

UNITED STATES TAX COURT
WASHINGTON, DC 20217

TURNER ANSLEY,)
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Petitioner,)
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v.) Docket No. 388-18 L.
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COMMISSIONER OF INTERNAL REVENUE,)
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Respondent)
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ORDER

This case is currently before the Court on respondent’s motion for summary judgment, filed November 29, 2018. On February 26, 2019, the Court held a conference call with the parties to discuss a number of case developments.

The Court first reviewed with the parties its February 21, 2019 order, which (1) closed a duplicative case (Docket No. 25057-18) that had been incorrectly docketed and (2) directed that Mr. Ansley’s response to respondent’s motion for summary judgment (which originally had been treated as an informal petition in the duplicative case) be filed in this case (Docket No. 388-18L). Both parties expressed their understanding that further case documents are to be filed in Docket No. 388-18L.

In a related vein, the Court also discussed with the parties the treatment of a document that Mr. Ansley had submitted as an amended petition in the duplicative case (again, Docket No. 25057-18). Mr. Ansley explained to the Court that this document was intended to supplement his response to respondent’s motion for summary judgment in this case (Docket No. 388-18L), and respondent stated that he had no objection to treating the document as such a supplemental response. Accordingly, on March 1, 2019, we issued an order directing that the document be

filed in this case as Mr. Ansley's first supplement to his response to respondent's motion for summary judgment.

Finally, and most significantly, the Court discussed with the parties Mr. Ansley's assertion that the IRS had levied upon his social security payments during the pendency of this collection due process case, in violation of section 6330(e)(1) of the Internal Revenue Code. More specifically, in a filing of February 8, 2019, Mr. Ansley provided this Court with a copy of a letter from respondent's counsel admitting that the IRS had levied on Mr. Ansley's social security payments intermittently from February through November 2018--to the tune of \$2,184.30. The letter further conceded that the levy related to Mr. Ansley's tax liability for 2012, one of the years at issue in this case. The letter concluded by representing that the IRS had sent Mr. Ansley a refund check for the full amount of the levy on December 12, 2018.

Included as an attachment to respondent's counsel's letter was a 2012 account transcript that, among other things, indicated that the notice of determination was "issued" on September 26, 2017. This date differed from the date of the notice of determination contained in the administrative record submitted by respondent--July 18, 2017.

During the telephone conference, respondent's counsel confirmed that she had sent the letter that Mr. Ansley provided to the Court and conceded that the IRS had violated section 6330(e)(1) by levying during the pendency of this CDP case. She also shed some light on how this apparently happened. As explained in our order of January 9, 2018, Mr. Ansley originally had petitioned this Court to review the IRS's efforts to collect his 2012 through 2014 tax liabilities on June 5, 2017, which we docketed as Docket No. 12702-17L. We later dismissed that case as premature, as Mr. Ansley had filed his petition before the IRS had issued its notice of determination. We concluded, however, that Mr. Ansley had filed a timely informal petition with this Court on July 31, 2017, which we docketed as the instant case (Docket No. 388-18L). It appears that these twists and turns led the IRS to remove its internal "freeze" on collection relating to the years at issue, which had been linked to the initial, premature petition (Docket No. 12702-17L).

On the call, respondent's counsel assured the Court that the levy on the social security payments was an isolated error. She further represented that the internal freeze on collection had been restored, and that no further inadvertent levies would occur before disposition of the case. For his part, Mr. Ansley acknowledged receipt of the refund check.

The Court has since received from Mr. Ansley another batch of documents, attached to a letter filed February 25, 2019. These documents include an IRS Form 668-W(c) (Notice of Levy on Wages, Salary, and Other Income) dated May 18, 2018 and addressed to Mr. Ansley's employer. On its face, the Form 668-W(c) reflects that it relates, *inter alia*, to Mr. Ansley's liabilities for his 2012 through 2014 tax years, which are the years at issue in this case. The document provides that, "[t]his is your copy of a Notice of Levy we have sent to collect the unpaid amount." It further states, "[t]his levy requires the person who received it to turn over to us: your wages and salary that have been earned but not paid, as well as wages and salary earned in the future until the levy is released."

The Court takes seriously the possibility that the IRS--whether wittingly or not--is levying in violation of section 6330(e)(1). Our concern here is significantly heightened in light of (1) respondent's acknowledgment that the IRS improperly levied on Mr. Ansley's social security payments, and (2) respondent's representation that the improper levy on the social security payments was an isolated occurrence. It appears that may not be the case.

Consistent with the Court's discussion with the parties during the February 26, 2019, conference call, and the documents accompanying Mr. Ansley's letter filed February 25, 2019, it is

ORDERED that respondent is enjoined, during the pendency of this case, from pursuing any levy actions relating to Mr. Ansley's 2012 through 2014 tax years. It is further

ORDERED that, as expeditiously as possible, respondent shall file with the Court Mr. Ansley's complete account transcripts for his 2012, 2013, and 2014 taxable years. It is further

ORDERED that respondent shall file a status report within 14 days of the date of this order addressing (1) the actual date of the issuance of the notice of determination for Mr. Ansley's 2012 tax year, (2) whether any levies relating to Mr. Ansley's 2012 through 2014 tax years remain in place, (3) whether respondent concedes that the IRS sent a levy notice (relating to the years at issue) to Mr. Ansley's employer, (4) if such a notice was sent to Mr. Ansley's employer, whether any amounts were levied from Mr. Ansley's wages, (5) if any amounts were so levied, whether the IRS has refunded any amounts to Mr. Ansley, and (6) if respondent concedes that a levy notice was sent to Mr. Ansley's employer,

respondent's counsel who participated in the telephonic conference of February 26, 2019 shall state in the status report when they first became aware that the IRS had sent such a notice to Mr. Ansley's employer.

**(Signed) Patrick J. Urda
Judge**

Dated: Washington, D.C.
March 6, 2019