

**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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No. 99-10261  
(Summary Calendar)

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SANDRA LENGYEL,

Plaintiff-Counter Defendant-Appellant,

versus

EVERMAN INDEPENDENT SCHOOL  
DISTRICT; DAN POWELL,

Defendants-Counter Claimants-Appellees

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:97-CV-1014-E

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June 19, 2000

Before HIGGINBOTHAM, DeMOSS, and STEWART, Circuit Judges

PER CURIAM:\*

Sandra Lengyel argues that the district court abused its discretion in awarding the defendants attorney's fees under 42 U.S.C. § 1988(b) because her claims were not frivolous and her suit was not vexatious.

Lengyel's claims are frivolous because they are based on her untenable argument that she would have been exempt from the withholding of federal taxes from her wages if the defendant school district and superintendent had provided the Internal Revenue Service (IRS) with her "statement of

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\* Pursuant to 5<sup>TH</sup> CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

citizenship.” The federal regulations requires an employer to provide the IRS with a statement of citizenship if it is necessary to prove that an individual is a United States citizen rather than a nonresident alien from whom taxes are withheld at a 30% rate. See 26 C.F.R.

§ 1.1441-5(b).

A statement of citizenship is not a valid withholding exemption certificate under 26 U.S.C. § 3402(n), and the IRS advised Lengyel of that fact. Lengyel was also advised by the IRS that the school district was required to withhold taxes from her wages. Rather than challenging the IRS’s position through any of the statutory procedures available to her, Lengyel chose to file a civil rights action against the defendants despite knowledge that the defendants were merely complying with the federal law.

The district court did not abuse its discretion in determining that Lengyel’s claims were clearly frivolous and that her suit was vexatious and a form of harassment. Therefore, the district court did not err in awarding the defendants attorney’s fees and costs.

The appeal is without arguable merit and thus frivolous. Because the appeal is frivolous, it is DISMISSED. See Fifth Cir. Rule 42.2.

APPEAL DISMISSED.