

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

IN THE MATTER OF THE TAX
INDEBTEDNESS OF
JAMES M. SIMONES,
205 Holiday Circle
Moriarty, New Mexico 87035

No 17mc25 JCH

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on James M. Simonos' Application for Reconsideration of Ex Parte Order for Entry on Premises to Effect Levy, and Application for Injunctive Relief, Doc. 10, filed April 28, 2017, and on his Application for Reconsideration of Ex Parte Order for Entry on Premises to Effect Levy, and Application for Injunctive Relief, Doc. 14, filed May 24, 2017.


On April 4, 2017, the Court entered its *Ex Parte* Order for Entry on Premises to Effect Levy authorizing a Revenue Officer to enter certain premises for the purpose of seizing the property of James M. Simonos which is subject to levy by the United States in satisfaction of unpaid federal taxes. *See* Doc. 3. Mr. Simonos subsequently filed the two Applications for Reconsideration now before the Court requesting the Court to: (i) reconsider its *Ex Parte* Order; (ii) enjoin collection activities by Revenue Officers; (iii) order the United States not to sell or dispossess any properties belonging to Mr. Simonos until this matter has been settled; and (iv) order the United States to return the seized property to Mr. Simonos.

Mr. Simonos also initiated a civil case in which he filed a complaint and a motion for injunctive relief which seek the relief requested in the two Applications for Reconsideration now before the Court. *See* Doc. 1, filed April 18, 2018, and Doc. 7, filed May 4, 2017, in *Simonos v. Dominguez*, No. 17cv495 WJ/SCY. The Court denied Mr. Simonos motion for injunctive relief, dismissed Mr. Simonos' complaint without prejudice, and granted Mr. Simonos leave to file an

amended complaint. *See* Doc. 11, filed January 2, 2018, in *Simones v. Dominguez*, No. 17cv495 WJ/SCY. Instead of filing an amended complaint, Mr. Simones voluntarily dismissed the case. *See* Doc. 12, filed January 17, 2018, in *Simones v. Dominguez*, No. 17cv495 WJ/SCY. The Court will, therefore, deny the two Applications for Reconsideration as moot and dismiss this case.

IT IS ORDERED that:

- (i) James M. Simones' Application for Reconsideration of Ex Parte Order for Entry on Premises to Effect Levy, and Application for Injunctive Relief, Doc. 10, filed April 28, 2017, is **DENIED**; and,
- (ii) James M. Simones' Application for Injunctive Relief, Doc. 10, filed April 28, 2017, and on his Application for Reconsideration of Ex Parte Order for Entry on Premises to Effect Levy, and Application for Injunctive Relief, Doc. 14, filed May 24, 2017, is **DENIED**; and
- (iii) This case is **DISMISSED**.


UNITED STATES DISTRICT JUDGE