

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

RENA ELIZABETH HOUSTON A.K.A.)	
TNEKA RENA GALLOWAY,)	
)	
Petitioner,)	
)	
v.)	Docket No. 9869-19W.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER OF DISMISSAL AND DECISION

This case was brought by petitioner under section 7623(b)(4)¹ for review of a final decision letter issued by the IRS Whistleblower Office (WBO) rejecting her claim for an award.² The final decision letter states in relevant part:

The Whistleblower Office has considered your Form 211, Application for Award for Original Information, dated 12/28/2018. Internal Revenue Code section 7623 provides that an award may be paid only if the information provided results in the collection of tax, penalties, interest, additions to

¹ Section references are to the Internal Revenue Code of 1986, as amended, and Rule references are to the Tax Court Rules of Practice and Procedure.

² Petitioner also checked boxes on the petition form indicating that she was seeking review of (1) a notice of determination concerning collection action and (2) a final determination for disallowance of an interest abatement claim. Respondent later filed, and the Court granted, a motion to dismiss for lack of jurisdiction and to strike those claims on the ground that no notice of determination had been issued to petitioner that would permit her to invoke the Court’s jurisdiction under secs. 6320/6330 or 6404.

tax, or additional amounts. The Whistleblower Office has made a final decision to reject your claim for an award.

The claim has been rejected because the IRS decided not to pursue the information you provided.

Petitioner alleged in the petition that a small municipality has been corrupted and “has not paid the judgment issued by [a State court] * * * nor has [the municipality] made any attempts to pay nor provide a judgment bond to pay for the physical damages they have cause [sic] to me”.

In response to the petition, respondent filed a motion to dismiss for failure to state a claim upon which relief can be granted. The Court issued an Order directing petitioner to file an objection to respondent’s motion or an amended petition. Petitioner subsequently filed an “Amended Petition/Objection” repeating the allegations that she made in the petition. Petitioner also filed two exhibits: A “Questionnaire for Public Servant” and a “Violation Warning, Denial of Rights Under Color of Law”.

Rule 341(b) requires that a whistleblower petition include, among other things, statements explaining why the petitioner disagrees with the WBO determination, statements setting forth the facts upon which the petitioner relies to support the petitioner’s position, and a prayer setting forth the relief sought by the petitioner. See Rule 341(b)(3)-(5). In Tax Court practice, the purpose of the parties’ pleadings, including the petition and the answer, “is to give the parties and the Court fair notice of the matters in controversy and the basis for their respective positions.” Rule 31(a). Pleadings are expected to be “simple, concise, and direct”, and “shall be so construed as to do substantial justice.” Rule 31(b), (d).

The Court may dismiss a case for failure to state a claim upon which relief can be granted where, assuming that all allegations contained in a pleading are true, a claim fails as a matter of law. Cohen v. Commissioner, 139 T.C. 299, 302 (2012) (citing Phillips v. County of Allegheny, 515 F.3d 224, 233 (3rd Cir. 2008)), aff’d, 550 F. App’x 10 (D.C. Cir. 2014); see Rules 40, 123(b). If the allegations in a petition do not give rise to any justiciable issue, the petition will be dismissed for failure to state a claim. See Scherping v. Commissioner, 747 F.2d 478 (8th Cir. 1984); Carter v. Commissioner, 784 F.2d 1006, 1009 (9th Cir. 1986).

Pursuant to section 7623(a) an award may be paid to a whistleblower who provides the IRS with information that assists in “detecting underpayments of tax”

or “detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same.” In this regard, a petition filed with the Court in a whistleblower action generally can be expected to include allegations that the petitioner provided information to the IRS that assisted (or was intended to assist) in detecting underpayments of tax or detecting and punishing persons guilty of violating internal revenue laws. See, e.g., Cohen v. Commissioner, 139 T.C. at 302-303. If the WBO issues a final decision letter rejecting the whistleblower’s claim, as is the case here, the petition should include allegations that the WBO abused its discretion in rejecting the claim and a statement of facts in support of that position. See, e.g., Lacey v. Commissioner, 153 T.C. __, __ (slip op. at 17, 37-38) (Nov. 25, 2019).

The petition in this case does not include allegations or statements necessary to satisfy petitioner’s burden of presenting a valid claim for judicial review under section 7623. Petitioner does not allege that she provided information to the IRS regarding an underpayment of Federal tax or violations of the internal revenue laws. Nor does petitioner allege that the WBO abused its discretion in rejecting her whistleblower claim or that the IRS erred in declining to pursue the information that she provided. Although we give petitioner the benefit of the doubt at this stage of the proceedings, and read her pleadings liberally, the allegations in the petition and amended petition/objection relate only to a complaint concerning enforcement of a State court judgment. The relief that petitioner seeks simply is not cognizable under section 7623. Because petitioner fails to state a claim for which relief can be granted, we shall grant respondent’s motion to dismiss.

Upon due consideration, it is

ORDERED that respondent’s motion to dismiss for failure to state a claim upon which relief can be granted is granted and this case is dismissed. It is further

ORDERED AND DECIDED that the final decision letter dated April 19, 2019, upon which the petition is based, is sustained.

(Signed) Daniel A. Guy, Jr.
Special Trial Judge

ENTERED: **MAY 21 2020**