UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

Bobie Kenneth Townsend v. Commissioner of Internal Revenue and Commissioner of the Social Security Administration

Townsend · No. 9:24-CV-00217 · Decided November 26, 2025

SUMMARY

The United States District Court for the Eastern District of Texas denied Bobie Kenneth Townsend’s motion to reconsider the court’s prior order adopting the magistrate judge’s Report and Recommendation. The court also denied as moot Townsend’s motion for leave to file a reply and held that his arguments did not establish grounds to disturb the prior ruling concerning his tax-levy claims and sovereign immunity.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas
WRITING FOR THE COURT	Marcia A. Crone
JURISDICTION	United States District Court for the Eastern District of Texas
DECIDED	November 26, 2025
DOCKET	9:24-CV-00217
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of the district court's prior order adopting the magistrate judge's Report and Recommendation, denying several requests for tax-levy relief, and granting in part and denying in part the Government's motion to dismiss. Plaintiff also moved for leave to file a reply.
STANDARD OF REVIEW	Interlocutory reconsideration is analyzed under Federal Rule of Civil Procedure 54(b), which permits a district court to reconsider an interlocutory order as justice requires without the heightened standards applicable to final orders.
PRECEDENTIAL VALUE	Unpublished district court memorandum and order; precedential status not stated
PARTIES	Bobie Kenneth Townsend v. Commissioner of Internal Revenue, Commissioner of the Social Security Administration

TOPICS

motion for reconsideration | tax collection | tax liens | civil procedure

PRACTICE AREAS

Civil procedure | Federal tax | Sovereign immunity | Tax collection

QUESTIONS PRESENTED

1. Whether the district court should reconsider its prior interlocutory order under Federal Rule of Civil Procedure 54(b).
2. Whether Plaintiff's repeated objections and cited authorities established grounds to reconsider the dismissal of his claim under 26 U.S.C. § 6331(h).
3. Whether Plaintiff needed leave to file a reply under the Eastern District of Texas local rules.

HOLDINGS

1. A motion seeking reconsideration of an order that does not end the action is governed by Federal Rule of Civil Procedure 54(b), and the district court may reconsider the order for any sufficient reason as justice requires.
2. Reconsideration was unwarranted because Plaintiff merely reasserted arguments previously raised and the authorities he cited did not establish a waiver of sovereign immunity for a claim under 26 U.S.C. § 6331(h).
3. Plaintiff did not need leave to file the reply because it was timely and within the applicable page limit; the motion for leave was therefore denied as moot.

KEY QUOTATIONS

> *"This approach is "flexible" and allows the "district court to afford such relief from interlocutory judgments as justice requires" without the "heightened standards for reconsideration governing final orders.""* (I)

> *"In short, this court got it right the first time."* (II.B)

FACTUAL BACKGROUND

Townsend asserted claims against the Commissioner of Internal Revenue and the Commissioner of the Social Security Administration arising from federal tax levies and sought release of the levies and other relief. The district court previously rejected his claim under 26 U.S.C. § 6331(h) because he failed to identify a waiver of sovereign immunity, while allowing a claim under 26 U.S.C. § 6213(a) to remain. In seeking reconsideration, Townsend largely repeated arguments previously presented and relied on cases concerning statutory construction, other sovereign-immunity waivers, and agency authority.

PROCEDURAL HISTORY

The district court referred the proceeding to Magistrate Judge Christine L. Stetson for pretrial proceedings and recommendations on dispositive matters. On September 9, 2025, the district court adopted the magistrate judge's

Report and Recommendation, denied Plaintiff's motion for a temporary restraining order and two motions to release tax levies, and granted in part and denied in part the Government's motion to dismiss. Only Plaintiff's claim under 26 U.S.C. § 6213(a) against the Commissioner of Internal Revenue remained. The court denied reconsideration and denied the motion for leave to file a reply as moot.

DISPOSITION

other

CASES CITED

- Shepherd v. Int'l Paper Co., 372 F.3d 326, 328 n.1 (5th Cir. 2004)
- McClendon v. United States, 892 F.3d 775, 781 (5th Cir. 2018)
- Austin v. Kroger Tex., L.P., 864 F.3d 326, 336-37 (5th Cir. 2017)
- SciCo Tec GmbH v. Bos. Sci. Corp., 599 F. Supp. 2d 741, 743 (E.D. Tex. 2009)
- Am. Net & Twine Co. v. Worthington, 141 U.S. 468, 474 (1891)
- Benzinger v. United States, 192 U.S. 38, 54 (1904)
- Spreckels Sugar Refin. Co. v. McClain, 192 U.S. 397, 408 (1904)
- Gould v. Gould, 245 U.S. 151, 153 (1917)
- Chrysler Corp. v. Brown, 441 U.S. 281, 317-19 (1979)
- Comm'r v. Shapiro, 424 U.S. 614, 623-29 (1976)
- Loper Bright Enters. v. Raimondo, 603 U.S. 369, 412 (2024)
- Chevron v. Nat. Res. Def. Council, Inc., 467 U.S. 837 (1984)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS BOBIE KENNETH TOWNSEND, § § Plaintiff, § § versus § CIVIL ACTION NO. 9:24-CV-00217 § COMMISSIONER OF INTERNAL § REVENUE and COMMISSIONER OF § THE SOCIAL SECURITY § ADMINISTRATION, § § Defendants. § § MEMORANDUM AND ORDER Pursuant to 28 U.S.C. § 636 and the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges, the district court referred this proceeding to the Honorable Christine L. Stetson, United States Magistrate Judge, to conduct all pretrial proceedings, to enter findings of fact and recommend disposition on case-dispositive matters, and to determine non- dispositive matters.

See 28 U.S.C. § 636(b)(1); E.D. TEX. LOC. R. CV-72. On September 9, 2025, this court adopted (#104) Judge Stetson’s Report and Recommendation (#89) and denied pro se Plaintiff Bobie Kenneth Townsend’s motion for a temporary restraining order (#3) as well as his first (#10) and second (#17) motions to release his tax levies, and granted in part and denied in part the Government’s motion to dismiss (#27).

Only Plaintiff's claim under 26 U.S.C. § 6213(a) against the Commissioner of Internal Revenue remains (#104). On September 19, 2025, Plaintiff filed a Motion to Reconsider (#108) the order. The Government responded (#113) on September 23, and Plaintiff filed a motion for leave to file a reply (#116) and accompanying reply (#117) on September 30, 2025.

I. Applicable Law "[T]he Federal Rules of Civil Procedure do not provide for a motion for reconsideration." Shepherd v. Int'l Paper Co., 372 F.3d 326, 328 n.1 (5th Cir. 2004). Under this district's Local Rule CV-7(a)(4), however, litigants may ask the court to "reconsider" its prior orders. Motions for reconsideration of "any order or other decision that does not end the action" are analyzed under Federal Rule of Civil Procedure 54(b).

McClendon v. United States, 892 F.3d 775, 781 (5th Cir. 2018) (referencing Austin v. Kroger Tex., L.P., 864 F.3d 326, 336–37 (5th Cir. 2017)). This approach is "flexible" and allows the "district court to afford such relief from interlocutory judgments as justice requires" without the "heightened standards for reconsideration governing final orders." Austin, 864 F.3d at 337.

Further, "the trial court is free to reconsider and reverse [or affirm] its decision for any reason it deems sufficient." Id. at 336. II. Discussion A. Plaintiff's Motion for Leave to File a Reply (#116) This district permits reply briefs. E.D. Tex. Loc. R. CV-7(f). Plaintiff does not need leave to reply unless he seeks to file a reply past the deadline or a reply exceeding the page limit.

His reply here is five pages, and thus permissible. His motion for leave (#116) is therefore DENIED as moot. B. Plaintiff's Request for Reconsideration Plaintiff's motion "asks for reconsideration [of the] Magistrate Judge's R&R" on multiple points (#108 at 2, ¶3). Many of the arguments he makes regarding what he perceives to be errors in Judge Stetson's Report and Recommendation simply rehash the arguments he made in his first objections.

Since re-raising the same arguments is "no better than a complete failure to object," Plaintiff offers no grounds to disturb the court's previous adoption of Judge Stetson's Report and Recommendation. SciCo Tec GmbH v. Bos. Sci. Corp., 599 F.Supp.2d 741, 743 (E.D. Tex. 2009).

The court remains satisfied with its previous order. This leaves Plaintiff's request for the court to reconsider his "issue concerning 26 U.S.C. [§] 6331(h) in the most favorable light of the mandates of the United States Supreme Court" (#108 at 3). Both this court and Judge Stetson have treated Plaintiff's claims most favorably (#s104 at 6; 89 at 12). Plaintiff's task was to identify a waiver of sovereign immunity for each of his claims.

He failed to do for his § 6331(h) claim (#s104 at 3–5; 89 at 34–36). He now cites "mandates of the United States Supreme Court" which he says prove this court erred in denying that claim, but the four cases he references involve statutory construction of imposts and taxes. See Am. Net & Twine Co. v. Worthington, 141 U.S. 468, 474 (1891); Benzinger v. United States, 192 U.S. 38, 54 (1904); Spreckels Sugar Refin.

Co. v. McClain, 192 U.S. 397, 408 (1904); Gould v. Gould, 245 U.S. 151, 153 (1917). Plaintiff also points to three other cases (which he has continually cited throughout this litigation), but those cases do not involve waivers of sovereign immunity for § 6331(h). See Chrysler Corp. v. Brown, 441 U.S. 281, 317–319 (1979) (Waivers under Freedom of Information Act, Trade Secrets Act, and Administrative Procedure Act); Comm'r v. Shapiro et ux., 424 U.S. 614, 623–29 (1976) (Waiver under 26 U.S.C. § 6861); Loper Bright Enters. v. Raimondo, 603 U.S. 369, 412 (2024) (holding that courts must not defer to executive-branch agencies "in deciding whether an agency has acted within its statutory authority" under the APA and overruling Chevron v. Nat.

Res. Def. Council, Inc., 467 U.S. 837 (1984)). In short, this court got it right the first time. III. Order Pursuant to the above, Plaintiff's motion for reconsideration (#108) is DENIED, and his motion for leave to file a reply (#116) is DENIED as moot. SIGNED at Beaumont, Texas, this 26th day of November, 2025. MARCIA A. CRONE UNITED STATES DISTRICT JUDGE