UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

DASHON HINES,)
Plaintiff,)
v.) Civil Action No. 23-00727 (UNA)
INTERNAL REVENUE SERVICE,))
Defendant.)

MEMORANDUM OPINION

This matter is before the Court on its initial review of Plaintiff's *pro se* complaint and application for leave to proceed *in forma pauperis*. The Court will grant the application and dismiss the complaint for lack of subject-matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3) (requiring the court to dismiss an action "at any time" it determines that subject-matter jurisdiction is wanting).

A party seeking relief in the district court must plead facts that bring the suit within the court's jurisdiction. *See* Fed. R. Civ. P. 8(a). Plaintiff alleges only that on March 8, 2023, the Internal Revenue Service (IRS) violated the tax code when it issued him "a tax return payment in the amount of \$42." Complaint, ECF No. 1 at 4. He alleges no injury but seeks \$1 million in damages. *Id*.

The United States, of which the IRS is a part, may be sued only upon consent. *United States v. Mitchell*, 445 U.S. 535, 538 (1980) (citation omitted). A waiver of the United States' immunity "must be unequivocally expressed in statutory text, and [it cannot] be implied." *Lane v. Pena*, 518 U.S. 187, 192 (1996) (citations omitted). Plaintiff has not invoked a statute waiving the

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government's immunity, which alone compels dismissal. Regardless, the Federal Tort Claims Act,

28 U.S.C. §§ 2671-80, waives the United States' immunity with respect to certain claims for

money damages but explicitly immunizes the United States from "[a]ny claim arising in respect of

the assessment or collection of any tax[.]" 28 U.S.C. § 2680(c). In addition, the Taxpayer Bill of

Rights, 26 U.S.C. § 7433, provides a damages remedy against the United States, but only in

situations "in which the IRS has taken an affirmative step to recover taxes owed to the

government." Ivy v. Comm'r of Internal Revenue Serv., 877 F.3d 1048, 1050 (D.C. Cir. 2017)

(cleaned up). Here, the complaint fails to allege facts sufficient to invoke the waiver of sovereign

immunity contained in § 2680(c) or to state a claim under § 7433 or any other statute.

The Court will, accordingly, dismiss the action for lack of jurisdiction and failure to state

a claim.

A separate order will issue.

RANDOLPH D. MOSS

United States District Judge

Date: March 23, 2023

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