

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00512-GPG

JEFFREY T. MAEHR,

Plaintiff,

v.

JOHN KOSKINEN, Commissioner of Internal Revenue,  
JOHN VENCATO, Revenue Agent,  
GINGER WRAY, Revenue Agent,  
JEREMY WOODS, Disclosure Specialist,  
WILLIAM SOTHEN, Revenue Agent,  
GARY MURPHY, Revenue Agent,  
THERESA GATES, Program Manager,  
SHARISSE TOMPKINS, Disclosure Manager,  
CAROLYN COLVIN, SSA Acting Administrator,  
WELLS FARGO BANK, NA, and  
JOHN AND JANE DOES 1-100,

Defendants.

---

ORDER OF DISMISSAL

---

Plaintiff, Jeffrey T. Maehr, initiated this action by filing *pro se* a Motion for Emergency Injunction (ECF No. 1). On March 25, 2016, Mr. Maehr filed a Complaint (ECF No. 6). On March 30, 2016, Magistrate Judge Gordon P. Gallagher ordered Mr. Maehr to file an amended complaint that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure and clarifies the claims he is asserting. On April 8, 2016, Mr. Maehr filed an amended complaint (ECF No. 10). On April 25, 2016, he filed an Amended Legal Brief in Support of Motion to Show Cause (ECF No. 11).

The Court must construe the amended complaint and other papers filed by Mr. Maehr liberally because he is not represented by an attorney. *See Haines v. Kerner*, 404

U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991). If the amended complaint reasonably can be read “to state a valid claim on which the plaintiff could prevail, [the Court] should do so despite the plaintiff’s failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with pleading requirements.” *Hall*, 935 F.2d at 1110. However, the Court should not be an advocate for a *pro se* litigant. *See id.*

Mr. Maehr has been granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Therefore, the Court must dismiss the action if the claims in the amended complaint are frivolous. *See* 28 U.S.C. § 1915(e)(2)(B)(i). A legally frivolous claim is one in which the plaintiff asserts the violation of a legal interest that clearly does not exist or asserts facts that do not support an arguable claim. *See Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). The Court will dismiss the action as legally frivolous.

Mr. Maehr failed to pay his federal income taxes for several years and still owes the Internal Revenue Service (“IRS”) the amount of his unpaid liabilities for those years. *See Maehr v. C.I.R.*, 480 F. App’x 921 (10<sup>th</sup> Cir. 2012). Although Mr. Maehr seeks to couch his claims in this action as challenging the manner in which the unpaid taxes are being collected, it is apparent that his due process claims challenge the validity of the determination that he is liable for the unpaid income taxes. He describes the background for this action as follows:

1. Defendants have willfully and wantonly violated Plaintiff’s 5<sup>th</sup> Amendment due process rights in the garnishment of his entire social security retirement, as well as twice attacking (or was assisted in same) all his Veterans Disability Compensation, which shocks the conscience, for an alleged but unsubstantiated tax debt which has been the focus of

Plaintiff's demands for validation and verification of for 13 years.

2. The right to tax must be under the Constitution and U.S. Supreme Court precedent, and under non-conflicting Statutory bounds. Plaintiff refutes the form, method, and type of tax liability claims he is being assessed for, and methods for taking his assets.

(ECF No. 10 at 2.) As relief Mr. Maehr seeks compensatory and punitive damages; an order barring the ongoing levy actions unless and until due process and lawful evidence of the alleged liability is provided; an order directing Defendants to cease and desist any and all other possible activities to deprive him of life, liberty, or property without due process; an order directing Defendants to restore to his accounts all of the money that has been taken; an order directing Defendants to remove the notice of federal tax liens filed against his name with the Colorado Secretary of State and in Archuleta County; an order directing the Social Security Administration and Wells Fargo Bank to comply with standing constitutional protections; and an order sanctioning Defendants and/or taking judicial notice of crimes taking place and/or convening a federal grand jury to investigate Defendants. Mr. Maehr is suing the individual defendants in their individual capacities and he is suing Wells Fargo Bank, NA, in its corporate capacity.

Mr. Maehr fails to allege specific facts that support an arguable claim for relief challenging the manner in which his unpaid taxes are being collected and, to the extent he is challenging the validity of his tax liability, his tax protester arguments repeatedly have been rejected by the United States Court of Appeals for the Tenth Circuit. See *Maehr v. C.I.R.*, 480 F. App'x 921, 923 (10<sup>th</sup> Cir. 2012) (collecting cases). In fact, Mr. Maehr has been advised on multiple occasions that his tax protester arguments are

frivolous. See *id.*; see also *Maehr v. C.I.R.*, -- F. App'x --, 2016 WL 475402 (10<sup>th</sup> Cir. Feb. 8, 2016) (“Petitioner has continuously utilized the judicial system . . . to try to avoid paying his underlying tax liabilities even though the courts have repeatedly concluded that his claims are without merit.”).

For these reasons, the Court finds concludes that Mr. Maehr’s claims in the amended complaint are legally frivolous and must be dismissed. Furthermore, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiff files a notice of appeal he also must pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the complaint, the amended complaint, and the action are dismissed as legally frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit.

DATED at Denver, Colorado, this 5<sup>th</sup> day of May, 2016.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court