

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SHAWN K. WEILER,)	CASE NO. 1:17 CV 02226
)	
PLAINTIFF,)	
)	JUDGE DONALD C. NUGENT
v.)	
)	
IRS,)	MAGISTRATE JUDGE
)	WILLIAM H. BAUGHMAN, JR.
)	
DEFENDANT.)	MEMORANDUM OPINION

Introduction

This matter is before the Court on the Report and Recommendation of Magistrate Judge William H. Baughman, Jr. (Docket #23). This matter involves a suit filed by Shawn K. Weiler, *pro se*, under 26 U.S.C. § 7422 against the Internal Revenue Service (“IRS”) for alleged overpayment of taxes. The Magistrate Judge recommends that the Court grant the IRS’s Motion for Summary Judgment (Docket #17), deny the plaintiff’s Motion for Summary Judgment (Docket #19), and assess sanctions in the amount of \$1,000 against Weiler under Rule 11(b)(2) of the Federal Rules of Civil Procedure for filing a frivolous claim. No objection to the Report and Recommendation was filed.

Standard of Review for a Magistrate Judge’s Report and Recommendation

The appropriate standard of review by a district court for a magistrate judge’s report and recommendation depends on whether any timely objections were made to the report. The text of

Rule 72(b) directly states that “[t]he district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b).

However, the text of Rule 72(b) only addresses the review of a magistrate judge’s report and recommendation to which objections have been made. The Advisory Committee on Civil Rules has officially commented that when no objections have been properly made, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) advisory committee’s note 1983.


Additionally, the U.S. Supreme Court has stated: “It does not appear that Congress intended to require district court review of a magistrate judge’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

Conclusion

This Court has carefully reviewed the Magistrate Judge’s Report and Recommendation and has thoroughly considered the record in this case. The Court agrees with the findings set forth therein and hereby ADOPTS the Report and Recommendation of Magistrate Judge Baughman, (Docket #23); GRANTS the Motion for Summary Judgment filed by the defendant, (Docket #17) and DENIES the Motion for Summary Judgment filed by Mr. Weiler, (Docket #19). Further, the Court agrees with Magistrate Judge Baughman’s finding that Mr. Weiler’s claim in this case is frivolous and that the filing of this claim violated Rule 11. Imposition of sanctions in the amount

of \$1,000 are appropriate in this instance. Accordingly, sanctions of \$1,000 are assessed against Mr. Weiler, payable to the Clerk of Court.

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: May 30, 2019