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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BILL WALKER,

Plaintiff,

vs.

MEMBERS OF CONGRESS OF THE
UNITED STATES, et al..
Defendants

CASE NO. C04-1977RSM

MOTION M:

MOTION FOR STAY OF RULING

NOTE ON MOTION CALENDAR: NOVEM-
BER 5, 2004

Plaintiff hereby respectfully moves for a stay of ruling by the court in the matter of Walker v. Members of Congress of the United States et al., and also moves for permission to file other motions, briefs and other legal papers as actions by defendants dictate.

Plaintiff submitted his complaint in this suit on September 20, 2004. Defendants were sent Waivers of Summons on October 1, 2004 under Federal Rules of Civil Procedure(hereafter FRCP) 4(d). Under FRCP, Rule 12(B), defendants have until November 30, 2004 to serve an answer upon Plaintiff. Further, FRCP 12(b) prescribes several responses and motions the defendants may elect to make. Both rules stipulate a duty on defendants to respond to Plaintiff's suit. Plaintiff in turn is allowed a response brief to these motions and defendants a response to that response before a ruling from the court.

1 On October 8, 2004, the court issued a Show Cause Order regarding jurisdiction of the
2 court in this suit setting October 22, 2004 for response by the Plaintiff. On October 21, 2004,
3 Plaintiff presented a brief in support of his complaint, an evidence appendix and a response to
4 the show cause order. On October 22, 2004, the court, without comment, issued a date of No-
5 vember 5, 2004 for the Plaintiff to submit all motions related to the complaint to be filed. This
6 would indicate to Plaintiff he has satisfied in all points the concerns of jurisdiction expressed in
7 its Order To Show Cause and the matter is proceeding forward. Under the terms of FRCP 12(b)
8 defendants aren't required to respond to Plaintiff's complaint until November 30, 2004.

9 Plaintiff has met the motions deadline set by the court for motions in regards to his com-
10 plaint. However, given the rules cited by Plaintiff above, it is probable Plaintiff may be required
11 to file other motions and related briefs to responses and other actions by the defendants. It is pos-
12 sible, given the circumstances of this suit, defendants may not even response to Plaintiff's Waiv-
13 ers of Summons. If so, Plaintiff will be required under court rules to issue service upon defen-
14 dants this time with formal service or seek other action of relief from the court. Further Local
15 Rule CR 7 stipulates that Plaintiff must file any motions upon the opposing party "on or before
16 the filing date."

17 Defendants have yet to respond to Plaintiff's Waiver of Summons as of the date of the
18 filing this motion¹. It is highly probable other legal papers will have to be filed by both sides.
19 Plaintiff cannot file his motions upon the opposing parties as required by court rule as he has no
20 idea yet upon whom he is to serve such papers having not been notified of the defendants' legal
21 counsel and by what method, i.e., by paper or electronic filing Plaintiff must file such motions
22 with these counsels.

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¹ The single exception is defendant Everson. A certified mail receipt showing proof of service is on record.
Motion M, Motion for Stay
Case No: C04-1977RSM

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1 Further as Plaintiff invoked 28 U.S.C. 1346(a)(b) in his complaint, other related statutes
2 come into play which preclude an early ruling by the court. Plaintiff cites 28 U.S.C. 2679(b)(1)
3 which states:

4 “The remedy against the United States provided by sections 1346(b) and
5 2672 of this title for injury or loss of property, or personal injury or death arising
6 or resulting from the negligent or wrongful act or omission of any employee of
7 the Government while acting with the scope of his office or employment is exclu-
8 sive of any civil action or proceeding...”

9 However, 28 U.S.C. 2679(b)(2) makes it clear that: “Paragraph (1) does not
10 extend or apply to a civil action against an employee of the Government—(A)
11 which is brought for a violation of the Constitution of the United States, or (B)
12 which is brought for a violation of a statute of the United States under which such
13 action against an individual is otherwise authorized.”

14 As criminal violations of various statutes have been alleged by Plaintiff as well as viola-
15 tions of the Constitution, the exclusiveness and immunity of defendants is established. Further,
16 28 U.S.C. 2679(d)(1) states:

17 “Upon certification by the Attorney General that the defendant employee was
18 acting within the scope of his office or employment at the time of the incident out
19 of which the claim arose, any civil action or proceeding commenced upon such
20 claim in a United States district court shall be deemed an action against the United
21 States...”

22 Thus, the statute demands that before any ruling can be commenced, the Attorney Gen-
23 eral must certify that the defendants were acting “within the scope of [their] office” which in this
24 case means the Attorney General must certify the refusal of defendants to obey a provision of the
25 Constitution to allow them to extort tax money, to advocate the overthrow of our constitutional
form of government by unconstitutional means together with all other criminal and civil charges
brought in this suit fall “within the scope of [defendants’] office.” Under 28 U.S.C. 2675(c) it is
clear that such disposition by the Attorney General “shall not be competent evidence of *liability*
or amount of damages. (emphasis added). The term “liability” in this instance can mean no more
than referring to the liability of debt in the statute. Any certification, as it is a public record be-
comes a public advocacy. If the Attorney General favors the position of the defendants, that the
Constitution can be vetoed by Congress as such advocacy becomes an advocacy to overthrow

1 the constitutional form of government by unconstitutional means, a violation of 5 U.S.C. 7311.
2 Significantly the statute does not address or immune defendants from *criminal* liability such as
3 exists in 5 U.S.C. 7311 through its associated statute 18 U.S.C. 1918. 28 U.S.C. 2679 only ad-
4 dresses civil claims against the United States.

5 In sum, where a statute holds defendants are liable for constitutional violation or violation
6 of statute of which they are liable, such as a criminal statute as is found in 5 U.S.C. 7311, the
7 certification can be introduced as evidence. The situation is unique. If the Attorney General certi-
8 fies the veto of a constitutional clause by defendants, advocacy in a public court of the right to
9 ignore constitutional clauses and all other charges made by Plaintiff are “within the scope of [de-
10 fendants’] office, then he will have publicly advocated defendants’ right to overthrow the consti-
11 tutional form of government by unconstitutional means, a direct violation of 5 U.S.C. 7311 and
12 its associated criminal penalty. Such advocacy by certification is admissible evidence as it ul-
13 timately involves a criminal statute which defendants are subject to. If on the other hand, the At-
14 torney General *refuses* to certify such actions of defendants are within the scope of the [defen-
15 dants] office, then he will have *conceded* such actions are a violations of 5 U.S.C. 7311 and other
16 charges as brought by Plaintiff in his complaint. As such certification is required by statute,
17 Plaintiff asserts the court cannot rule until the Attorney General asserts that such actions as de-
18 scribed by the Plaintiff are within the scope of the defendants’ office as required by statute.

19 The issue before the court in this regard is that the defendants have refused to obey the
20 Constitution in order to continue collection of income tax blocking and preventing a legal
21 method of amendment to remove the constitutional authority for such tax. The certification there-
22 fore must deal with the asserted right of the defendants, within the scope of their office, to have
23 the right to veto the Constitution an action of which is neither supported by constitutional clause
24 nor statute and, in fact, is punished by statute. The result that the certification will only serve to
25 prove the defendants more guilty should come as no surprise to the court. Throughout all this it is

1 the Plaintiff who is maintaining the Constitution and laws of the United States must be obeyed; it
2 is the defendants who maintain these laws do not have to be. Laws in our society were written to
3 be obeyed so it is not surprising they favor Plaintiff's position.

4 Plaintiff therefore respectfully moves the court stay any rulings in this suit until defen-
5 dants have responded to Plaintiff's Waiver of Summons (such time not to exceed November 30,
6 2004), that Plaintiff be permitted time to serve such motions as have been requested by the court
7 as he submits upon the defendants' counsel as circumstances dictate in compliance with court
8 rules and that he be allowed to file such additional motions, briefs and other related filings with
9 the court as permitted by FCRP and appropriate local rules as the actions of the defendants may
10 dictate before any rulings are made by the court.

11 Proposed order attached.

12 Dated this 4th day of November, 2004

13
14 S/Bill Walker, pro se
15 PO Box 698
16 Auburn, WA 98071-0698

1 PROPOSED ORDER OF STAY

2 This court shall stay any rulings in this suit until defendants have responded to Plaintiff's
3 Waiver of Summons. Such response time shall not exceed November 30, 2004. Further this court
4 shall permit the Attorney General of the United States sufficient time, not to exceed 60 days
5 from the date of receipt of Plaintiff's complaint by the Attorney General, to certify whether or
6 not defendants' actions as described in Plaintiff's suit, as required under 28 U.S.C. 2679(d)(1)
7 are "within the scope of his office or employment at the time of the incident out of which the
8 claim arose".

9 Plaintiff shall be permitted time, not to exceed 30 days from the date of notification of
10 counsel by defendants upon Plaintiff, to serve such motions upon the defendants' legal coun-
11 sel(s) as have been ordered by this court in compliance with court rules. Plaintiff shall be al-
12 lowed to file such additional motions, briefs and other related filings with the court as permitted
13 by FCRP and appropriate local rules as the actions of the defendants in this suit in regards to
14 their filing legal response, motions, briefs and any other action permitted by court rules may dic-
15 tate before any rulings regarding this suit are made by this court. It is so ordered.

16 Presented by:

17 Bill Walker, pro se
18 PO Box 698
19 Auburn, WA 98071-0698

Dated this day of ,2004

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21 UNITED STATES DISTRICT JUDGE
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