

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-1015**September Term, 2018****USTC-20104-14 L****Filed On: July 30, 2019**

Isaiah M. Bongam,

Appellant

v.

Commissioner of Internal Revenue Service,

Appellee

ON APPEAL FROM THE UNITED STATES TAX COURT**BEFORE:** Rogers, Tatel, and Pillard, Circuit Judges**J U D G M E N T**

This appeal was considered on the record from the United States Tax Court and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, the motions to strike, and the response thereto, it is

ORDERED AND ADJUDGED that the November 20, 2017 decision of the Tax Court be affirmed. Appellant has not challenged on appeal the Tax Court's finding that he received a June 2008 letter from the Internal Revenue Service ("IRS") notifying him of the IRS's intention to assess penalties against him under 26 U.S.C. § 6672 in the amount of the unpaid tax liabilities of Dynamic Visions, Inc. for the quarterly periods ending December 2005 through March 2008. See *Al-Tamimi v. Adelson*, 916 F.3d 1, 6 (D.C. Cir. 2019) ("A party forfeits an argument by failing to raise it in his opening brief."). Because appellant received the June 2008 letter and did not timely challenge the penalties, he was barred from challenging the "existence" or the "amount" of those penalties in his Collection Due Process ("CDP") hearings before the IRS's Office of Appeals and in the Tax Court. See 26 U.S.C. §§ 6320(c), 6330(c)(2)(B).

In addition, the Tax Court did not clearly err in rejecting appellant's contention that the IRS did not comply with an order directing the IRS to hold a supplemental CDP hearing, which the Office of Appeals held via written correspondence. See *Jombo v. C.I.R.*, 398 F.3d 661, 663 (D.C. Cir. 2005) (Tax Court's factual findings and disposition of mixed questions of law and fact are reviewed for clear error). CDP hearings "are informal in nature and do not require . . . a face-to-face meeting." 26 C.F.R.

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§ 301.6330-1 at A-D6. And the Tax Court's order, which stated that the purpose of the supplemental hearing was to supplement the administrative record and to correct errors which the record reflects are unrelated to the issues in this appeal, did not state that an in-person hearing was required. Moreover, appellant was given an opportunity to submit any documents that he wished the Office of Appeals to consider, it is undisputed that he submitted a letter in advance of the correspondence hearing, and he has not shown that he was prejudiced by the refusal to hold an in-person hearing.

Finally, appellant has not shown that any of his remaining arguments, such as his arguments that the IRS's seizure of Dynamic's assets in May 2008 was wrongful, are relevant to any issue in this appeal other than his liability for penalties under § 6672, which he is barred from challenging. It is

FURTHER ORDERED that the motions to strike be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam