

UNITED STATES TAX COURT
WASHINGTON, DC 20217

FREDERICK EDWARD WELLMAN,)	
)	
Petitioner,)	
)	
v.)	Docket No. 18854-19W.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

This whistleblower case brought pursuant to Internal Revenue Code section 7623 is before the Court on respondent’s Motion To Dismiss for Failure To State a Claim Upon Which Relief Can Be Granted, filed December 10, 2019 (respondent’s motion). This case was commenced in response to a notice concerning whistleblower action, dated September 20, 2019, in which respondent stated: “The Whistleblower Office has made a final decision to reject your claim for an award. Your claim has been rejected because the IRS decided not to pursue the information you provided.”

By Order dated December 12, 2019, petitioner’s objection to respondent’s motion was made due on or before January 9, 2020. On January 7, 2020, petitioner filed an amended petition, but has not filed an objection to respondent’s motion.

In his motion, respondent asserts: “Petitioner appears to challenge only respondent’s decision not to pursue petitioner’s claim. Because this Court lacks the authority to direct respondent to initiate an administrative or judicial action, there is no relief available to petitioner.”

However, in Lacey v. Commissioner, 153 T.C. ___ (Nov. 25, 2019), we held that the Court can review, for abuse of discretion, the Whistleblower Office’s (WBO) decision to reject a whistleblower claim for failure to meet certain threshold criteria. A fair reading of the allegations contained in the amended petition shows that petitioner is challenging the WBO’s rejection of his

SERVED Mar 31 2020

whistleblower claim. Giving petitioner not only the benefit of every doubt as we are required to do at this stage of the proceedings, see Hicks v. Small, 69 F.3d 967, 969 (9th Cir. 1995), but also wide pleading latitude as a self-represented litigant, see Estelle v. Gamble, 429 U.S. 97, 106 (1976), the allegations made by petitioner in this case are sufficient to avoid dismissal upon respondent's motion.

Accordingly, upon due consideration and for cause, it is

ORDERED that respondent's Motion To Dismiss for Failure To State a Claim Upon Which Relief Can Be Granted, filed December 10, 2019, is denied.

(Signed) Maurice B. Foley
Chief Judge

Dated: Washington, D.C.
March 31, 2020