UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MEMORANDUM

Case No.	CV 12-7596 DSF (PJWx)	Date	11/6/12
Title	Nathan V. Anderson v. United States of America		

Present: The Honorable	DALE S. FISCHER, United States District Judge
Debra Plato	Not Present
Deputy Clerk	Court Reporter
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
Not Present	Not Present

Proceedings: (In Chambers) Order DENYING Motion for Reconsideration[1] (Docket No. 10)

The government has moved for reconsideration of the Court's October 10, 2012 order quashing an IRS summons.

In the Central District of California, a motion for reconsideration may be made only on grounds of "(a) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or (b) the emergence of new material facts or a change of law occurring after the time of such decision, or (c) a manifest showing of a failure to consider material facts presented to the Court before such decision." L.R. 7-18. "No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion." Id.

The government does not even attempt to establish that one of these three grounds are satisfied here and it is clear that none of them are satisfied. Petitioner originally argued that the subpoena should be quashed because he did not receive notice under 26 U.S.C. § 7609. The government's sole argument on this point was that Petitioner was not entitled to notice under § 7609 because the summons was issued in aid of the collection

[1] The Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. The hearing set for November 19, 2012 is removed from the Court's calendar.

of assessed taxes. See Dkt. No. 8 at 3-4; 26 U.S.C. § 7609(c)(2)(D)(I).

However, there was no evidence provided that the summons was issued in aid of collection of assessed taxes and, therefore, the petition was granted. The government now raises three entirely inappropriate arguments. First, the government would like the Court to overlook the fact that there was no reason to conclude that the summons was issued in aid of the collection of assessed taxes. Obviously, the Court is not going to do this and it strongly doubts that the government would appreciate it if the Court began doing such things in situations adverse to it. The government makes a long argument about why it could be assumed that the taxes were assessed, (see Mot. at 6-8), but even if this argument were valid – the Court needs not resolve the issue[2] – it was not made in the original opposition. And, even now, there is no direct evidence in the record that taxes against the Petitioner were actually assessed and that the summons was in aid of collection of those assessed taxes. Second, the government attempts to reargue its opposition, raising several other points that were not raised originally. This fails because a motion for reconsideration is not a "do-over." Finally, the government alludes to a waste of time in returning the documents to the bank and serving the summons. This argument carries no weight, especially in light of the government's apparent willingness to foist off the costs of its failure to argue the original motion in a competent way to the Petitioner and the Court through this completely meritless motion for reconsideration.

The motion is DENIED.

IT IS SO ORDERED.

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[2] The government's argument appears to be circular. It argues that only assessed taxes can be collected through a summons and, therefore, because a summons was issued in support of collection the taxes must have been previously assessed. But this reasoning relies on the premise that the summons is valid, which the Court has no apparent reason to assume especially in the context of a petition to quash.