

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

KEITH L. BREAUX

CIVIL ACTION NO. 07-0910

VERSUS

JUDGE MELANCON

UNITED STATES OF AMERICA

MAGISTRATE JUDGE HANNA

REPORT AND RECOMMENDATION

Before the court is defendant's Motion to Dismiss (rec. doc. 6). The motion is unopposed.

In its motion, defendant asks the court to dismiss plaintiff's Petition to Quash Summons. Plaintiff's petition to quash summons was filed on May 30, 2007, and served on the United States Attorney's Office on November 30, 2007.

The summons sought to be quashed was issued by the Internal Revenue Service on Teche Federal Savings Bank on May 8, 2007, for various information and records pertaining to plaintiff Keith L. Breaux. On May 15, 2007, Teche responded to the summons, stating it had none of the records requested, prior to the petition to quash being filed.

In its motion to dismiss, defendant asks that the petition to quash be dismissed for failure to properly effect service upon United States through the Attorney General of the United States, and because the matter is moot. Defendants explain plaintiff only served the United States Attorney, and the summons was issued and responded to prior to the petition to quash having been filed. As noted above, defendant's motion to dismiss is

unopposed.

After review of the litigation and defendant's motion, the undersigned finds defendant's motion to dismiss is supported in law and in fact. Therefore,

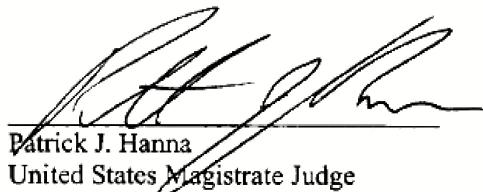
IT IS RECOMMENDED that defendant's Motion to Dismiss (rec. doc. 6) be **GRANTED** and this matter be **DISMISSED**.

Under the provisions of 28 U.S.C. Section 636(b)(1)(C) and Rule 72(b), parties aggrieved by this recommendation have fourteen (14) days from service of this report and recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within fourteen (14) days after being served with a copy of any objections or responses to the district judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within fourteen (14) days following the date of its service, or within the time frame authorized by Fed.R.Civ.P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except

upon grounds of plain error. See Douglass v. United Services Automobile Association, 79 F.3d 1415 (5th Cir. 1996).

Thus done and signed this 13th day of January, 2010 at Lafayette, Louisiana.



Patrick J. Hanna
United States Magistrate Judge
800 Lafayette St., Suite 3500
Lafayette, Louisiana 70501
(337) 593-5140 (phone) 593-5155 (fax)