

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5410

September Term, 2005

01cv01077

Filed On: June 5, 2006 [971555]

Wilbur L. Mondie,
Appellant

v.

Internal Revenue Service, et al.,
Appellees

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

BEFORE: Henderson, Garland, and Brown, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. It is

ORDERED AND ADJUDGED that the district court's order filed October 6, 2004, be affirmed. Appellant did not meet his burden of demonstrating that the district court had subject matter jurisdiction over this case. See Georgiades v. Martin-Trigona, 729 F.2d 831, 833 n.4 (D.C. Cir. 1984). Furthermore, the district court did not commit clear error when it determined that appellant had not timely filed his claims for refund with the Internal Revenue Service. See 26 U.S.C. § 6511(a); Herbert v. National Academy of Sciences, 974 F.2d 192, 197 (D.C. Cir. 1992) (in cases where the district court must resolve disputed facts in order to determine jurisdiction, its factual findings should be accepted unless clearly erroneous). Moreover, the letters sent to appellant by the IRS merely indicate that appellant had two years to file suit in district court after the IRS rejected his claims for refund, and did not extend the limitations period in 26 U.S.C. § 6511(a). See U.S. v. Dalm, 494 U.S. 596, 608-610 (1990).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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