

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ARVIN W. KUNTZ,

Plaintiff,

v.

INTERNAL REVENUE SERVICE,
Washington, D.C.
IRS HOLTESVILLE, N.Y.; CAROL
PINNAVAIA,

Defendants.

ORDER

06-C-0043-C

In this lawsuit, plaintiff Arvin Kuntz contends that the defendant Internal Revenue Service has illegally placed levies on his bank account and social security payments and has filed a lien on his property in an effort to collect taxes plaintiff contends he has already paid. Plaintiff does not qualify financially for appointed counsel. He is proceeding pro se. On August 21, 2006, plaintiff submitted proof that he had served his complaint on the United States, the Internal Revenue Service in Washington, D.C. and the Internal Revenue Service office in Holtesville, N.Y. on July 26, 2006. He has not submitted proof of service of his complaint on Carol Pinnavaia. If he fails to submit such proof no later than October 13,

2006, or show good cause for his failure to do so, I will dismiss defendant Pinnavaia from this case for plaintiff's failure to prosecute her.

Now, however, plaintiff has submitted a letter addressed to this court, to which he has attached a copy of a letter that appears to have been sent to him by the Department of the Treasury, Financial Management Service in Birmingham, Alabama. In the letter from the Department of the Treasury, plaintiff is advised that a portion of his social security check for September has been intercepted by the Treasury Department to pay his tax debt. In his cover letter, plaintiff contests the interception.

Because it does not appear that plaintiff has served a copy of his submission on the defendants, I cannot consider it. Pursuant to Fed. R. Civ. P. 5, plaintiff is required to send to the defendants a copy of every paper or document that he files with the court. As soon as defendants Internal Revenue Service in Washington, D.C. and the Internal Revenue Service office in Holtesville, N.Y. answer his complaint, plaintiff will learn the name of the lawyer who will be representing these defendants. At that point, he must serve the lawyer directly with his submissions, rather than the defendants. Until the court's record reflects that plaintiff has served his recent submission on the defendants or the defendants' lawyer, however, this court must disregard those documents.

In any event, plaintiff is advised that it is not proper for a party to submit evidentiary documents to the court outside the context of a trial or a motion requiring evidentiary

submissions, such as a motion for summary judgment or a motion for a preliminary injunction. Therefore, I am placing plaintiff's communication in the file but no consideration will be given to it.

ORDER

IT IS ORDERED that no later than October 13, 2006, plaintiff submit proof that he has served defendant Carol Pinnavaia with his complaint. If, by October 13, 2006, plaintiff fails to submit such proof or show good cause for his failure to do so, I will dismiss defendant Pinnavaia from the case.

Entered this 8th day of September, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge