

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Anthony G. Bryant, and)	
Bryant Group, Inc.,)	
)	C/A No. 2:18-cv-607-MBS
Plaintiffs,)	
)	
v.)	
)	OPINION AND ORDER
Internal Revenue Service,)	
Beth Drake, US Attorney for the District of)	
South Carolina,)	
US Department of Housing and Urban)	
Development, and)	
Attorney General of the United States,)	
)	
Defendants.)	
_____)	

On March 5, 2018, pro se Plaintiffs Anthony G. Bryant and Bryant Group, Inc. (“Plaintiffs”) filed this action against the Internal Revenue Service; Beth Drake, U.S. Attorney for the District of South Carolina; the U.S. Department of Housing and Urban Development; and the Attorney General of the United States (“Defendants”). While difficult to discern from the pleadings, it appears that Plaintiffs take issue with an Internal Revenue service notice of tax deficiency issued to Plaintiffs for filing frivolous tax returns. ECF No. 9-1. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Mary Gordon Baker for pretrial handling. This matter is now before the court for review of the Magistrate Judge’s Report and Recommendation.

I. RELEVANT FACTS AND PROCEDURAL HISTORY

Plaintiffs filed this action on March 5, 2018. In their complaint, Plaintiffs asserted the following as their statement of claims:

Internal Revenue Code 6702, 6109, Internal Revenue Service assigned identity protection 2012 - 2016 PIN for you. Notice 2014 PIN 131835 2010 Justice Department Inspector General mentioned Homeland Security and Federal Bureau of Investigation.

ECF No. 1 at 5.

On March 7, 2018, the Magistrate Judge issued a proper form order, giving Plaintiffs until March 28, 2018 to correct their complaint. ECF No. 5. The Magistrate Judge further ordered that corporate Plaintiff Bryant Group, Inc. obtain counsel no later than April 10, 2018. ECF No. 7. On March 13, 2018, Plaintiffs filed an amended complaint. ECF No. 9. Plaintiffs asserted the following as a statement of claims:

\$205,371 Justice Department, HUD and EPA 1977 Inspector General complaint grantors and grantees 2010 letter mentioning Homeland Security 22 Federal Agencies filed 3949A Public corruption.

ECF No. 9 at 5.

Plaintiffs filed a motion for extension of time to obtain counsel for Plaintiff Bryant Group Inc. on March 26, 2018. ECF No. 14. On March 27, 2018, the Magistrate Judge issued a second proper form order, instructing Plaintiffs to bring the case into proper form by April 17, 2018. ECF No. 15. On March 28, 2018, the Magistrate Judge granted Plaintiffs' motion for an extension of time, giving Plaintiffs until May 10, 2018 to obtain counsel for Plaintiff Bryant Group, Inc. ECF No. 17. Plaintiff filed another motion for extension of time on April 16, 2018. ECF No. 28. The Magistrate Judge granted that motion on May 2, 2018, giving Plaintiff Bryant Group, Inc. until June 10, 2018 to obtain counsel. ECF No. 32. Plaintiff Bryant Group, Inc. never obtained counsel.

II. MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

On September 18, 2018, the Magistrate Judge issued a Report and Recommendation, recommending that Plaintiff’s complaint summarily be dismissed with prejudice. ECF No. 57. The Magistrate Judge determined that a review of Plaintiffs’ complaint indicates “multiple grounds for summary dismissal.” Id. at 11. The Magistrate Judge first determined that, pursuant to the Anti-Injunction Act, Plaintiffs were barred from bringing a suit to enjoin tax collection. Id. at 6. Next, the Magistrate Judge determined that as a corporate party, Plaintiff Bryant Group, Inc. required counsel to proceed. Id. at 7. The Magistrate Judge further found that Plaintiffs failed to state a claim, stating that “[e]ven liberally construing the allegations of the Amended Complaint, it is difficult, if not impossible, to discern any actual claims.” Id. Next, the Magistrate Judge found that Plaintiffs’ case is duplicative of another case currently before the court. Id. at 8.¹ Finally, the Magistrate Judge determined that Defendants are entitled to prosecutorial and sovereign immunity. Id. at 9-11. Pursuant to Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005), Plaintiffs were advised of their rights to file objections to the Report and Recommendation. Id. at 12.

A. Plaintiffs’ Objections to the Magistrate Judge’s Report and Recommendation

On September 24, 2018, Plaintiffs filed an objection to the Magistrate Judge’s Report and Recommendation. ECF No. 59. Plaintiffs do not indicate that the Magistrate Judge erred in any way with her Report and Recommendation. Instead, Plaintiffs appear to reject the Magistrate Judge’s liberal reading of their pleadings, stating that they do not “want the Court to be [their]

¹ The Magistrate Judge refers to Bryant v. IRS, 2:18-cv-606-MBS.

advocate based upon the fact the in 1896 South Carolina was allowed to adversely take our rights in accordance with the 1868 South Carolina Constitution.” Id. at 1 (errors in original). Plaintiffs then proceed to assert what appears to be a new claim, referencing a traffic citation from 1989, asserting that the citation in question led to Plaintiff Anthony Bryant’s identity being stolen. Id.

On September 27, 2018, Plaintiffs filed another objection to the Magistrate Judge’s Report and Recommendation. ECF No. 63. Plaintiffs assert that the Magistrate Judge’s “‘Order’s’ failed the James Madison’s test ‘Government must protect the people, the people from themselves, the government and guard against transient impression.’” Id. at 2. Plaintiffs then make a series of assertions, stating that “Plaintiff Cited The Identity Theft and Assumption and Deterrence Act makes Identity Theft a Federal Crime. . . .” Id. at 1. Plaintiffs also state that “[t]he Government does not protect the public from the DEEP WEB data that cannot index or cannot find because they are passwords protected. . . .” Id. Plaintiffs also appear to state general grievances with the government. Id. at 2.

III. STANDARD OF REVIEW

A. Review of the Report and Recommendation

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight and the responsibility for making a final determination remains with the court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court reviews de novo only those portions of a Magistrate Judge’s Report and Recommendation to which specific objections are filed and reviews those portions which are not objected to – including those portions to which only “general and conclusory” objections have been made – for clear error. Diamond v. Colonial Life & Acc. Ins. Co., 416 F. 3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983); Opriano v. Johnson, 687 F.2d 44, 77 (4th Cir. 1982). The court may accept, reject, or

modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

IV. ANALYSIS

Plaintiff's objections do not direct the court to a specific error in the Magistrate Judge's Report and Recommendation. Nevertheless, the court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Plaintiff's complaint is summarily dismissed without prejudice, and without issuance and service of process.

Plaintiff is now subject to a pre-filing injunction pursuant to Graham v. Riddle, 554 F.2d 133, 134-135 & n.* (4th Cir. 1977). PLAINTIFF IS CAUTIONED THAT FUTURE FRIVOLOUS ACTIONS ARE SUBJECT TO SUMMARY DISMISSAL PURSUANT TO THE COURT'S RIDDLE ORDER, AND HIS CONTINUING TO FILE FRIVOLOUS COMPLAINTS COULD SUBJECT HIM TO SANCTIONS, SUCH AS THE DENIAL OF IN FORMA PAUPERIS STATUS.

V. CONCLUSION

The court ADOPTS the Magistrate Judge's Report and Recommendation and incorporates it herein by reference. ECF No. 57. This matter is summarily DISMISSED without prejudice, and without issuance and service of process.

IT IS SO ORDERED.

/s/Margaret B. Seymour
Margaret B. Seymour
Senior United States District Judge

Dated: October 18, 2018

Charleston, South Carolina