

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES OF AMERICA
ex rel. BROOK JACKSON,

Plaintiff,

- v -

VENTAVIA RESEARCH GROUP, LLC;
PFIZER INC.; ICON PLC,

Defendants.

CASE NO. 1:21-CV-00008-MJT

**PFIZER STATEMENT IN SUPPORT OF THE UNITED STATES' MOTION TO
INTERVENE AND DISMISS PURSUANT TO 31 U.S.C. § 3730(c)(2)(A)**

The United States Government, the real plaintiff in this proceeding, has moved to dismiss this case under 31 U.S.C. § 3730(c)(2)(A). (ECF 137.) Relator Brook Jackson opposes the motion. (ECF 145.) With regard to such motions, the Supreme Court recently held that “[i]f the Government offers a reasonable argument for why the burdens of continued litigation outweigh its benefits, the court should grant the motion. And that is so even if the relator presents a credible assessment to the contrary.” *United States ex rel. Polansky v. Executive Health Resources, Inc.*, 599 U.S. 419, 438 (2023). Here the Government has presented a more than reasonable argument for dismissal. (See ECF 137 at 7–8.) In light of this, Relator cannot continue this litigation simply because she disagrees with the Government’s views about Pfizer’s COVID-19 vaccine. The Court should follow the binding precedent established by *Polansky* and grant the Government’s motion to dismiss. Once the Court does so, no claims against Pfizer will remain and the Company’s pending motion to dismiss, (ECF 119), would be moot. A hearing or ruling on Pfizer’s motion under these circumstances is simply not necessary and would needlessly waste the resources of the Court and the parties. In short, Relator’s case against Pfizer is all but over.

BACKGROUND

Relator filed this action under 31 U.S.C. § 3730(b), the *qui tam* provision of the False Claims Act (“FCA”). This provision empowers private individuals to bring anti-fraud lawsuits “in the name of the Government” and, if successful, share in the Government’s recovery. As the Supreme Court explained in *Polansky*, the FCA is “unusual in authorizing private parties . . . to sue on the Government’s behalf” and, “[b]ecause the relator is no ordinary civil plaintiff, he [or she] is immediately subject to special restrictions.” 599 U.S. at 423–25. Among them is the Government’s right to dismiss the action, over the relator’s objection, in all but the most “exceptional cases.” *Id.* at 437. *Qui tam* litigation exists solely to “vindicate the Government’s interests” and “nothing about the statute’s objectives suggests that the Government should have to take a back seat to its co-party relator.” *Id.* at 435. Accordingly, “the Government’s views are entitled to substantial deference” and, as the Supreme Court has directed, “a district court should think several times over before denying a [Government] motion to dismiss.” *Id.* at 437–38.

The Government’s motion articulates several compelling grounds for dismissal. First, the Government explains that it “investigated and evaluated the claims alleged by the Relator”—namely, Relator’s specious allegations that Pfizer’s vaccine is ineffective and dangerous, and that the Government’s decisions to authorize and purchase the vaccine were tainted by fraud—and determined those allegations were without merit. (ECF 137 at 7–8.) Second, the Government notes the “significant burden” associated with “continued litigation” and “anticipated discovery” in this meritless case. (*Id.* at 8.) And third, the Government highlights that Relator’s goals are contrary to the Government’s views concerning “the importance of vaccination” against COVID-19. (*Id.*) As the Government puts it succinctly, “[t]he United States should not be required to expend resources on a case that is inconsistent with its public health policy.” (*Id.*)

The Government's rationale for dismissal easily satisfies the *Polansky* standard. *See* 599 U.S. at 438 (instructing district courts to grant Government motions to dismiss so long as "the Government offers a reasonable argument for why the burdens of continued litigation outweigh its benefits," "even if the relator presents a credible assessment to the contrary"). The Court should not hesitate to grant the Government's motion, especially in a case like this one, where Relator offers no credible response to the Government's concerns, relying instead on speculation, unsubstantiated scientific theories, and anti-government conspiracy theories. (*See, e.g.*, ECF 145 at 2 (alleging without any factual support that "FDA, CDC, and NIH" have "abandoned their public health mission," "entered an era of unapologetic corporate capture and protection," and engaged in a "campaign to control and suppress truthful information on the harms caused by Pfizer's vaccine").) To borrow a line from *Polansky*, "this case is not a close call." 599 U.S. at 438.

After this Court grants the Government's motion to dismiss, there will be no remaining claims against Pfizer. The Second Amended Complaint ("SAC") includes six Causes of Action. The first four are *qui tam* claims brought on behalf of the United States against Pfizer and its co-defendants, ICON and Ventavia. (SAC ¶¶ 347–75.) The final two counts are retaliation claims: one brought under Section 3730(h) of the FCA, and the other brought under state law. (SAC ¶¶ 376–83.) These retaliation claims are brought solely against Relator's former employer, Ventavia, which has moved to dismiss those claims on the merits. (ECF 121.) An order granting the Government's motion will dismiss all of Relator's *qui tam* claims against Pfizer, ICON, and Ventavia, rendering moot Pfizer's and ICON's pending motions to dismiss, (ECF 119 and 120). No further consideration of these motions is required or appropriate. Ventavia's motion to dismiss, (ECF 121), may still require the Court's attention, however, insofar as Relator attempts to continue pursuing the SAC's retaliation claims.

CONCLUSION

For the reasons stated above, as well as the reasons stated in the Government's motion to dismiss, the Court should grant the Government's motion, thereby dismissing all claims against Pfizer and rendering Pfizer's pending motion to dismiss moot.

Respectfully submitted,

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By: /s/ Meagan D. Self

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed using the CM/ECF system, which will automatically send electronic mail notifications to all attorneys presently of record, and which will permit viewing and downloading of the same from the ECF system.

/s/ Meagan D. Self

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