents by Congress. Thereby proceeding as though agent Rae had authority to undertake the actions taken and ignoring the clear unambiguous language of IRC § 7608 in order to dispose of this case using the "sovereign immunity" defense which the Appellant has shown to be not applicable in this case.

- A32
- 3) The Supreme Court says that a court's duty is to interpret the provisions relied upon. (See *Barnhart, Comm'r of Social Security v. Sigmon Coal Co., Inc.*, 534 US 438, 450 (2002) ("As in all statutory construction cases, we begin with the language of the statute. The first step "is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 US 337, 340 (1997) (citing *United States v. Ron Pair Enterprises, Inc.*, 489 US 235, 240 (1989)). The inquiry ceases "if the statutory language is unambiguous and 'the statutory scheme is coherent and consistent.'" 519 US, at 340.")).
- 4) Congress clearly makes the obvious distinction regarding authority and enforcement of Subtitle E (Alcohol, Tobacco, and Firearms) and "other than Subtitle E" in IRC 7608. If Congress had intended to extend enforcement authority to "any investigator, *agent*, or other internal revenue officer by whatever term designated" regarding Subtitle A as it did to Subtitle E it would have done so.

Argument:

The Appellant is entitled to arrange his affairs in such a lawful way as to minimize the amount of any "tax" owed, if any. The Appellant has done that based on a good faith understanding of the law and the application of the subject provisions referenced herein. The Appellant's understanding and interpretation of the laws relied upon has yet to be rebutted by the Appellee(s), therefore is undisputed.

Section 18 USC § 241 makes it a crime for "Two or more persons (to) conspire to injure, oppress, threaten, or intimidate, any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States." Under the "laws of the United States," Rae, and the other special agent(s) who participated in any

A33

way in the unauthorized, unlawful actions against the Appellant and his spouse were clearly barred by the provisions of Section 7608 from doing so.

Therefore, if this Court, in conjunction with the U.S. attorneys defending this action on behalf of the Appellee(s), were to again deny this Appellant the protection afforded him by section 7608 et al, but were instead to “injure“ and “oppress” him further by not granting him the relief requested and as mandated by this statute, then this Court, together with said U.S attorneys, would be collectively in clear violation of the provisions of 18 USC § 241.

The Appellee(s) willfully and intentionally failed to hew to the law, their own internal guidelines, and the recognized standards of legal construction in order to misuse the scope of their authority causing the Appellant much financial, emotional, and professional hardship for simply having an understanding of the law and applying that understanding to his affairs.

The Appellee(s) willfully and intentionally denied the Appellant the Rights guaranteed under 26 USC § 7803(a)(3) [Taxpayer Bill of Rights]⁴.

Appellant’s arguments are firmly rooted in the statutory language of the controlling subject provisions relied upon.

Conclusion:

Therefore, it has to be concluded that the actions by the Appellee(s), U.S. Attorney’s and the Department of Justice (Tax Division) to subvert the laws, as evidenced herein, and trample on the rights of the Appellant can only be deemed willful and

⁴ (A) the right to be informed, (B) the right to quality service, (C) the right to pay no more than the correct amount of tax, (D) the right to challenge the position of the Internal Revenue Service and be heard, (E) the right to appeal a decision of the Internal Revenue Service in an independent forum, (F) the right to finality, (G) the right to privacy, (H) the right to confidentiality, (I) the right to retain representation, and (J) the right to a fair and just tax system.

intentional. This equates to extortion (18 USC §872), racketeering (18 USC §1962),^{A34} conspiracy against rights (18 USC §241), and deprivation of rights under color of law (18 USC §242) committed by all those involved by their actions against this Appellant. And, since the Appellee(s) used the U.S. Mail services in their unlawful activity, add mail fraud (18 USC §1341) to their crimes.

Rae committed perjury in his declaration⁵ by claiming authority for actions he clearly knew, or should have known, no authority existed. Ignorance of the law is never an excuse! The actions against this Appellant, his spouse, and employers were in fact intended to harass, intimidate, and harm – another lie by Rae in his declaration.

The District Court simply choose to look the other way while Rae violated the law and the rights of the Appellant and his family.

This Appellant will hold steadfast is his conclusion(s) until such time he is provided lawful evidence to the contrary. This Appellant has made this court aware of said crimes as required of him by law (18 USC §4).

Relief Requested:

1. Based on the above, and the facts and evidence in Appellant's filings contained in the court record and previously submitted to the IRS, Appellant respectfully requests the following relief:
 - a. Reimbursement of \$2,500.00 by Rae personally for:
 1. attorney fees paid for legal representation of spouse at sham, unlawful interrogation.
 2. All court costs associated with this action.

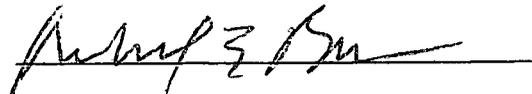
⁵ See 3:18-cv-03506-MGL EN 28-2 "DECLARATION OF SPECIAL AGENT RAE".

- A35
- b. Find Rae committed perjury in his declaration by claiming authority for actions he clearly knew, or should have known, no authority existed.
 - c. For such other additional relief as this Court may seem just and proper.

Verification:

I, Richard E. Boggs, do hereby swear under penalties of perjury (28 USC §1746) that the foregoing statements and claims are true and correct to the best of my knowledge, as I am a first-hand witness thereto.

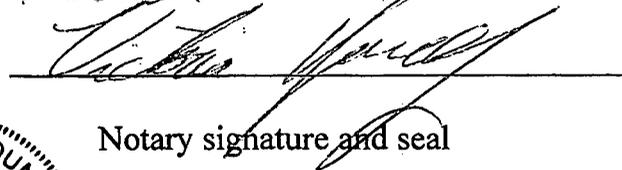
Executed this 3 day of July 2020.



Richard E. Boggs, Appellant Pro Se
All Rights Reserved

The above affirmation was subscribed and duly sworn to before me this 3 day of July 2020, by Richard E. Boggs.

I, Victoria Young, am a notary under license from the State of South Carolina whose commission expires on 12-10-29, and be it known by my hand and my seal as follows:


Notary signature and seal

Presented By:


All Rights Reserved

Richard E. Boggs, Appellant Pro Se
7001 St. Andrews Rd. #124
Columbia, South Carolina 29212

Dated: 3 July 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 20-1672 Caption: 20-1672 Informal Opening Brief

Pursuant to FRAP 26.1 and Local Rule 26.1,

Richard E. Boggs
(name of party/amicus)

who is appellant, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? YES NO

2. Does party/amicus have any parent corporations? YES NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? YES NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? YES NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) YES NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? YES NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: *Michael S. Byrne*
All Rights Reserved

Date: 8 July, 2020

Counsel for: pro se

CERTIFICATE OF SERVICE

I certify that on 8 July, 2020 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

Robert J. Branman
U.S. DOJ Tax Division, Appellate Section
Post Office Box 502
Washington, D.C. 20044
Certified Mail # 7018 1830 0000 9622 6986

Michael S. Byrne
(signature)
all Rights reserved

8 July, 2020
(date)



UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-1672

RICHARD E. BOGGS,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee,

and

PETER RAE,

Defendant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Mary G. Lewis, District Judge. (3:19-cv-00551-MGL)

Submitted: November 6, 2020

Decided: November 17, 2020

Before DIAZ and FLOYD, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Richard E. Boggs, Appellant Pro Se. Robert Joel Branman, Arthur Thomas Catterall, Tax Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for

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Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Richard E. Boggs appeals from the district court's orders adopting the report and recommendation of the district court, granting the United States' motion to dismiss, and denying Boggs' motion for reconsideration. The United States has filed a motion for sanctions for filing a frivolous appeal. Regarding the district court's grant of the motion to dismiss and the denial of Boggs' motion for reconsideration, we have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Boggs v. United States*, No. 3:19-cv-00551-MGL (D.S.C. Jan. 16 & Apr. 24, 2020).

Under Fed. R. App. P. 38, we are authorized to impose sanctions for the filing of a frivolous appeal. *Brock v. Angelone*, 105 F.3d 952, 954 (4th Cir. 1997). Our power to impose sanctions applies equally to pro se litigants. *Kyler v. Everson*, 442 F.3d 1251, 1253 (10th Cir. 2006) (“[P]ro se litigants are subject to the same minimum litigation requirements that bind all litigants and counsel before all federal courts.”). Sanction awards for frivolous tax appeals “are to be determined on a case-by-case basis.” *Wheeler v. C.I.R.*, 528 F.3d 773, 783 (10th Cir. 2008). In addition to providing “an effective sanction for the bringing of a frivolous appeal,” sanction awards “serve as an effective deterrent to the bringing of future frivolous appeals, and . . . recompense the government for at least the direct costs of the appeal.” *Id.* (quoting *Casper v. C.I.R.*, 805 F.2d 902, 906–07 (10th Cir. 1986)). When a taxpayer repeatedly engages in frivolous litigation to avoid paying lawful income taxes, courts have adopted the general practice of awarding a lump-sum sanction. *See Veal-Hill v. C.I.R.*, 976 F.3d 775 (7th Cir. 2020) (setting presumptive

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sanction for frivolous tax appeal at \$5,000); *Wheeler*, 528 F.3d at 784-85 (imposing lump-sum sanction of \$4,000); *Gary Boggs v. Commissioner*, 569 F.3d 235, 238 (6th Cir. 2009) (granting motion for \$8,000 in sanctions against taxpayer); *Trowbridge v. C.I.R.*, 378 F.3d 432, 433 (5th Cir. 2004) (lump sum sanction of \$6,000 for frivolous tax appeal).

Here, Boggs' legal theories have been repeatedly and summarily rejected, and we find his appeal manifestly frivolous. In its motion, the Government requests a lump sum award of \$8,000. In response, while Boggs asserts that his arguments are not frivolous, he does not challenge the computation of the lump sum award. In light of Boggs' repeatedly frivolous litigation, we grant the United States' motion for sanctions. However, given that the litigation below and on appeal was fairly focused and not protracted and that Boggs has not been previously sanctioned, we impose sanctions in the amount of \$5,000. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: January 26, 2021

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UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-1672
(3:19-cv-00551-MGL)

RICHARD E. BOGGS

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA

Defendant - Appellee

and

PETER RAE

Defendant

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

NOTARY PUBLIC'S JURAT

Subscribed and sworn to (or affirmed) before me on this 14 day of December, 2020, by Richard E. Boggs, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

WITNESS my hand and official seal.



SEAL

Notary Public



Caroline Gleaton
Notary Public for South Carolina
Commission Expires: 10/23/20

My Commission Expires On:

October 23, 2020

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-1672

RICHARD E. BOGGS,

Plaintiff-Appellant

v.

UNITED STATES, et al.,

Defendant-Appellee

and

**UNITED STATES; PETER RAE, and coworkers, et al. as individuals;
INTERNAL REVENUE SERVICE,
Defendants**

**ON APPEAL FROM THE JUDGMENT OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA**

**PETITION FOR EN BLANC REHEARING FOR THE APPELLANT /
COMPLAINT OF CRIME(S) PER 18 USC § 4 AND JUDICIAL
MISCONDUCT**

Appellant Petition for En Blanc Rehearing, Complaint of Crime (18 USC § 4) and
Judicial Misconduct

INTRODUCTION

This case is not about “frivolous litigation to avoid paying lawful income taxes” as this court’s ruling would suggest. This case has nothing to do at all with “taxes” period, but instead the government’s, and this court’s, reckless disregard for the law and its outlandish lack of consideration for the rights and property of citizens in which it is charged with protecting. Even more so, this court’s unwillingness to restrain the government’s unlawful actions as clearly defined by the clear, unambiguous statutory language of Congress.

It is the Appellant’s judgement that this court has willfully chosen to ignore materially factual AND legal matters in order to render its decision in support of the district court’s unconscionable ruling to dismiss this case and find in favor of the defendant(s). And then impose sanctions against the Appellant for exercising his right to due process as provided under the Constitution of the United States in Amendment V.

The record indicates overt prejudicial errors; materially factual and legal matters overlooked, or ignored; an abuse of discretion; and judicial misconduct by this court to wit:

- A) This court, as well as the lower district court, has repeatedly failed to go on record to show how IRC §7608 operated in the government’s, and the

Appellant Petition for En Blanc Rehearing, Complaint of Crime (18 USC § 4) and Judicial Misconduct

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court's, determination¹ that defendant Special Agent Rae has the requisite authority to engage in ANY actions not related to IRC Subtitle E?

1) Appellant made mention of IRC § 7608 no less than 12 times in Opening Brief, 10 times in his Reply Brief. This court again failed to mention 7608 once. The USDC Magistrate's R & R in his previous case (3:16-cv-3506-MGL) made a single cursory mention in footnote 3 – and then would not definitively say that it applied by stating “26 U.S.C. § 7608 (b)(2)(A) appears to provide for Rae's authority...”. “Appears” is not good enough – either § 7608 provides the requisite authority, or it does not. The district court made no mention of § 7608 in its decision for this case. Even the IRS agrees with the Appellant that IRC § 7608 provides the requisite “initial authority”². The court's willingness to ignore this material fact is alarming. Appellant is certain that if his interpretation and conclusion regarding IRC § 7608, and other subject provisions, were “manifestly frivolous³” and not 100% correct this court would write volumes about those provisions –

¹ A “determination” must be the result of a consideration of all relevant facts and statutes. See *Hughes v. U.S.*, 953 F.2d 531 (CA9 1992); *Portillo v. Comm'r of IRS*, 932 F.2d 1128 (CA5 1991); *Elise v. Connett*, 908 F.2d 521 (CA9 1990); *Jensen v. Comm'r of IRS*, 835 F.2d 196 (CA9 1987); *Scar v. Comm'r of IRS*, 814 F.2d 1363 (CA9 1987); *Benzvi v. Comm'r of IRS*, 787 F.2d 1541 (CA11 1986); *Maxfield v. U.S. Postal Service*, 752 F.2d 433 (1984); *Weimerskirch v. Comm'r of IRS*, 596 F.2d 358, 360 (CA9 1979); *Carson v. U.S.*, 560 F.2d 693 (1977); *U.S. v. Janis*, 428 U.S. 433, 442 (1975); *Alexander v. “Americans United” Inc.*, 416 U.S. 752, 758-770 (1973); *Pizzarello v. U.S.*, 408 F.2d 579 (1969); *Terminal Wine*, 1 B.T.A. 697, 701-02 (1925); *Couzens*, 11 B.T.A. 1140, 1159, 1179.

² See IRM at 9.1.2.2 (09-06-2013) (1)

³ See 20-1672 ruling page 4.

Appellant Petition for En Blanc Rehearing, Complaint of Crime (18 USC § 4) and Judicial Misconduct

or make mention of them at least once. Instead, their silence regarding ^{A48} these provisions speaks volumes to the correctness of this Appellant's conclusions.

- 2) The DOJ dismissed the statute titled "Authority of internal revenue enforcement officers" calling the Appellant's interpretation of the plain unambiguous language of § 7608 as "erroneous" and "irrelevant"! Then attempts to merge the authority provided for Subtitle E enforcement in § 7608 (a) with the lack of authority provided for "other than Subtitle E" enforcement in § 7608 (b) in order to support their moronic interpretation. If Congress would not have intended to limit enforcement authority there would be no need for § 7608 (a) and (b) because, as the DOJ would have you believe, "authority" is somehow bestowed magically through other statutes. If IRC § 7608 is in fact "irrelevant", then what other statutes are "irrelevant? How can the provisions of law relied on by the Appellant be deemed "irrelevant", while only the referenced provisions put forth by the defendant(s) / Appellee(s) are deemed relevant? Since this court obviously agrees with the DOJ's assessment of § 7608, which other laws are considered "irrelevant" by this court? I need to know. I demand this court go on record with its own interpretation regarding §

7608 as required by 5 USC § 706 – a question of law has been brought before this court and it “shall” decide, not avoid.

- 3) The DOJ intentionally perverted the clear, unambiguous language of the § 7608 as written by Congress and intentionally misled the court by citing reliance upon § 7608 as “erroneous” and “irrelevant” but goes on in its reply brief to implore of this court to ignore the constraints put upon the government and public servants by Congress and the law in order to shield their unlawful actions! This court either intentionally ignored this material fact or mistakenly overlooked it in its ruling – and I highly doubt it was a mistake.
- 4) We could look to the implementing regulations for clarity, but lo and behold none exist for § 7608(b) as there does for § 7608(a)⁴. Further evidence of prejudicial error?

CONCLUSION

Again, this court is reminded of its duty to adjudicate legal disputes between parties and carry out the administration of justice in accordance with the law – that

⁴ See 27 CFR §70.33

would be ALL of the law, not SOME of the law. In other words, to say what the law is⁵ in respect to the issues brought before it. ^{A50}

Once again, this Appellant has brought before the courts a legal dispute solidly founded on the clear, unambiguous statutory language of the legislature (Congress). This court, as well as the USDC, have shown their willingness to ignore laws specifically written to restrain government, protect the Appellant and his property, and rewrite other laws (ex. IRC 61(a)) in order to allow an interpretation that is completely repugnant to the statutory language when read as a whole in order to feed the government's insatiable appetite for money and power – thereby becoming complicit in the defendant's obvious criminal activity.

Appellant reminds this court that he did not instigate this action but was forced to litigate here due to the unlawful action of the DOJ and the district court to remove the Appellant's original action from its proper filing in state court for the unlawful, unauthorized actions of Rae and his cohorts against the Appellant and his family. This court even saw fit to impose enormous sanctions against this Appellant for being forced to fight to protect his rights, property, and family from the abusive unauthorized actions of the defendants. This can only be seen as an

⁵ See *U.S. v. Lopez*, 115 S.Ct. 1624, 1633, 514 U.S. 549 (1995), quoting *Marbury v. Madison*, 1 Cranch. 137, 177, 2 L.Ed. 60 (1803) (Marshal, C.J.).

overt attempt to suppress the Appellant's will and financial ability to fight such^{A51} unlawful actions in a court of law – should he be able to locate one.

Appellant expects, and demands, this court do its duty and provide its interpretation of the operation of IRC § 7608, not simply ignore relevant provisions of law in order to reach a biased judgement in favor of the government – thereby becoming complicit in the defendant's criminal activity itself. This court must put its finger on the law that permits such action(s) on the part of the defendants or reverse its outlandish decisions and correct the errors of the lower court, as well as its own errors.

If this court, as well as the lower court, cannot be relied upon to make its judgements based on the complete language and operation of the law how can it call itself a “court of law”? How can a “court of law” expect common citizens to understand and follow the law under such an example of judicial bias and willful misconduct?

I am entitled to know answers to these questions, and it is the duty of the IRS and the court(s) to provide those answers according to 26 USC § 7803(a)(3)

[Taxpayer Bill of Rights]⁶ and 5 USC § 706⁷ respectively; not make sweeping, unsubstantiated rulings that are unfounded on the operation of the law and then hide those rulings through “unpublished” judgement(s). In fact, I DEMAND answers! This court failed to cite a single statute in support of its decision other than it found “no reversible error”. Ignoring governing statutes is not a “reversible error”? Finding that a law in question “appears” to operate in a particular way as cited by the USDC Magistrate in her R & R is not a “reversible error”?

This court further erroneously concluded “Boggs’ legal theories have been repeatedly and summarily rejected...” when the correct statement should be “Boggs’ legal **conclusions** have been repeatedly and summarily **ignored**...”. And of course, no ruling by this court would be complete without a few unsubstantiated mentions of “frivolous” thrown in for good measure.

⁶ (A) the right to be informed, (B) the right to quality service, (C) the right to pay no more than the correct amount of tax, (D) the right to challenge the position of the Internal Revenue Service and be heard, (E) the right to appeal a decision of the Internal Revenue Service in an independent forum, (F) the right to finality, (G) the right to privacy, (H) the right to confidentiality, (I) the right to retain representation, and (J) the right to a fair and just tax system.

⁷ To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

- 1) compel agency action unlawfully withheld or unreasonably delayed; and
- 2) hold unlawful and set aside agency action, findings, and conclusions found to be—
 - (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 - (B) contrary to constitutional right, power, privilege, or immunity;
 - (C) **in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;**
 - (D) without observance of procedure required by law;
 - (E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or
 - (F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

Appellant Petition for En Blanc Rehearing, Complaint of Crime (18 USC § 4) and Judicial Misconduct

This court again failed to cite a single statute in support of its ruling to uphold the flawed decision of the lower court and thereby joined the USDC in earning a vote of no confidence. From appearances, this has all the characteristics of legislating from the bench and willful effort on the part of members of this court (and the USDC) to conspire with the defendant's unlawful activities in order to deprive this Appellant his rights and property under color of law. A53

This petitioner will not be ignored, bullied, or sanctioned into silence. The abuses complained of by the Appellant at the hands of the IRS, DOJ, and members of the Judiciary are criminally systemic, and they completely reshape the usurped authority of the IRS relating to Subtitle A enforcement – PERIOD!

The Appellant does not consent to be subject to in personam jurisdiction of this, or any federal court, but acknowledges the court's jurisdiction over the appellees.

REMEDY SOUGHT

The Appellant neither violated any provision of Fed. Rules of Civ. Proc. Rule 11(b), nor was granted the proper review of statutory provisions presented as required of this court under 5 USC § 706. Therefore, the imposition of sanctions in this case is simply an abuse of authority and discretion by the ruling panel and

Appellant Petition for En Blanc Rehearing, Complaint of Crime (18 USC § 4) and Judicial Misconduct

parties cited below, thereby not warranted nor proper. The Appellant request imposed sanctions upon him by this court be rescinded.

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The Appellant's claims are warranted by existing law, are fully supported by the evidence presented, and are completely lacking any reasonable, coherent rebuttal.

Since this court is so quick to impose sanctions to "recompense the government for at least the direct costs of the appeal", and the purpose of sanctions is to "deter repetition of the conduct or comparable conduct by others similarly situated" the Appellant seeks an equal amount imposed upon the following individuals for their reckless abuse of authority, the law, and the rights of the Appellant. And to recompense the Appellant for the costs of having to repeatedly fight the same fight over and over due to the courts failure to say what the law is and resolve the issues presented as required by law and the government's failure to abide by the law:

Judges LEWIS, HODGES, DIAZ, FLOYD, & SHEDD; DOJ's
ZUCKERMAN, CATTERALL, & BRANMAN

If the DOJ wishes to not incur the costs of "frivolous litigation" it should refrain from instigating such litigation and engaging in the unlawful conduct complained of.

Appellant Petition for En Blanc Rehearing, Complaint of Crime (18 USC § 4) and
Judicial Misconduct

In the event this court seeks to rule under the jurisdiction of the Uniform Commercial Code (UCC) relative to 27 CFR § 72.11 definition of “Commercial crimes”⁸, Appellant gives Judicial Notice to the fact he has made a timely reservation of his rights under the Common Law by specifying “All Rights Reserved” under his signature – which indicates that I have reserved my Common Law right NOT to be compelled to perform under any contract I did NOT enter KNOWINGLY, VOLUNTARILY, and INTENTIONALLY. And I do NOT accept the liability of any compelled benefit, unrevealed contract or commercial agreement. The government and this court have repeatedly violated my rights under the UCC, and my recourse is provided for under UCC 1-103.6.

If this court is still unmoved by all presented for its review thus far, then I again give Judicial Notice to the fact that since the IRS is strictly a debt collection agency, the Fair Debt Collection Practices Act (15 USC § 1692) governs their conduct and provides this Appellant protection against the endless unlawful activities complained of perpetrated upon this Appellant and his family by the defendants.

This motion for rehearing will also serve as a formal complaint (as required of this Appellant by 18 USC § 4) of judicial misconduct, and criminal violation of

⁸ **Commercial crimes.** Any of the following types of crimes (Federal or State): Offenses against the revenue laws; ...

Appellant Petition for En Blanc Rehearing, Complaint of Crime (18 USC § 4) and Judicial Misconduct

18 USC §§ 3, 241, 242, 872, 1623, 26 USC § 7214, et al... on the part of members^{A56}
cited of this court, the USDC, the DOJ, and the IRS.

Remember to whom you serve!

It appears from the appellee's reply brief, and the court's apparent agreement, that more importance is placed on preserving the illicit revenue stream and the unlawful actions of the defendants than there is upon adherence to the law and protection of citizen's rights.

VERIFICATION

I, Richard E. Boggs, do hereby swear under penalties of perjury (28 USC §1746) that the foregoing statements and claims are true and correct to the best of my knowledge, as I am a first-hand witness thereto.

Executed this 14th day of December 2020.

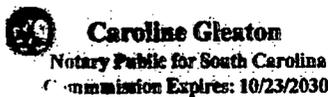
Richard E. Boggs
Richard E. Boggs, Appellant Pro Se
All Rights Reserved

The above affirmation was subscribed and duly sworn to before me this 14 day of December 2020 by Richard E. Boggs.

I, Caroline Gleaton, am a notary under license from the State of South Carolina whose commission expires on October 23, 2030 and be it known by my hand and my seal as follows:

Caroline Gleaton

Notary signature and seal



Dated: 14 Dec. 2020

Presented By:

Richard E. Boggs
All Rights Reserved
Richard E. Boggs, Appellant Pro Se
7001 St. Andrews Rd. #124
Columbia, South Carolina 29212

(PERTINENT TEXT)

The **Fourth Amendment** of the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The **Fifth Amendment** of the United States Constitution provides:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

5 U.S.C. § 706 Scope of review provides:

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional

and statutory provisions, and determine the meaning or applicability of^{A59}
the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed;

and

(2) hold unlawful and set aside agency action, findings, and conclusions
found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not
in accordance with law;

(B) contrary to constitutional right, power, privilege, or
immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or
short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to
sections 556 and 557 of this title or otherwise reviewed on the
record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are
subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review
the whole record or those parts of it cited by a party, and due
account shall be taken of the rule of prejudicial error.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

26 U.S.C. § 7608 Authority of internal revenue enforcement officers A60
provides:

(a) Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary is responsible may—

(1) carry firearms;

(2) execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(3) in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(4) in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

(b) Enforcement of laws relating to internal revenue other than subtitle E

(1) Any criminal investigator of the Intelligence Division of the A61 Internal Revenue Service whom the Secretary charges with the duty of enforcing any of the criminal provisions of the internal revenue laws, any other criminal provisions of law relating to internal revenue for the enforcement of which the Secretary is responsible, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service, is, in the performance of his duties, authorized to perform the functions described in paragraph (2).

(2) The functions authorized under this subsection to be performed by an officer referred to in paragraph (1) are—

(A) to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(B) to make arrests without warrant for any offense against the United States relating to the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and

(C) to make seizures of property subject to forfeiture under the internal revenue laws.

provides:

[Commissioner of Internal Revenue; other officials.]

(3) Execution of duties in accord with taxpayer rights. In discharging his duties, the Commissioner shall ensure that employees of the Internal Revenue Service are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title, including -

- (A) the right to be informed,
- (B) the right to quality service,
- (C) the right to pay no more than the correct amount of tax,
- (D) the right to challenge the position of the Internal Revenue Service and be heard,
- (E) the right to appeal a decision of the Internal Revenue Service in an independent forum,
- (F) the right to finality,
- (G) the right to privacy,
- (H) the right to confidentiality,
- (I) the right to retain representation, and
- (J) the right to a fair and just tax system.

26 C.F.R. § 1.274-5(k)(6)(ii) – Law enforcement officer. The term law enforcement officer means... but does not include Internal Revenue special agents,

27 C.F.R. § 70.33 - Authority of enforcement officers of the Bureau provides:

Appropriate TTB officers may perform the following functions: A63

(a) Carry firearms;

(b) Execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(c) In respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and...

IRM 5.17.5.13 – Acting Within Scope of Office or Employment: (3) Official immunity applies only when the officer or employee of the Government is acting within the scope of his or her authority. (4) Officials and employees of the United States are liable in their own right, in criminal and civil actions instituted in federal or state courts, for their actions done outside of the scope of the duties of their office or employment.

IRM 9.1.2.2(09-06-2013)(1) - General Authority to Enforce Internal Revenue Laws and Related Statutes provides...

1. Title 26 United States Code (USC) §7608(b) provides the initial authority for investigating crimes arising under the Internal Revenue laws.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

RICHARD E. BOGGS,)	
)	C/A No. 3:18-cv-03506-MGL-SVH
Petitioner,)	
)	
v.)	
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	
_____)	

DECLARATION OF SPECIAL AGENT PETER RAE

I, Peter Rae, declare pursuant to Title 28, United States Code § 1746 as follows:

1. I am a duly commissioned Special Agent employed by the Internal Revenue Service's Criminal Investigation Division. I make this declaration on the basis of my personal knowledge of the facts described herein.

2. In my capacity as a Special Agent, I am authorized to issue administrative summonses for documents and testimony in furtherance of investigations into any offense connected with the administration or enforcement of the internal revenue laws. 26 U.S.C. § 7602(b); 26 C.F.R. § 301.7602-1; Internal Revenue Service Delegation Order No. 4 (as revised).

3. I am conducting an investigation of possible offenses by Mr. Boggs connected with the administration or enforcement of the internal revenue laws.

4. In furtherance of the above-referenced investigation, and in accordance with 26 U.S.C. § 7602, on December 10, 2018, I issued administrative summonses (Form 2039) to the following entities at the addresses indicated:

- a. Indotronix Int'l Corp.
687 Lee Road, Suite 250

Rochester, NY 14606

- b. ATOS IT Solutions
4851 Regent Boulevard
Irving, TX 75063
- c. Artech Information Systems
121 West Trade Street, Suite 2190
Charlotte, NC 28202
- d. Logic Technology, Inc.
650 Franklin Street, 4th Floor
Schenectady, NY 12305
- e. Swoon Group LLC
300 S Wacker, Suite 300
Chicago, IL 60606
- f. Infinite Computer Solutions
15201 Diamondback Drive, Suite 125
Rockville, MD 20850
- g. Ring Legal Department, Custodian of Records
subpoenas@ring.com

5. Each of the summonses identified in paragraph 4 directed a representative of the entity to whom the summons was addressed to appear at my office in Charlotte, North Carolina on January 10, 2019, and produce records.

6. On information and belief, Boggs has or had an employment relationship with each of the entities identified in paragraph 4.a – 4.f.

7. On information and belief, Ring.com is a company headquartered in Santa Monica, California that provides video doorbell subscription services.

8. Attached as **Exhibit A** to this declaration are true and correct copies of the summonses identified in paragraph 4.

9. I followed all administrative steps required by the Internal Revenue Code for issuance of the summonses.

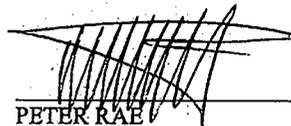
10. At the time the time the summonses were issued, none of the records or information sought by the summonses were in the IRS' possession. I have not yet reviewed any records received in response to the summonses, and those records will remain segregated from my investigation file pending resolution of Boggs's petition to quash.

11. I did not issue the summonses to harass Boggs or his spouse, nor did I issue the summonses to harm his reputation.

12. At the time the summonses were issued, and continuing through today, no Justice Department referral as defined by 26 U.S.C. § 7602(d)(2) is in effect with respect to Richard Boggs.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the

28TH day of February, 2019.



PETER RAE
Special Agent, CI
Internal Revenue Service

2. Quashing Summonses

The court is also without jurisdiction to hear Petitioner's requests to quash the summonses because they are directed at parties outside of the District of South Carolina. The statute provides "The United States District Court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2). . . ." 26 U.S.C. § 7609(h). Subsection (b)(2) provides the circumstances for proceedings to quash summonses. Therefore, this court does not have jurisdiction to quash the summonses.³

3. Mandamus

"The authority of federal courts to issue extraordinary writs derives from the 'all writs statute,' 28 U.S.C. § 1651." *See Gurley v. Superior Court of Mecklenburg County*, 411 F.2d 586, 587 (4th Cir. 1969). Section 1651 provides, in pertinent part, that federal courts "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). Federal district

³ (Petitioner argues throughout his filings that Respondent does not have jurisdiction to issue summonses. However, 26 U.S.C. § 7608(b)(2)(A) appears to provide for Rae's authority to issue the summonses.) Regardless, any challenge to the legitimacy of the summonses should be brought in the district in which the summonsed party may be found.

CERTIFICATE OF SERVICE

A68

Republic/State of South Carolina)
Subscribed and Affirmed)
County of Lexington)

I, Caleb Brown, the undersigned mailer/server, being of sound mind and under no duress, do hereby certify, attest and affirm that the following facts are true and correct, to wit:

1. That on the 17th day of January 2020 on behalf of Richard E. Boggs, a human being, the undersigned personally deposited the following documents (listed below) inside the envelope, sealed them and transmitted them via the carrier indicated in item (2) below, to wit:

Item #	Document Description	Number of pages
1	Motion to Reconsider (3:19-cv-00551)	3

Total of 1 document(s) with combined total of 3 pages.

2. That I personally mailed said document(s) via:

United States Postal Office, by **Certified Mail #** see below
Return Receipt Requested

at said City and State, one (1) complete set of **ORIGINAL/COPIED** (circle one) documents, as described in item (1) above, properly enveloped and addressed to (addressee(s) and address(es)):

#	Recipient(s)	Certified Mail #
1	Civil Process Clerk United States Attorney's Office 1441 Main St., Suite 500 Columbia, SC 29201	7017 2680 0000 0741 4674
2	United States District Court 901 Richland St. Columbia, SC 29201 CA 3:19-cv-00551	7017 2680 0000 0741 4667

3. That I am at least 18 years of age;
4. That I am not related to Richard E. Boggs by blood, marriage, adoption, or employment, but serve as a "disinterested third party" (herein "Server"); and further,
5. That I am in no way connected to, or involved in or with, the person and/or matter at issue in this instant action.

I now affix my signature to these affirmations.

(Signature): Caleb Lamar Brown Mailer/Server

(Printed name): Caleb Lamar Brown

NOTARY PUBLIC'S JURAT

Subscribed and sworn to (or affirmed) before me on this 17 day of January, 2020, by Richard E. Boggs, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

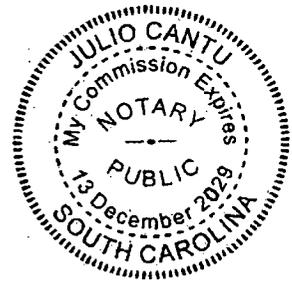
WITNESS my hand and official seal.



Notary Public

SEAL

My Commission Expires On: 12/13/20



1 Richard E. Boggs
2 7001 St. Andrews Road #124
3 Columbia, SC 29212-1137
4

5 **IN THE DISTRICT COURT OF THE UNITED STATES**
6 **FOR THE DISTRICT OF SOUTH CAROLINA**
7 **At Columbia**

8
9 **Richard Boggs,**) C/A No. 3:19-cv-00551-MGL-SVH
10 Plaintiff, pro se,)
11 vs.) **PLAINTIFF's MOTION TO RECONSIDER**
12)
13 **PETER RAE (as an individual),**)
14 **INTERNAL REVENUS SERVICE,**)
15 **UNITED STATES OF AMERICA**)
16 Defendants.)

17
18 COMES NOW, Richard Boggs ("Plaintiff"), seeking to move this court to reconsider its
19 judgement against the Plaintiff for the very particular reasons cited below.
20

21 This court has repeatedly ignored the law and the rights of the Plaintiff in order to render
22 ruling after ruling in favor of the criminal conduct as described having been committed by the
23 Defendant(s). Time and time again this Plaintiff has come before this court with statutory
24 arguments and undeniable proof that the conduct of the Defendant(s) is in violation of the laws
25 of the United States and the Constitutionally protected rights of the Plaintiff as required by 18
26 USC §4, yet this court yields to the criminal actions of the defendants time after time. Repeatedly
27 denying the Plaintiff the protections afforded him by law.
28

1 This court's failure to even mention 26 USC §7608 in its ruling, much less deny the
2 applicability of, is further evidence the Plaintiff is correct in his analysis and understanding that
3 this statute proves unequivocally that RAE, and his cohorts, lack ANY authority to investigate
4 anything other than Subtitle E issues. When 7608 is allowed to operate, all other allegations by
5 the Plaintiff fall neatly in place and render this court's objections moot – ALL OF THEM! This
6 court almost brushed up against 7608 during its second objection synopsis but stopped just short
7 of engaging the law by summarily dismissing the lack of authority as a "conclusory objection".
8 Really! This court MUST literally ignore the law in order to render such disjointed conclusions
9 in support of its ruling. At least it can be said that this court is consistent in that regard.

10
11 In its objection to lack of jurisdiction based solely on 5 USC 702, the court totally ignores
12 the reference supplied to jurisdiction on pg 2 of Plaintiff's Opposition (1) Removal... and (2)
13 Motion to Dismiss [ECF No. 14]. The Plaintiff provides this court with an abundance of
14 supporting statutory references that support this court's existing jurisdiction under 28 USC §§
15 1331, 1346, 1361 as well as in personam jurisdiction over the defendant(s). How much more
16 jurisdiction does this court require in order to do its duty? However, RAE, and his cohorts, are
17 the responsible parties here as individuals due to the complete lack of ANY legal authority
18 whatsoever under 26 USC 7608 to carry out the actions perpetrated against the Plaintiff, his
19 family, or his property. Their reliance on IRS policy/procedure and total ignorance/disregard of
20 the law is no excuse for their unlawful actions. The court's silence regarding the very statute that
21 dictates authority of the defendant(s) speaks volumes!

22
23 Is this court seriously willing to go so far outside of the law just to continually protect the
24 criminal activities of such lawless individuals as to become complicit in those crimes under 18
25 USC §§ 2 & 3?
26
27
28

1 **CONCLUSION**

2 It is obvious that the law does not matter here. This dishonorable court has repeatedly
3 ignored the law when it works against its agenda and the agenda of the DOJ/IRS to steal,
4 suppress, and “reign in” unruly Americans that dare to have their own good-faith understanding
5 of the law and act on that unrebutted understanding – especially when it protects those law-
6 abiding Americans and their property!
7

8 This court shamelessly runs from its duty to justify/restrain the actions taken against the
9 Plaintiff by making even a mention, much less a consideration, of the provisions relied upon by
10 the Plaintiff. Example: 1) How did IRC 83 operate in your conclusion I had gross income in my
11 compensation for services provided and therefore owe any tax – never addressed despite being
12 at the very foundation of every case filed by this Plaintiff in this court. 2) How does IRC 7608,
13 and the lack of 26 CFR implementing regulations, operate to provide authority for Subtitle A
14 enforcement by IRS “agents” – completely ignored although it is basis for restraining unlawful
15 IRS actions.
16

17
18 I urge this court to reverse course with this misguided ruling and restore some semblance
19 that law, justice, and fairness still operate in its chambers, even if only on the fringes.

20 Should this dishonorable court once again refuse to reconsider all relative facts and
21 statutes presented before it will make this case ripe for appeal. This court has proven itself time
22 and time again to be an obstacle to, rather than arbiter of, the law.
23

24
25
26 
27 Richard E. Boggs

28 All Rights Reserved Without Prejudice UCC 1-308
 & S.C. Code 36-1-308

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended. A73

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U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 4/24/2020 at 9:21 AM EDT and filed on 4/24/2020

Case Name: Boggs v. United States of America

Case Number: 3:19-cv-00551-MGL

Filer:

WARNING: CASE CLOSED on 01/16/2020

Document Number: 33(No document attached)

Docket Text:

TEXT ORDER: Pending before the Court is Plaintiff's motion for reconsideration [30]. The Court will construe this as a motion under Federal Rule of Civil Procedure 59(e). That rule "provides that a court may alter or amend the judgment if the movant shows either (1) an intervening change in the controlling law, (2) new evidence that was not available at trial, or (3) that there has been a clear error of law or a manifest injustice." *Robinson v. Wix Filtration Corp.*, 599 F.3d 403, 407 (4th Cir. 2010). Such motions "may not be used to relitigate old matters, or to raise arguments or present evidence that could have been raised prior to the entry of judgment." *Pac. Ins. Co. v. Am. Natl Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998). Plaintiff's motion is merely a recitation of arguments he previously raised. These fail to merit reconsideration under Rule 59(e). Accordingly, Plaintiff's motion is DENIED. IT IS SO ORDERED. Signed by Honorable Mary Geiger Lewis on 4/24/2020.(cbru,)

3:19-cv-00551-MGL Notice has been electronically mailed to:

John Douglas Barnett doug.barnett@usdoj.gov, CaseView.ECF@usdoj.gov,
Southern.taxcivil@usdoj.gov, Thomas.K.Vanaskie@usdoj.gov, USA-SC-ECF-Docket-J@usdoj.gov,
saundra.woods@usdoj.gov

3:19-cv-00551-MGL Notice will not be electronically mailed to:

Richard E. Boggs
7001 St. Andrews Road
Apt. 124
Columbia, SC 29212-1137