

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5214

September Term, 2004

02cv01232

02cv02541

Filed On: July 27, 2005 [908794]

James F. McGuirl and Marlene C. McGuirl,
Appellants

v.

United States of America, et al.,
Appellees

Consolidated with 04-5215

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Rogers, Tatel, and Roberts, Circuit Judges

J U D G M E N T

Upon consideration of the record from the United States District Court for the District of Columbia and the briefs filed by the parties; appellees' motion for sanctions, the response thereto, and the reply; appellants' cross-motion for sanctions and the response thereto; and appellees' motion for judicial notice and the response thereto, containing a cross-motion to take judicial notice and renewed motion for sanctions, it is

ORDERED AND ADJUDGED that the district court's orders filed March 31, 2004, in Civil Action Nos. 02-1232 and 02-2541 be affirmed. In No. 02-1232, the district court properly dismissed the claims under 26 U.S.C. §§ 7433 and 6033 for lack of subject matter jurisdiction. In No. 02-2541, the district court properly determined the claims under the Administrative Procedure Act were barred. See 26 U.S.C. § 7421(a); 28 U.S.C. § 2201(a); Foodservice and Lodging Inst. v. Regan, 809 F.2d 842, 844-45 (D.C. Cir. 1987). It is

FURTHER ORDERED that the motions for judicial notice be granted in part. Insofar as the requests pertain to public laws and matters that are part of the district court record, no motion is required in order for the court to consider these materials. It is

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FURTHER ORDERED that the motions for sanctions be denied. Because these appeals border on the frivolous and appellants are attorneys, appellants are forewarned that the court will not hesitate, when appropriate, to grant a motion for sanctions against the appellants or to impose sanctions on its own motion, in any of appellants' pending or future appeals. See Fed. R. App. P. 38; 28 U.S.C. § 1912.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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