

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MARCUS BUCHANAN,

Plaintiff,

vs.

Case No. 16-1325-JTM

STATE OF KANSAS,

Defendant.

MEMORANDUM AND ORDER

Plaintiff Marcus Buchanan—who lists a Wichita, Kansas street address as his residence in his Complaint but who nonetheless asserts himself to be a citizen of Texas—brings this action asserting that Kansas “willfully violated the Texas constitution and Texas tax code by levying a higher tax burden than Texas which causes financial hardship.” (Dkt. 1, at 3). The Magistrate Judge recommended dismissal of the action, finding that “[b]ecause Plaintiff lives and works in Kansas and is suing the state of Kansas, he cannot establish diversity jurisdiction.” (Dkt. 6, at 6). Further, the Recommendation states, no federal question exists for “an individual living and working in Kansas” to obtain relief on the grounds that Kansas is “a very high tax state when Texas is a low tax state.” (*Id.* at 6-7)

The plaintiff has filed an Objection (Dkt. 8) to the Report and Recommendation

which does not challenge the Magistrate Judge's factual finding that Buchanan lives and works in Wichita, Kansas. He simply asserts again that he is entitled to relief because his taxes are higher than they would be in Texas. Thus, he asserts that

relief [is] needed ... to change the Kansas tax structure to match exactly the Texas tax structure which means to comply with all provisions of the Texas constitution especially Article 8, Revenue and Taxation of the Texas constitution and all of Texas tax codes which includes removal of corporate and individual income tax to comply with article 8, section 24 of the Texas constitution [sic].

(*Id.* at 8). He also complains that Kansas should be required to "comply with the policy of the Texas Department of Transportation to prohibit using road salt on Kansas roads to melt ice and snow and use MD-20 or nothing at all in order to prevent rust to my personal automobile." (*Id.* at 3).

The plaintiff supplies no authority for the maintenance of such an action. The Report and Recommendation concludes that the Magistrate Judge "cannot glean a comprehensible federal cause of action upon which relief may be granted," and plaintiff's Objection fails to support the maintenance of any federal action. (Dkt. 7, at 7).

IT IS ACCORDINGLY ORDERED this 27th day of December, 2016, that the Report and Recommendation (Dkt. 7) is hereby adopted, and the present action is dismissed under 28 U.S.C. §1915(e)(2).

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE