FILED
United States Court of Appeals
Tenth Circuit

AUG 17 1989

ROBERT L. HOECKER
Clerk

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

DAVID LEDFORD,

Plaintiff-Appellant,

v.

INTERNAL REVENUE SERVICE OF THE UNITED STATES,

Defendant-Appellee.

No. 89-1059
(D.C. No. 88-F-1641)
(D. Colo.)

ORDER AND JUDGMENT[1]

Before MCKAY, TACHA, and EBEL, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

Plaintiff sued the Internal Revenue Service for refund of all federal taxes paid since 1958, plus interest and penalties,[2]

1 This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

2 Plaintiff claims that if the IRS wrongfully collected taxes from him, he should get the same interest and penalties the IRS would assess against a delinquent taxpayer.

because the IRS has violated his constitutional rights since then. The trial court dismissed plaintiff's complaint for lack of subject matter jurisdiction. Basically the trial court held that the conceded failure to exhaust administrative remedies deprived the court of jurisdiction. Plaintiff appeals the order of dismissal. Based upon our review of the record and briefs in this case, we affirm the trial court's dismissal of plaintiff's complaint for the reasons set forth by the trial court in its Order dated February 1, 1989.

The government's request for sanctions is denied.

AFFIRMED. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge