

**In the U.S. District Court for the
Eastern District of Virginia
Richmond Division**

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5 Jeffrey T. Maehr)
6 Petitioner,)
7)
8 v.) Case No. 3:08-mc-00003-HEH
9)
10 United States of America)
11 Respondent)
12)

MOTION FOR RECONSIDERATION

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15 Petitioner comes before this court with a Motion to Reconsider all evidence presented,
16 and to GRANT Petitioner’s previous requests and Motions. Petitioner addresses Judge
17 Hudson’s conclusions based on the evidence in fact.

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19 1. Judge Hudson begins his Memorandum with... “Petitioner apparently did not file federal
20 income tax returns for the years 2003, 2004, 2005 or 2006.” The Judge is presuming that
21 Petitioner was liable to file said returns. Even if the IRS believes Petitioner is liable to file
22 said returns, they have not proven this, but Petitioner has clearly provided case law and
23 other evidence in fact that he is NOT liable. Burden of proof is now on the IRS to rebut this

24 position, with evidence and not hearsay. If the Judge also believes that “everyone” must
25 file a return, it nevertheless falls as his legal duty, under oath, to not rely on presumption,
26 hearsay and belief, but to consider the evidence presented and to order IRS to prove up,
27 or for Judge to present “findings of fact and conclusions of law” to justify discarding the
28 greater case law and substantial questions raised. This did not occur.

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30 2. Judge Hudson states on Page 2, top... “This court has the authority, under both 26
31 U.S.C. 7402(b) and 7604(a), to enforce administrative summonses issued by the IRS.”

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33 Petitioner presented lawful evidence raising several substantial questions challenging IRS’s
34 hearsay position upon which Judge Hudson is making conclusions. The administrative
35 Summons, by case law presented, MUST be a legally valid Summons, based on *Schulz*
36 *v. U.S.* as presented in previous documents. Summons was clearly NOT valid and was
37 facially void.

38
39 Petitioner does NOT contest the fact that a lawful Summons, which goes through required
40 legal Due Process, and receiving the Judge’s signature on the Summons itself prior to
41 serving said Summons WOULD be a legally valid document. Federal Rules of Civil
42 Procedure (FRCP) #4 mandate that any Summons by ANY party MUST follow the rules,
43 or be void, and there are NO laws which circumvent or separate the IRS from obeying
44 these laws. Judge Hudson seems to suggest otherwise. Petitioner cannot provide “proof”
45 of a negative... evidence of “no” laws authorizing IRS to circumvent FRCP #4. The IRS
46 must prove that they are NOT subject to FRCP #4. Other obvious case and Constitutional

47 laws which Petitioner presented refutes IRS's position. To place the burden on Petitioner
48 once the challenges are made and answer is given is incorrect procedure. The burden now
49 lies with the IRS to refute the proof, using actual laws which prove their position, and which
50 they did not do. Hearsay is useless propaganda.

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52 3. Judge Hudson then cites *Powell*, throughout, even stating... "Petitioner does not
53 specifically address any of the *Powell* elements." Petitioner doubts the *Powell* case
54 condones violation of FRCP #4 in its ruling. Petitioner provided evidence in fact directly
55 addressing the issue whether the government had information from which to determine any
56 alleged tax liability which was the question presented by the IRS. Petitioner's social
57 security statement was presented showing that such evidence is in the government's
58 possession. To now turn this to mean that the "IRS is not in possession of records of
59 Petitioner which "Capital One Bank" holds simply opens this "element" up to IRS fair game
60 to include the entire universe of businesses and records at the whim of IRS agents, which
61 is in contradiction to the 4th Amendment, especially without Due Process and Probable
62 Cause. Does the IRS now get dictatorial and fascist powers over Americans without proof
63 and evidence, and through bypassing the Rule of Law?

64
65 4. Page 3 of Memorandum Order, Judge Hudson discusses *Reisman v. Caplin* and the
66 right to "challenge the summons on any appropriate ground," or "improper purpose or that
67 it is privileged." Petitioner provided multiple grounds for this challenge, beginning with the
68 facially void Summons, as well as the multiple challenges to IRS presumptions and hearsay
69 claims without any proof at all. How much more "appropriate" can it become? How much

70 more question can Petitioner raise to bring light onto the issue? Is it lawful to present
71 hearsay testimony in an attempt to prove a point, and then ignore proof to the contrary, and
72 which proof Judge Hudson has ignored?

73
74 If Petitioner were to attempt this tactic in a case against another individual, and presented
75 similar hearsay claims regarding that individual and Petitioner's authority over him or his
76 records or possessions, the Judge would throw the case out immediately because there
77 was NO evidence in fact supporting the basis upon which I would be standing on to try to
78 get records or some other thing. How can the IRS accomplish this, and how can the Judge
79 support it?

80
81 5. Judge Hudson's position is ignoring case precedent addressing the very issues which
82 undermine IRS jurisdiction over Petitioner. Precedent cannot be ignored, *Powell* not
83 withstanding. *Powell* cannot stand on a faulty legal foundation. To attempt to use and
84 support *Powell*, and ignore all the elements which must be in place for *Powell* to have affect
85 is to circumvent case law and Due Process.

86
87 6. Petitioner believes Judge Hudson failed to consider the case laws presented, *in toto*,
88 and has ignored the bigger issues which squarely address IRS authority or position against
89 Petitioner. If the quoted IR code... 26 U.S.C. 1601... was challenged based upon case and
90 other law, and is yet used as the "authority" upon which the Judge is depending, is to abuse
91 the court's process. Petitioner isn't saying that this is an easy issue to deal with, but truth
92 and law are all that matter. All the evidence in fact presented lies uncontested and

93 unrebutted, and Petitioner has provided a vast amount of evidence to completely call into
94 question IRS's stand, but which is being ignored, and which makes the *Powell* position
95 moot.

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97 7. Judge Hudson concludes by stating... "While Petitioner may not agree with or "believe"
98 in the *Powell* prima facie test, it is the supreme law of the land and the standard by which
99 this Court is bound to judge the case before it."

100
101 Petitioner asks the Judge to take that very statement of Constitutional facts and apply them
102 to the supreme law of the land which Petitioner presented to prove that *Powell* cannot be
103 a "higher" law than the Constitution itself OR the abundance of precedent law presented
104 that subjugates the *Powell* "standard" under greater, more relevant case law and facts in
105 evidence. If the Judge were to use that same position stated above, and plug into it all the
106 evidence presented by Petitioner, there would be no room for the Judge to NOT see that
107 it is the supreme law of the land as well, and that the Judge was BOUND to use the
108 impartial Court process to judge the case based on THAT far greater evidence, above
109 *Powell* and above hearsay testimony, which is NOT directed at these foundational issues.

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111 8. Petitioner also brought up other substantial questions, with evidence, as presented
112 throughout, and to rehash it here would be redundant. How many other ways can Petitioner
113 state the facts and point to the justice being denied Petitioner? It is extremely frustrating
114 that Judge Hudson, a public servant, would give preference to the IRS and ignore
115 Petitioner's challenges. I would ask the Judge to consider how a Jury of Petitioner's peers,

116 or a forum of citizens, would view the evidence presented and how they would react to
117 someone simply discarding the evidence and case law clearly questioning the IRS's
118 position in law. If our Courts are now tools for oppression, and suppression of truth, this
119 country will not long endure.

120
121 Based on the apparent disregard for evidence in fact presented, directly addressing all of
122 the IRS evidence and hearsay testimony, Petitioner **NOTICES** the Judge that he believes
123 this is Fraud upon the Court. This is contempt for the Rule of Law and for the judicial
124 machinery of the Honorable Court where the impartial functions of the Court have been
125 directly interfered with. Judge Hudson has a non-discretionary duty to recuse himself and
126 turn this case over to another judge. See Exhibit G of original Petition to Quash for
127 specifics of which Petitioner **NOTICES** Judge Hudson. Petitioner also Notices Judge
128 Hudson that there will be an appeal of this case if Due Process is not forthcoming, and this
129 Fraud on the Court is not corrected.

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131 Submitted in the spirit of truth, justice and freedom for our great country, and dated
132 this_____ day of July, 2008.

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134 _____
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