

Appendix 7

Noll v. Peterson, et al., 2:01-CV-2-EJL (D. Idaho)

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U.S. DISTRICT COURT
'01 JAN 3 AM 11 25

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Clifford L. Noll and Susan Noll,)
husband and wife,)
Plaintiffs,)

VS)

John Peterson, Betty Young,)
Carol Davis, Dennis L. Parizek,)
Deborah S. Decker, Scott Kilpatrick,)
Jose Gonzales, Randy K. Harper,)
U.S. Bank, Inc., a U.S. corporation,)
Bill Mickus, Karen (last name unknown),)
defendants.)

CASE NO. 01-0002 -N-EJL
COMPLAINT

FEE PAID
RCPT # 11960



Certified to be a true and correct copy of original filed in my office.

Elizabeth A. Smith, Clerk
U.S. Courts, District of Idaho

By Sunny Trumbull
on Jul 21, 2015 8:47 am

Verified Petition

Kootenai county)
State of Idaho)

S. S.

Clifford L Noll and Susan Noll, hereafter Plaintiff(s), states that the facts contained herein are true and correct to the best of the Plaintiff(s) first hand knowledge and belief under penalty of perjury pursuant to the Laws of Idaho.

1. This is a civil (Bivins) action brought by Plaintiff(s), pro se, who are natural born citizens of the United States of America, domiciled in Idaho, to recover damages for injury to their rights and property as protected by the Constitution of the United States of America, AD 1787-91, by the Defendants who are employed as agents for the federal municipal government's Department of the U.S. Treasury, Internal Revenue Service, located in Washington D.C., a territorial possession of the United States.

2. The United States Supreme Court has original jurisdiction to hear this matter under Article III of the Constitution of the United States of America, AD 1787-91.

3. The United States District Court has been delegated original jurisdiction to hear the facts of this case and make a determination for the United States Supreme Court to protect and defend the Plaintiff(s) rights and privileges as secured to him by the Fourth, Fifth, Seventh, Tenth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States of America codified at Title 28 USC §1331.

4. Venue properly lies in the District of Idaho where Defendant(s) have seized money in Kootenai county and Shoshone county, Idaho, without a warrant or other lawful authority.

ALLEGATIONS OF UNAUTHORIZED CONDUCT

5. The Plaintiff realleges the allegations of paragraphs 1 through 4 of the Complaint.

6. On various dates during 1987 and 1988, John Peterson acted with callous disregard for the Rights of the Plaintiffs by fraudulently fabricating entries into the computerized records of the Internal Revenue Service, an agency of the U.S. Department of the Treasury, franchised in, and located in, Washington D.C. Said acts were beyond the statutory authority granted to John Peterson by the Secretary of the Treasury and he is personally liable, without governmental immunity, for damages suffered by the Plaintiff(s).

7. On November 10, 1988, John Peterson claimed statutory authority under title 26 USC §6020(b) to file a "Substitute for Return" regarding a federal 1040 Individual Tax Return for the Plaintiff(s). The authority at §6020(b) limited John Peterson to file only Business Return Forms 940, 941, 942, 943, 11-B, 720, 2290, CT-1, and 1065, as specified by Delegation Order DD-OKC-150 (Rev. 4) dated Dec. 13, 1984, at Internal Revenue Manual Chapter 5200, §5290, §5291. John Peterson had no authority under §6020(b) to file a "Substitute for Return" for an individual regarding any 1040 series returns, therefore, no 1040 tax has ever been assessed to the Plaintiff.

8. The Plaintiff's objected to the actions of John Peterson and challenged his statutory authority. John Peterson claimed authority under his personal interpretation of the 16th Amendment and by claiming authority to expand §6020(b) to include Individual 1040 returns.

9. On July 24, 1989, Betty Young acted beyond her statutory authority, by filing federal tax liens against the Plaintiff's real property in Shoshone county and Kootenai County Idaho. Betty Young was required to have a copy of a federal tax lien, filed in the District of Columbia, which contained a U.S. District Court Order from the District of Idaho which authorized the liens to be filed pursuant to the requirements of the Federal Debt Collection Procedures Act codified at Title 28 USCA §3001-3006. The United States has never filed a complaint against the Plaintiff(s) in the United States District Court for the District of Idaho wherein the Plaintiff(s) have been named as the defendant. Betty Young claimed authority under 26 CFR §301. 6323 and IRC §6323. §6323 has no relevance to the Plaintiff(s) or PART 1-INCOME TAX.

10. On various dates between November 1988 and 1992 John Peterson

approached individuals, who were renting their home from the Plaintiff(s), demanding that they turn over the rents to him in payment of the fraudulent debt he had created for the Plaintiff(s). John Peterson threatened to have the renter's wages garnished. John Peterson threatened a renter, living on Social Security and Medicare, with interruption of her benefits if she did not turn the rent payment over to him. The renters canceled their rent contracts with the Plaintiff(s) because of the harassment by John Peterson. These acts caused the Plaintiff(s) further damage.

11. In 1992 and 1993, Carol Davis conspired with John Peterson and did seize and sell real estate belonging to the Plaintiff(s) without a warrant or other lawful process. Carol Davis and John Peterson claimed statutory authority under §6330, 6331, 6332, et al. Sections 6330, 6331, 6332 authorizes IRS agents working for the Bureau of Alcohol, Tobacco, and Firearms to obtain seizure warrants to confiscate accounts containing taxes collected by stamp and obtain warrants to seize manufacturing equipment and raw materials used in the illegal production of cigarettes. Carol Davis and John Peterson have no authority under §6330, §6331, §6332 to seize private bank accounts and/or real estate in Idaho without a warrant issued by the U.S. District Court for the District of Idaho.

12. On January 16, 1997, Dennis L. Parizek started a series of fraudulent demands for \$20,942.02 in unpaid federal taxes due to losses suffered by the Plaintiff(s) relating to the real estate seized and sold, below cost, by Davis and Peterson in 1992 and 1993. The Plaintiff wrote a series of letters, sent by certified mail, challenging Mr. Parizek's statutory authority. Dennis L. Parizek cited §6020(b) as his authority to file a substitute for return regarding a Form 1040A. Mr. Parizek refused to cite any statutory authority that would be applicable to 1040 Forms or the Plaintiff.

13. On March 7, 1997, Deborah S. Decker, acting in concert with Dennis L. Parizek, sent a fraudulent "Notice of Deficiency" demanding \$20,942.02 in payment of a "1040 kind of tax". 1040 is a reporting Form, not a "kind of tax". A "kind of tax" a duty, impost, or excise, authorized under Article 1, section 8 of the Constitution of the United States. The acts of Parizek and Decker do not constitute a lawful assessment.

14. The Plaintiff sent a series of letters by certified mail challenging the statutory authority of Deborah S. Decker. The Plaintiff reminded Deborah S. Decker that , pursuant to Internal revenue Manual 1218 - "Policies of the IRS" that she is required to respond to the demands for statutory authority at P-1-156, P-1-179, P-1-180, P-6-10, P-6-20. Deborah S. Decker did not respond. the Plaintiff did not receive further demands regarding this claim for 3 years.

15. On April 16, 2000, Scott Kilpatrick sent a "Final Notice and Intent to Levy" to the Plaintiff demanding \$30, 501.34 regarding Form 1040A, for 1992 and 1993, for which no tax has ever been assessed.

16. On April 20, 2000, the Plaintiff sent, by certified mail, an affidavit denying the debt and challenging Scott Kilpatrick's cited authority under §6330 and §6331 over the Plaintiff. The Plaintiff, in an attempt to settle this matter through administrative remedy, filed a "Request for Due Process Hearing" which had been provided by Scott Kilpatrick. Scott Kilpatrick did not respond to the Plaintiff's affidavit, notice of fault, and/or notice of default.

17. On June 16, 2000, Jose Gonzales sent a letter to the Plaintiff stating that a "Due Process Hearing" had been schedules for July 24, 2000, in Denver, CO.

18. On June 20, 2000, the Plaintiff sent a letter requesting that the location of the hearing be changed to the IRS field office at 1221 Ironwood, Coeur d'Alene, Idaho. The Plaintiff requested certain documents and witness to testify for the Administrative Record.

19. On June 29, 2000, Jose Gonzales sent a letter canceling the "Due Process Hearing" in it's entirety but reiterated his demand for payment citing §6020(b) as his authority to demand payment without a hearing or other evidence for the record.

20. On August 4, 2000, the Plaintiff sent another certified letter to Jose Gonzales specifically pointing out that no 1040 taxes can be assessed under the limited authority of §6020(b) and that §6020 was not applicable to the Plaintiff.

21. On August 10, 2000, Jose Gonzales responded that he would not reschedule the Due Process Hearing and suggested that the Plaintiff file suit in the U.S. Tax Court for the District of Columbia. The U.S. Tax Court lacks jurisdictional authority to hear cases regarding a citizens rights protected under the original jurisdiction of the Constitution of the United States of America.

22. On September 30, 2000, Scott Kilpatrick sent another "Final Notice with Intent to Levy" citing §6330 and §6331 demanding the tax, interest and civil penalties.

23. On October 25, 2000, the Plaintiff, upon returning home to find the demand of Sept. 30, sent another certified letter to Scott Kilpatrick challenging his cited statutory authority. Scott Kilpatrick has not responded to date.

24. On November 27, 2000 Randy Harper sent a "Notice of Levy" to U.S. Bank Inc., a U.S. corporation, located in Saint Paul, MN requesting that a total of \$34,254.48 in taxes, interest, and civil penalties be seized from the Plaintiff's personal savings account held in fiduciary capacity by the U.S. Bank branch in Coeur d'Alene, Idaho. Randy K. Harper claimed authority to seize the money citing §6331 and §6332. Section 6331 is authorization by the Secretary for BATF agents to get a federal warrant to seize taxes collected by stamp. §6332 is authorization by the Secretary to seize ONLY property subject to levy and named within the warrant. Property subject to levy is limited to manufacturing equipment, raw materials, real estate, and cash used in the illegal commercial production of cigarettes. Sections 6331 and 6332 have no relevance to Form 1040 individual income taxes. In addition, no warrant has been issued by the U.S. District Court, therefore, Randy K. Harper was acting without authority.

25. On December 4, 2000, Karen (last name unknown) a Levy/garnishment officer employed by U.S. Bank, Saint Paul, MN sent a letter to the Plaintiff stating that she had received a demand from Randy Harper to seize all money in the Plaintiff's personal account, 21 days hence, and that she intended to confiscate the money. The 21 day waiting requirement is to give the intended victim time to file a written objection and lawfully challenge any miscited authority.

26. On December 11, 2000, the Plaintiff received the notice from U.S. Bank and the Notice of Levy from Randy Harper. The Plaintiff immediately sent a certified letter to Randy Harper challenging his cited jurisdictional authority and denying his claim. Randy K. Harper has not responded to Plaintiff's lawful challenge.

27. On December 11, 2000, the Plaintiff sent a "Notice to Stop" by certified mail to Karen at U.S. Bank demanding that she not seize any money from the Plaintiffs account without a lawful warrant signed by a U.S. District Court Judge for the District of Idaho. The Plaintiff also notified Karen that a suit against agents for acting beyond their authority was being prepared and if she acted without a lawful warrant, she and U.S. Bank would be named as Defendants also.

28. On December 12, 2000, the Plaintiff, fearing that U.S. Bank Inc. would embezzle money from his personal account, called Karen at U.S. Bank in Saint Paul, MN. Karen stated that she had no knowledge of a warrant or other lawful process regarding the Plaintiff but did affirm her intent to seize the Plaintiff's money at the end of the 21 day waiting period. Karen did give the Plaintiff the phone number for Bill Mickus, an attorney, employed by U.S. Bank in Saint Paul, MN.

29. On December 12, 2000, the Plaintiff called Bill Mickus, leaving a message on his voice mail, asking for a copy of the seizure warrant, or in lieu thereof, the U.S. District Court case number regarding the seizure notice.

30. On December 13, 2000, Bill Mickus returned the Plaintiffs call, leaving a message on the Plaintiff's voice mail, stating that he had no knowledge of a warrant or other lawful seizure process but gave the Plaintiff the phone number for the IRS office handling this case.

31. On December 13, 2000, the Plaintiff called IRS at 1-800-829-7650 and talked with Mr. Ryan, IRS employment #91-025-85, in Seattle, WA. Mr. Ryan stated that he had no knowledge of a warrant, case number, or other valid process, but did affirm

that the agency had sent a "request" to U.S. Bank asking them to seize the Plaintiff's money.

32. On December 13, 2000 the Plaintiff called the U.S. District Court for the District of Idaho. The Clerk could not find any warrants or other legal process against the Plaintiff.

33. On December 13, 2000, the Plaintiff sent a certified letter to Bill Mickus, informing him that the Plaintiff, as per his suggestion, had contacted the IRS and U.S. District Court and they had no knowledge of any seizure warrants. The Plaintiff informed Bill Mickus that if he, or Karen, or U.S. Bank embezzled the funds from the Plaintiff's account in Idaho, all would be named as defendants in a U.S. District Court complaint.

34. On December 28, 2000, the Plaintiff had a phone conversation with Bill Mickus, wherein Bill Mickus acknowledged the receipt of the Plaintiff's notices, but had determined that U.S. Bank should seize the money without a warrant or other lawful process. Bill Mickus affirmed that the embezzlement of many thousands of dollars from the Plaintiffs account had already taken place and the money turned over to Randy K. Harper.

WHEREFORE, the Plaintiff Prays as follows:

A. That the Court determine and adjudge that the Defendants, John Peterson, Betty Young, and Carol Davis acted without statutory authority and with callous disregard for Claimants rights and are jointly indebted to Claimant(s) for the

loss of real property, rents from real property over 12 years, and restraint of financial freedom over 12 years, in the amount of Two million dollars (\$2,000,000.00).

B. That the Court determine and adjudge that the Defendants John Peterson, Betty Young, and Carol Davis acted without statutory authority, with callous disregard for Claimants rights, and are jointly indebted to Claimant(s) for the loss of rights, and liberties protected by the Constitution of The united States of America in an amount equal to three times the actual damage, that amount being six million dollars (\$6,000,000.00).

C. That the Court determine and adjudge that the Defendants Dennis L. Parizek, Deborah S. Decker, and Jose Gonzales are jointly indebted to Claimant in the amount of Thirty thousand five hundred one dollars (\$30,501.00) for filing false and fraudulent documents into the public record of the United States.

D. That the Court determine and adjudge that the Defendants Dennis L. Parizek, Deborah S. Decker, and Jose Gonzales, and Randy K. Harper acted without statutory authority and with callous disregard for Claimants rights and are jointly indebted to Claimant(s) for the loss of rights, and liberties protected by the Constitution of The united States of America in the amount of One million Five Hundred thousand dollars (\$1,500,000.00). Said amount is equal to the amount authorized by Congress at Title 26 USC §7433 and civil RICO penalties.

E. That the Court determine and adjudge that the Defendant, U.S. Bank Inc., acted with callous disregard for Claimants rights and is indebted to Claimant(s) for the loss of rights, and liberties protected by the Constitution of The united States of

America, and embezzlement, in the amount of Five Hundred thousand dollars (\$500,000.00). Said amount is equal to the amount authorized by Congress under civil RICO penalties.

F. That the Court determine and adjudge that the Defendants Bill Mickus and Karen (last name as yet unknown) acted with callous disregard for Claimants rights and is indebted to Claimant(s) for the loss of rights, and liberties protected by the Constitution of The united States of America, and embezzlement, in the amount of Two Hundred Fifty thousand dollars (\$250,000.00) each. Said amount is equal to the amount authorized by Congress under civil RICO penalties.

G. That the Court determine and adjudge that all documents filed into the U.S. Department of the Treasury's records against the Claimant, for the years in question, by any and all of the Defendants are fraudulent, without lawful authority, without legal merit, and are therefore, void ab initio.

H. That the Court determine and adjudge that the Secretary of the Treasury must immediately terminate the federal employment of all Defendants pursuant to the IRS Restructuring and Reform Act §1203.

I. That the Claimant be awarded their costs and such other relief as is just and proper.

Respectfully submitted this 3rd day of January, 2001

Clifford L. Hall
Plaintiff per se

Clifford L. Hall

Rec'd U.S. Courts
Filed ✓

JUN 15 2001

Cameron S. Burke
Clerk, Idaho



Certified to be a true and correct copy of original filed in my office.

Elizabeth A. Smith, Clerk
U.S. Courts, District of Idaho

By Sunny Trumbull
on Jul 21, 2015 8:48 am

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

CLIFFORD L. NOLL and SUSAN NOLL
husband and wife,

Plaintiffs,

vs.

JOHN PETERSON, et al.,

Defendants.

CASE NO: CV01-02-N-EJL

ORDER

On May 15, 2001, United States Magistrate Judge Larry M. Boyle issued a Report and Recommendation, recommending that Defendants' Motions to Dismiss be granted. Plaintiffs filed an objection to Magistrate Judge Boyle's recommendation. Any party may challenge a magistrate judge's proposed recommendation regarding a dispositive motion by filing written objections within ten days after being served with a copy of the Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). The district court must then "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* The district court may accept, reject, or modify in whole or in part, the findings and recommendations made by the magistrate judge. *Id.*; see also Fed. R. Civ. P. 72(b).

ORDER- PAGE 1
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The Plaintiffs contend that the magistrate judge erred in making his recommendation. The Court has considered the Plaintiffs' contentions and finds that the magistrate judge identified the correct legal standards and properly applied those standards to the record. Accordingly, the Plaintiffs' objections are overruled.

ORDER

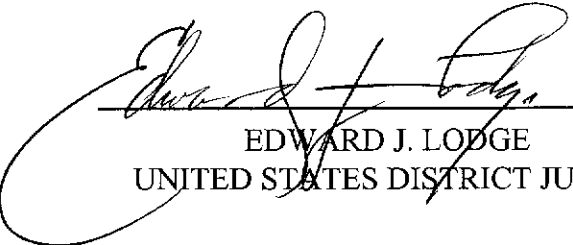
Having conducted a de novo review of the objected to portions of the Report and Recommendation, this Court finds that Judge Boyle's Report and Recommendation is well founded in law and consistent with this Court's own view of the evidence in the record. Acting on the recommendation of Judge Boyle, and this Court being fully advised in the premises, **IT IS HEREBY ORDERED** that the Report and Recommendation entered on May 15, 2001, (Docket No. 42), should be, and is hereby, **INCORPORATED** by reference and **ADOPTED** in its entirety.

IT IS FURTHER ORDERED that Defendants' Motions to Dismiss (Docket No. 29) are **GRANTED**.

IT IS FURTHER ORDERED that Plaintiffs' Petition for Temporary Injunctive Relief (Docket No. 5) is **DENIED**, and that Plaintiffs' Motion for Mandamus Order (Docket No. 43) is **DENIED** as moot.

IT IS FURTHER ORDERED that this case is **DISMISSED** in its entirety.

Dated this 15th day of June, 2001.


EDWARD J. LODGE
UNITED STATES DISTRICT JUDGE

United States District Court
for the
District of Idaho
June 14, 2001

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 2:01-cv-00002

I certify that a copy of the attached document was mailed to the following named persons:

Clifford L Noll
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Coeur d'Alene, ID 83814

Larry M. Boyle
Hand delivered

Susan Noll
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Cameron S. Burke, Clerk

Date: 06/15/01

BY: *M. Longstreet*
(Deputy Clerk)

cc C Vaughn