

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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DIANE ELIZABETH KAIN,

Plaintiff-Appellant,

v

INTERNAL REVENUE SERVICE,

Defendant-Appellee.

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UNPUBLISHED  
October 20, 2011

No. 299637  
Kent Circuit Court  
LC No. 10-003995-CZ

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KARON LEE KAIN,

Plaintiff-Appellant,

v

INTERNAL REVENUE SERVICE,

Defendant-Appellee.

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No. 299944  
Kent Circuit Court  
LC No. 10-003994-CZ

Before: OWENS, P.J., and JANSEN and O'CONNELL, JJ.

PER CURIAM.

In separate lower court cases, plaintiffs attempted to revoke their status as United States taxpayers. Plaintiffs now appeal by right the circuit courts' grants of summary disposition for defendant in each case. These cases have been consolidated on appeal. We affirm.

On April 19, 2010, each plaintiff filed an identical claim titled "Affidavit of Revocation and Rescission." Each claim declared that plaintiffs were no longer "taxpayers" and that they were no longer subject to federal taxation by the Internal Revenue Service. In Docket No. 299637, the circuit court sua sponte granted summary disposition for defendant under MCR 2.116(I)(1), ruling that plaintiff's claim was barred by sovereign immunity. In Docket No. 299944, the circuit court sua sponte granted summary disposition for defendant for the same reasons. On appeal, plaintiffs argue that the circuit court erred by granting summary disposition for defendant in each case.

We review de novo the circuit court's grant of summary disposition under MCR 2.116(I)(1). *Kenefick v Battle Creek*, 284 Mich App 653, 654; 774 NW2d 925 (2009). MCR 2.116(I)(1) mandates that the circuit court sua sponte grant summary disposition for a party when the pleadings show that the party is entitled to judgment as a matter of law.

At the outset, we note that plaintiffs' arguments on appeal have been wholly abandoned. Plaintiffs have not explained, rationalized, or supported with relevant authority any of their arguments. *Peterson Novelties, Inc v Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). Nevertheless, we consider the arguments briefly.

Plaintiffs sued the IRS, and their lawsuits therefore constituted suits against the United States. *Rochefort v Gibbs*, 696 F Supp 1151, 1152 (WD Mich, 1988). As a sovereign, the United States is immune from suit unless it specifically consents to be sued. *Lehman v Nakshian*, 453 US 156, 160; 101 S Ct 2698; 69 L Ed 2d 548 (1981); *Rochefort*, 696 F Supp at 1152. Any waiver of sovereign immunity must be unequivocal. *Lehman*, 453 US at 160-161. There can be no implied exceptions to sovereign immunity. *Id.* at 161. A taxpayer bears the burden of proving that a waiver of sovereign immunity exists. *Fostvedt v United States*, 978 F2d 1201, 1203 (CA 10, 1992). Plaintiffs have not identified any exceptions to sovereign immunity that would allow them to maintain their claims. Therefore, defendant was entitled to judgment as a matter of law. *Id.* The circuit courts did not err by sua sponte granting summary disposition for defendant in these cases.

Plaintiffs also argue that the circuit courts did not have authority or jurisdiction to sua sponte grant summary disposition for defendant. MCR 2.116(I)(1) gave the circuit courts the authority to sua sponte grant summary disposition, *Al-Maliki v LaGrant*, 286 Mich App 483, 485; 781 NW2d 853 (2009), and the Michigan Constitution and MCL 600.605 gave the circuit court jurisdiction to do so. The Michigan Constitution and MCL 600.605 grant the circuit court jurisdiction over all matters except where prohibited by statute or another constitutional provision. Const 1963, art 6, § 13; *Campbell v St John Hosp*, 434 Mich 608, 613; 455 NW2d 695 (1990). Plaintiffs have not identified any statute or constitutional provision that would have barred the circuit courts from exercising jurisdiction or entering an appropriate order in these cases.

Affirmed. As the prevailing party, defendant may tax costs pursuant to MCR 7.219.

/s/ Donald S. Owens  
/s/ Kathleen Jansen  
/s/ Peter D. O'Connell