

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

ARTHUR ENLOE, et al.,)	
)	
Plaintiffs)	
)	
v,)	Civil Action No. 5-11CV0026-C
)	
BARACK OBAMA, et al.,)	
)	
Defendants)	
_____)	

DEFENDANTS' MOTION TO DISMISS

Defendants, by their undersigned attorneys, hereby move, pursuant to Rules 12(b)(1), 12(b)(3), and 12(b)(6), Federal Rules of Civil Procedure, to dismiss this action. The grounds for this motion are:

1. In a prior civil action between the individual plaintiffs (with whom plaintiff Liberty Legal Foundation is in privity) and defendants Obama, Reid, Pelosi, and the United States (with whom the remaining defendants are in privity) it was finally adjudged that the matters presented in that case and re-presented in this one do not raise a justiciable case or controversy. *Shreeve v. Obama*, 2010 WL 4628177 (E.D. Tenn. Nov. 4, 2010). The determination of that issue is preclusive in this action and establishes that this Court likewise lacks subject-matter jurisdiction over plaintiffs' claims.
2. Venue is improperly laid in this district.
3. This is an action for injunctive and declaratory relief against federal taxes,

and is accordingly barred by the Anti-Injunction Act, 26 U.S.C. § 7421, and the tax exception to the Declaratory Injunction Act, 28 U.S.C. § 2201(a).

4. The claims against defendants Reid and Pelosi are barred by the Speech or Debate Clause and the claims against President Obama are barred by presidential immunity. Insofar as those defendants are sued in any official capacity, the claims are also barred by sovereign immunity.

5. The complaint fails to state a claim upon which relief can be granted.

In support of this motion, the Court is respectfully referred to the Memorandum filed herewith. In support of the argument that the issue-preclusive effect of the decision in *Shreeve* establishes the lack of subject-matter jurisdiction, the Court is also respectfully referred to the memorandum opinion in *Shreeve*, and the First and Second Amended Complaints in *Shreeve*, all of which are filed as exhibits with the Memorandum.

Respectfully submitted,

TONY WEST
Assistant Attorney General

JAMES T. JACKS
United States Attorney

SHEILA M. LIEBER
Deputy Branch Director

/s/ Brian G. Kennedy _____
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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2011, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal rule of Civil Procedure 5 (b)(2).

/s/ Brian G. Kennedy

Brian G. Kennedy