

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

BRIAN P. CARR, et al., §
Plaintiffs, §
v. § Case No. 3:23-cv-02875-S-BT
UNITED STATES OF AMERICA, et §
al., §
Defendants. §

ORDER

Before the Court is *pro se* Plaintiff Brian Carr's Motion for Sanctions (ECF No. 30), in which Carr claims that Defendants filed a motion to dismiss that was factually false, meritless, and for purposes of delay. *See* generally Mot. Sanctions (ECF No. 30). For the reasons discussed below, the Court **DENIES** Carr's Motion.

Carr initiated this civil action on December 29, 2023. *See* Compl. (ECF No. 3). Defendants timely filed a Motion to Dismiss on March 8, 2024, seeking to dismiss the original Complaint for lack of subject matter jurisdiction, failure to state a claim, and failure to identify an applicable waiver of sovereign immunity. *See* Mot. Dismiss (ECF No. 15). On March 28, Carr filed a response to Defendants' Motion to Dismiss, which included a request for leave to amend the Complaint and a "Motion for Partial Summary Judgment." *See* Resp. (ECF No. 18). Defendants then filed a Rule 56(d) Motion, requesting that the Court deny or defer consideration of the Motion for Partial Summary Judgment. *See* Rule 56(d) Mot.

(ECF No. 22). Thereafter, the Court entered an Order granting Defendants' Rule 56(d) Motion, denying the Motion for Partial Summary Judgment as premature, denying as moot several motions—including Defendants' Motion to Dismiss—and directing the filing of an Amended Complaint by April 30. *See* Order (ECF No. 26).

Carr filed an Amended Complaint (ECF No. 29), which is the live pleading, on April 23. Defendants filed a Motion to Dismiss the Amended Complaint on May 14. *See* Mot. Dismiss (ECF No. 31). That Motion is pending before the Court.

Carr also filed a Motion for Sanctions on May 8, requesting that the Court issue “creative sanctions” against Defendants under Federal Rules of Civil Procedure 11(c)(2)–(3) and 56(h), 28 U.S.C. § 1927, 18 U.S.C. §§ 1621 and 1001, Local Rule 83.8(b)(3), and Texas Disciplinary Rule of Professional Conduct 4.01. Mot. Sanctions 1–2. Carr reasoned that Defendants' Motion to Dismiss was replete with legal and factual issues and filed for purposes of delay, and that Defendants made false statements over an email regarding the Motion. *Id.* After Defendants responded to the Motion (ECF No. 35), Carr filed a Reply conceding that sanctions under Rule 11(c)(2) and 28 U.S.C. § 1927 are unavailable. Reply 10–11 (ECF No. 39).

Carr's remaining authority for sanctions under the Federal Rules of Civil Procedure falls to the Court's inherent authority. *See* Fed. R. Civ. P. 11(c)(3) (allowing the Court on its own initiative to require litigants to show cause); Fed. R. Civ. P. 56(h) (allowing the Court to issue sanctions if it finds that a Rule 56 affidavit or declaration was submitted in bad faith or for delay). The Court does not find

Defendants' conduct sanctionable and declines to issue sanctions under its inherent authority. Similarly, the Court declines to issue sanctions under Texas Disciplinary Rule of Professional Conduct 4.01 for false statements or Local Rule 83.3(b)(3) for unethical behavior. And 18 U.S.C. Sections 1001 and 1621 are both criminal statutes and do not provide authority to issue sanctions in civil cases. *See Gabriel v. Outlaw*, 2022 WL 617628, at *4 (N.D. Tex. Feb. 14, 2022) (noting that 18 U.S.C. § 1621 provides for criminal sanctions for perjury); *U.S. v. Montemayor*, 712 F.2d 104, 106 (5th Cir. 1983) (noting that 18 U.S.C. § 1001 provides for criminal sanctions for making false statements within the jurisdiction of the United States).

The Court therefore **DENIES** Carr's Motion for Sanctions.

SO ORDERED.

February 26, 2025.



REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE