

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

TERRY LEE HINDS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 25-cv-00047-AGF
)	
JOSEPH R. BIDEN, JR, et al.,)	
)	
Defendants.)	
_____)	

UNITED STATES’ MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(1) and 41(b), the United States (incorrectly named here through the listing of the officials in their “official capacity” in the caption)¹ requests that

¹ A suit against an official of the federal government in the officer’s official capacity is treated as a suit against the United States, and thus the proper defendant is the United States. *See Coleman v. Espy*, 986 F.2d 1184, 1189 (8th Cir. 1993); *Hawaii v. Gordon*, 373 U.S. 57, 58 (1963)). Thus, because Plaintiff named as defendants Joseph R. Biden, Daniel Werfel, Janet Yellen, and Merrick B. Garland expressly “in [their] official capacity,” this suit should be treated as one against the United States. While naming individuals as defendants may be appropriate in a suit properly brought under the Administrative Procedure Act (“APA”) or Religious Freedoms Restoration Act (“RFRA”), neither the APA or RFRA should apply in this case as discussed below in Part II.A.1. Even if either did, the naming of officials of the government as party defendants in their official capacities does not properly circumvent the doctrine of sovereign immunity as discussed in Part II.A.1. Similarly, if a suit is brought under 26 U.S.C. § 7422 against an officer of the United States, § 7422(f)(2) requires that the “pleadings be amended to substitute the United States as a party for such officer or employee.” Nevertheless, if the Court does consider this case as one properly brought against government officers such as (now former) President Biden and the other individually named defendants in their official capacities, they all are automatically substituted out since they are no longer with the government and have successors such as President Trump, Attorney General Bondi, etc. *See Fed. R. Civ. P. 25(d)*; *see, e.g., Aiken v. Dep’t of Justice*, 2017 WL 11884820, at *1 n.1 (S.D. Fla. 2017). Additionally, Hinds has asserted that there are actually *eight* defendants involved in the case, however the “Petition’s” caption, as well as the attached list for the civil cover sheet, identify only the four individuals listed above. (ECF No. 9 at 2, 12); (ECF No. 1 at 1); (ECF No. 1-27 at 2).

the Court dismiss with prejudice all counts and claims for relief in Plaintiff's Complaint/"Petition."² The United States submits the attached memorandum in support of this motion.

Dated: April 14, 2025

Respectfully submitted,

s/ Mollie Clark Ahsan
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Counsel for Defendant

² Hinds takes issue with our description of ECF No. 1 as a "Complaint" rather than "Petition." (ECF No. 9). However, FRCP Rule 3, states that a civil action is commenced by the filing of a "Complaint" and FCRP 7(a)(1) specifies that only a complaint is allowed.

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2025, I filed a true and correct copy of the MOTION TO DISMISS by electronically filing it with the Court using the CM/ECF system, which will notify all registered users. Moreover, I certify that I caused to be mailed, in postage prepaid and sealed envelope, a true and correct copy of the Motion referred to above by U.S. Mail to the following non-participant in Electronic Case Filing and addressed to

Terry Lee Hinds
438 Leicester Square Dr.
Ballwin, MO 63021

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Dated: April 14, 2025

s/ Mollie Clark Ahsan
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