

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

JOHN DOE,)
) Case No. 1:20-CV-2531
Plaintiff,)
) Honorable Sharon Johnson Coleman
v.)
)
DONALD J. TRUMP, ET AL.,)
)
Defendants.)
_____)

MOTION TO DISMISS CLAIMS AGAINST THE UNITED STATES

Defendant United States of America¹ hereby moves to dismiss Plaintiff John Doe’s lawsuit

First, the Court may not consider Doe’s claims, since there is no waiver of sovereign immunity conferring jurisdiction over this action and Doe does not allege an actual or imminent injury-in-fact that is ripe for adjudication. The CARES Act did not create a justiciable right to an advance refund of the tax credit in 26 U.S.C. § 6428 – the benefit it created was a tax credit for tax year 2020, not immediate access to government funds. Indeed, Doe’s eligibility for the tax credit cannot be determined until the 2020 tax year ends. *Second*, Doe fails to state a claim that

¹ The United States was improperly named and sued as Donald J. Trump, in his individual and official capacity as President of the United States; Mitch McConnell, in his individual and official capacity as a Senator and Sponsor of S. 3548 CARES Act; Steven Mnuchin, in his individual and official capacity as the Secretary of the U.S. Department of Treasury; Charles Rettig, in his individual and official capacity as U.S. Commissioner of Internal Revenue; U.S. Department of the Treasury; the U.S. Internal Revenue Service; and the United States of America. All defendants other than the United States have filed a motion to dismiss the claims against them. *See* Dkt. 44. If that motion is denied, all defendants join in this motion to dismiss.

the CARES Act provision violates the right to marriage, creates an unlawful classification based on alienage, or impermissibly burdens his First Amendment rights. Section 6428(g) does not implicate, let alone violate, any of these rights. Further, Doe's allegations do not establish that the SSN requirement is without rational basis.

Respectfully submitted,

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/s/ Jordan A. Konig

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2020, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all registered parties.

/s/ Jordan A. Konig _____
JORDAN A. KONIG
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