
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

VERNON D. FRAUGHTON, et al.,

Defendants.

**ORDER AFFIRMING & ADOPTING
REPORT & RECOMMENDATION**

Case No. 2:14cv213DAK

Judge Dale A. Kimball

Magistrate Judge Paul M. Warner

This case was assigned to United States District Court Judge Dale A. Kimball, who then referred it to United States Magistrate Judge Paul M. Warner under 28 U.S.C. § 636(b)(1)(B). Before Magistrate Judge Warner the following motions were filed: Defendant Vernon D. Fraughton's Motion to Dismiss, Fraughton's Second Motion to Dismiss, Fraughton's Motion for More Definite Statement, and the United States of America's Motion for Default Judgment as to the Office of First Presiding Overseer for the Popular Assembly of Shared Enlightenment Ministry, Vernon F. Fraughton, First Presiding Overseer ("Office of Overseer"). On February 6, 2015, Magistrate Judge Warner issued a Report and Recommendation, recommending that Fraughton's motions to dismiss be denied, that Fraughton's Motion for More Definite Statement be denied, and that the United States' motion for default judgment be granted. The Report and Recommendation notified the parties that any objection to the Report and Recommendation was required to be filed within fourteen days of receiving it. On February 10, 2015, Fraughton filed a pleading entitled "Defendant(s) Counterclaim against Plaintiff – Compulsory

Counterclaim.” On February 25, 2015, Fraughton also filed a pleading entitled “Defendant(s) Counterclaim Against Plaintiff – Caveat of Any Deposition.” Fraughton did not file any specific objections to Magistrate Judge Warner’s Report and Recommendation and the time for doing so has passed.

The court has reviewed the motions at issue *de novo*. There is no basis for Fraughton’s objection to this court’s referral of the matter to a magistrate judge or to the magistrate judge’s authority to act on the pending motions. Furthermore, this court has subject matter jurisdiction over the case, and the United States has stated a plausible claim against Fraughton for failure to meet his federal tax obligations. Fraughton’s motion for a more definite statement is untimely and without merit because the Complaint adequately pleads the cause of action against Fraughton. Finally, the United States demonstrated that it is entitled to default judgment against the Office of Overseer.

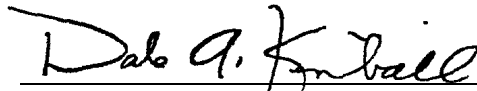
The court concludes that Magistrate Judge Warner’s Report and Recommendation correctly analyzed the motions at issue. To the extent that either of Fraughton’s recently filed “Counterclaims” could be construed to be objections to the Report and Recommendation, they are without merit. Accordingly, the court adopts and affirms the Magistrate’s Report and Recommendation as discussed above as the order of this court. The court, therefore, orders that Fraughton’s motions to dismiss and motion for more definite statement are denied and the United States’ motion for default judgment against the Office of the Overseer is granted.

To the extent that Fraughton’s recently filed “Counterclaims” are intended to be actual Counterclaims against the United States, the Counterclaims are untimely. The deadline to file amended pleadings in this case was October 31, 2014. Fraughton filed the recent Counterclaims with no assertion of good cause for the delay. Moreover, Fraughton was required to obtain leave

of court before filing the Counterclaim, which he did not seek. Accordingly, the court dismisses the Counterclaims as untimely.

DATED this 3rd day of March, 2015.

BY THE COURT:

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive style with a horizontal line underneath it.

DALE A. KIMBALL

United States District Judge