

December 17, 2009

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker  
Clerk of Court

TENTH CIRCUIT

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CHRIS E. BANKSTON; DIANE R.  
BANKSTON,

Plaintiffs–Appellants,

v.

INTERNAL REVENUE SERVICE,

Defendant–Appellee.

No. 09-1258

(D.C. No. 08-CV-02233-WYD-MEH)

(D. Colo.)

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**ORDER AND JUDGMENT\***

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Before **LUCERO, McKAY, and MURPHY**, Circuit Judges.

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After examining the briefs and the appellate record, this panel has determined unanimously to grant the parties’ request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f).

Plaintiffs, Chris and Diane Bankston, filed suit against the Internal Revenue Service seeking monetary damages and injunctive relief based on the IRS’s issuance of notices of levy against Mrs. Bankston for a total amount of \$18,877.53 in unpaid federal taxes. Plaintiffs alleged that they are not subject to federal income taxes because they are each “a domiciled natural person and one

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

of the people.” (R. at 12.) The magistrate judge recommended denial of their motion for a temporary restraining order based upon, inter alia, lack of subject matter jurisdiction. The magistrate judge also recommended dismissal of their complaint for lack of subject matter jurisdiction, among other reasons. The district court adopted the magistrate judge’s recommendations and dismissed the case.

Nothing in Plaintiffs’ briefs or the authorities cited therein persuades us that the district court had subject matter jurisdiction over Plaintiffs’ claims against the IRS and the U.S. government. For substantially the reasons given by the magistrate judge and district court, we **AFFIRM** the district court’s denial of a temporary restraining order and dismissal of the complaint for lack of subject matter jurisdiction.

Entered for the Court

Monroe G. McKay  
Circuit Judge