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WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA, LOUISIANAUNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

DIXIE BOYS BASEBALL, INC.

CIVIL ACTION NO. 12-0760

VERSUS

U.S. DISTRICT JUDGE DEE DRELL

DIXIE YOUTH BASEBALL, INC.

U.S. MAGISTRATE JUDGE JAMES D. KIRK

JUDGMENT

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, and after an independent (de novo) review of the record including the objections filed by petitioner, and having determined that the findings and recommendation are correct under the applicable law;

IT IS ORDERED that the motion to remand, doc. #9, is GRANTED and this case is remanded to the 9th Judicial District Court, Parish of Rapides.

In so ruling we have carefully analyzed the objections, responses, and the Skelton affidavit particularly. We observed several other major deficiencies. First, while on personal knowledge, it is admittedly based upon partial data only – thus its conclusions are, on their face, dubious at best. Additionally, the affidavit is no better than one which would be concocted after having “found” a few records belonging to someone else with an attempt to then, speak authoritatively. In point of fact, nowhere does the affidavit even suggest that Skelton was ever records custodian or that he ever had any right to know what was in Dixie Boys’ records “maintained” at the Dixie Youth office. Whoever drafted the affidavit for use in this Court

realized the affidavit could only have a chance of being sold as useful and valid if he skillfully danced around the elephant in the room – the attempt to bootstrap essentially expert testimony by using partial records, not certified as accurate, furnished to him by the organization in which this CPA has a personal interest. The Magistrate Judge was absolutely correct in striking and not considering this affidavit.

THUS DONE AND SIGNED, in chambers, in Alexandria, Louisiana, on this 24th day of July, 2012.



Dee D. Drell
UNITED STATES DISTRICT JUDGE