

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TAD ALAN PATTERSON,

Case No. 6:16-cv-01344-JR

Plaintiff,

ORDER

v.

OREGON DEPARTMENT OF REVENUE,
et al.,

Defendants.

MCSHANE, Judge:

On August 2, 2016, I issued an opinion denying plaintiff Tad Alan Patterson's request for an emergency preliminary injunction restraining defendants from garnishing Patterson's wages in collection of alleged unpaid taxes. ECF No. 17. In that opinion, I noted Patterson failed to establish any likelihood of success on the merits as the Tax Injunction Act, 28 U.S.C. § 1341, appeared to divest this court of subject matter jurisdiction. That act states:

The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.

Id.

Magistrate Judge Jolie A. Russo then filed a Findings and Recommendation, ECF No. 19, recommending dismissing this action for lack of subject matter jurisdiction. The matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B); Fed.R.Civ.P. 72(b). Patterson, proceeding *pro se*, filed objections to the Findings and Recommendation. ECF No.22. Accordingly, I have reviewed this case *de novo*. *See* 28 U.S.C. § 636(b)(1)(c); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). I find no error and adopt the Findings and Recommendations.

So long as a taxpayer has state law remedies available, federal courts may not weigh in on the validity of a state tax. *Patel v. City of San Bernadino*, 310 F.3d 1138, 1140 (9th Cir. 2002). Oregon law provides for administrative, ORS 305.270, and judicial, ORS 305.445, challenges to ODOR determinations. Because Oregon law allows for “a plain, speedy and efficient remedy” in Oregon courts, 28 U.S.C. § 1341, this court lacks subject matter jurisdiction over Patterson’s claims. *Air Polynesia, Inc. v. Freitas*, 742 F.2d 546, 547 (9th Cir. 1984).

Magistrate Judge Russo’s Findings and Recommendation, ECF No. 19, is ADOPTED in full. This matter is dismissed for lack of subject matter jurisdiction.

IT IS SO ORDERED.

DATED this 23th day of September, 2016.

/s/ Michael McShane
Michael McShane
United States District Judge