

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

GEOFFREY WEGLARZ,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 11416-12SL.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	
	)	

**ORDER**

A petition was timely filed in response to respondent’s determination dated February 27, 2012, sustaining a proposed levy action with respect to petitioner’s outstanding Federal income tax liabilities for tax years 2006, 2007, and 2008. On November 28, 2012, respondent filed a Motion for Summary Judgment with a supporting declaration. On December 5, 2012, the Court ordered petitioner to file an objection, if any, to respondent’s motion for summary judgment on or before January 4, 2013.

On January 10, 2013, petitioner filed a Motion for Continuance. On January 31, 2013, respondent filed a Notice of No Objection to petitioner’s motion, and the Court granted petitioner’s motion for continuance on the same date. Petitioner did not file a separate objection to respondent’s motion for summary judgment, but it appears to the Court that petitioner’s motion for continuance contains his objections to respondent’s motion for summary judgment. The Court has not yet ruled on respondent’s motion for summary judgment.

On July 30, 2013, petitioner filed a Motion to Dismiss, in which he stated he “is unable to pay the taxes.” Despite his apparent objections to respondent’s motion for summary judgment, petitioner now requests that the Court dismiss his case.

Granting petitioner's motion to dismiss would have the effect of treating petitioner's case as if it had never been filed. See Wagner v. Commissioner, 118 T.C. 330 (2002). Additionally, the statutory period under section 6330(d)(1) has expired in which petitioner may file (or refile) a Tax Court petition based on the Notice of Determination dated February 27, 2012. Consequently, should we grant petitioner's motion, respondent will be able to take all appropriate collection action as provided by law.

It is not clear to the Court that petitioner is aware of the consequences of filing a motion to dismiss, or that petitioner even intended the document he filed on July 30, 2013, to dismiss the case and allow respondent to take all appropriate collection action as provided by law. If petitioner indicates to the Court that he intended to proceed to trial rather than dismiss the case, the Court will rule on respondent's motion for summary judgment. If the Court denies respondent's motion for summary judgment, this case will be set for trial at a future trial session of the Court in Hartford, Connecticut.

Based on the foregoing, it is hereby

ORDERED that petitioner shall, on or before August 26, 2013, file a supplement to his Motion to Dismiss, and advise the Court whether he intended the document filed on July 30, 2013, to dismiss the case as if it had never been filed. It is further

ORDERED that if petitioner does not respond to this order or advises that he continues to seek that the Court rule on the motion to dismiss, respondent shall, on or before September 9, 2013, advise the Court whether respondent has any objection to petitioner's Motion to Dismiss.

**(Signed) Peter J. Panuthos**  
**Special Trial Judge**

Dated: Washington, D.C.  
August 8, 2013