

IN THE UNITED STATES TAX COURT

In the matter of:)	
)	
JOHN H. WEBSTER,)	
)	
Petitioner,)	
)	
v.)	Docket No.: 24277-04
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent.)	

Courtroom 2-1408
Burton Federal Building
450 Golden Gate
San Francisco, California

Monday,
November 28, 2005,

The above-entitled matter came on for hearing,
pursuant to notice, at 3:37 p.m.

BEFORE: HONORABLE JUAN F. VASQUEZ
 Judge

APPEARANCES:

For the Petitioner:

JOHN WEBSTER, Pro Se
1556 Halford Avenue, #132
Santa Clara, California 95051
650/555-1234

For the Respondent:

HUONG DUONG, Esquire
IRS, Office of Counsel
55 South Market, Suite 505
San Jose, California 95113
408/817-4650

C O N T E N T S

VOIR

WITNESSES: DIRECT CROSS REDIRECT RECROSS DIRE

For the Petitioner:

John Webster 6

For the Respondent:

None

PAGE

OPENING STATEMENT ON BEHALF OF THE PETITIONER:	
OPENING STATEMENT ON BEHALF OF THE RESPONDENT:	5
CLOSING STATEMENT ON BEHALF OF THE PETITIONER:	
CLOSING STATEMENT ON BEHALF OF THE RESPONDENT:	

E X I B I T S

EXHIBITS:

IDENTIFIED

RECEIVED

Petitioner=s

1-P

15

16

2-P

16

16

P R O C E E D I N G S

(3 :37 p.m.)

1
2
3 THE CLERK: All rise.

4 THE COURT: Thank you. You may be seated.

5 THE CLERK: Recalling Docket No. 24277-04, John H.
6 Webster.

7 Please state your appearances.

8 MR. WEBSTER: Good afternoon, Judge. This is John
9 H. Webster, the Petitioner.

10 THE COURT: Good afternoon, Mr. Webster.

11 MS. DUONG: Huong Duong on behalf of Respondent.

12 THE COURT: Good afternoon, Ms. -

13 MS. DUONG: Good afternoon.

14 THE COURT: Is this Duong? How do you pronounce
15 your last name?

16 MS. DUONG: Duong.

17 THE COURT: Duong.

18 MS. DUONG: Yes.

19 THE COURT: Okay, thank you.

20 (Court and clerk confer.)

21 THE COURT: I believe the --we're here not only
22 on the -- Respondent's filed a motion for summary judgment?

23 MS. DUONG: Yes, Your Honor.

24 THE COURT: It's actually a motion for summary
25 judgment and to impose a penalty under section 6673.

1 MS. DUONG: Yes, Your Honor.

2 THE COURT: And Petitioner has filed an objection.
3 It's filed, an objection to Respondent motion for summary
4 judgment and imposition of penalty under section 6673.

5 You want to proceed with the motion.

6 MS. DUONG: Yes, Your Honor.

7 THE COURT: Okay.

8 OPENING STATEMENT ON BEHALF OF THE RESPONDENT

9 MS. DUONG: Just to summarize, in this motion
10 Petitioner has stipulated that he received \$68,532 of
11 non-employee compensation income and \$32 of interest income
12 during 1998. Petitioner has also stipulated that he failed
13 to file a 1998 federal income tax return and has made no tax
14 payments for 1998.

15 Petitioner has only raised frivolous arguments and
16 has already been informed on numerous occasions that the
17 relevant laws that subject him to income taxation and
18 require him to pay taxes and to file tax returns.

19 Therefore, Petitioner has raised no legitimate
20 arguments or defenses. Accordingly, Respondent requests
21 that the Court grant this motion for summary judgment and
22 also the penalty under IRC 6673.

23 THE COURT: Okay. This is the first time that
24 this case has been set for trial; is that correct? Or
25 hearing?

1 MR. WEBSTER: Yes.

2 MS. DUONG: Yes, Your Honor.

3 THE COURT: Okay, in other words, you have not --
4 okay.

5 Mr. Webster, let me ask you, are you here to
6 represent yourself, Mr. Webster?

7 MR. WEBSTER: Yes. Yes, I am.

8 THE COURT: Okay, well, let me go ahead and have
9 you sworn in.

10 MR. WEBSTER: Oh, sure.

11 Whereupon,

12 JOHN WEBSTER,

13 having been first duly
14 sworn, was called as a witness herein and was examined and
15 testified as follows:

16 THE COURT: Mr. Webster, let me ask you, I
17 believe -- Ms. -- the Respondent's counsel has
18 stated that, you know, you don't disagree that you
19 received --

20 DIRECT TESTIMONY OF THE PETITIONER

21 THE WITNESS: The money, yes, I do disagree that I
22 failed to file; I don't think I was required to file.

23 THE COURT: Okay, but you do agree that you
24 received, I guess, compensation of \$68,532; is that the amount?

1 THE WITNESS: I'm accepting their value.

2 THE COURT: Okay, is that the amount, Ms. Duong?

3 MS. DUONG: 68,532 for the non-employee compensation
4 and \$32 for interest income.

5 THE COURT: Okay, so it's 68,532?

6 MS. DUONG: Yes.

7 THE COURT: Okay, it's called non-employee
8 compensation on the notice of deficiency, is that --

9 MS. DUONG: Right.

10 THE COURT: And also interest of \$32?

11 MS. DUONG: \$32.

12 THE COURT: Okay.

13 MS. DUONG: Correct.

14 THE COURT: Okay, so you agree you received those
15 amounts?

16 THE WITNESS: Yes, I do.

17 THE COURT: And what is your argument, I mean, what
18 is your position?

19 THE WITNESS: Well, there's actually two parts to
20 the argument.

21 The first is that -- excuse me -- there -- rumor
22 has it and it appears to be true that there really is no law
23 that states that I as an American "wage-earner", quote, am
24 required to pay income tax on that wage. I've given, I
25 mean, and on many correspondence to the IRS I've said, I've,

1 you know, asked them, you know, I've heard that there is no
2 law, is it true there is no law, or could you please produce
3 the law.

4 And they have never produced the law.

5 Now I'm in belief that this actually is somewhat
6 of a fraud that the IRS is placing the American people and
7 this Court. But the other issue is even if she did come up
8 with this, a law, this afternoon, that law basically has to
9 exist in the presence of the Constitution of the United
10 States, and that there is one amendment to the Constitution,
11 Amendment 13, that states that, quote, "Neither slavery nor
12 involuntary servitude except as punishment of crime there
13 wherein the party was duly convicted shall exist within the
14 United States or any place subject to their jurisdiction".

15 Now the only thing that is standing between the
16 income tax, quote, "laws" and violating this amendment is
17 the fact that there is, in other words, the federal
18 government does have a -- its side of the social contract,
19 you know, with the American people. And in my case
20 particularly and even now with this recent ruling of the
21 Supreme Court against, I mean, allowing local governments to
22 take public property, it's obvious that federal agencies
23 have violated my rights and indeed even refusing to
24 investigate my allegations.

25 I've given, I think, I've given a copy of both this

1 to Huong. The -- basically this is a recent letter that I
2 sent to the FBI in November of 2004, and their response back
3 which basically -- I don't think you have a copy of these -
4 but basically saying as they have no authority to conduct an
5 investigation since I can't prove it, type of thing, which
6 is, of course, a catch-22. In other words, not only hasn't
7 the federal government protected my rights, they actually
8 were involved in violating them, and then absolutely refused
9 even to investigate my allegations.

10 And I have on several occasions I've even
11 mentioned to the IRS and this lady that I'd be fully
12 willing, you know, if they, would go kick some ass in the FBI
13 and tell them that, yes, they do have to check out, you
14 know, my allegations --

15 THE COURT: Mr. Webster, you might want to watch
16 what you said in regards to --not to make any derogatory
17 remarks.

18 THE WITNESS: Oh, I --

19 THE COURT: Okay.

20 THE WITNESS: Kick their butt. But that I
21 would --

22 THE COURT: Mr. Webster, let me stop you there.
23 Let me say that the Tax Court, you know, the arguments that
24 you are making have been rejected by the Court, you know,
25 because they're what they call protester arguments that

1 are -- courts consider frivolous, that people don't have to
2 file tax returns.

3 Now when I say that, that's the opinion also of
4 the Ninth Circuit. Your case, this case, would be
5 appealable to the Ninth Circuit, and all the other circuits
6 in this country, there's a total of 11 circuits plus the
7 Circuit Court of the District of Columbia, all the 12
8 circuits have held that, you know, these type of arguments
9 are protester arguments and that they're frivolous.

10 And the reason I tell you that is because, you
11 know, if you continue to make these type of arguments in a
12 court, you know, the Court is likely to, will be inclined
13 to, impose penalties, sanctions, under section 6673. And
14 one of the things I've noticed about the Court's of Appeals
15 is that they have been also imposing sanctions when these
16 cases go up on appeal, because, you know, they consider them
17 frivolous.

18 Now let me say one thing, and I'll let you speak,
19 you know --

20 THE WITNESS: Okay.

21 THE COURT: --is this, okay, code section 61 and
22 it's the law that was written by Congress, says general
23 definition, except as otherwise provided in this subtitle,
24 gross income means all income from whatever source derived,
25 including but not limited to the following items,

1 compensation for services.

2 So this is what you received under 61(a) (1) .Under
3 61 (a) (3) (a) (4) , I'm sorry, it also includes interest,
4 that \$32 of interest.

5 Now are you single or are you married?

6 THE WITNESS: I'm single.

7 THE COURT: Okay, well, the reason I say that is
8 because section 1(c) of the Internal Revenue Code, and by
9 the way, when I say the Internal Revenue Code, the people at
10 the IRS don't write these laws, they don't write them;
11 Congress does. Your Congressmen and Senators, they're the
12 ones that write these laws, okay. And what they there, and
13 by the way, there are, you know, they're all, when I say,
14 you know, they're the elected officials; under the
15 Constitution they're the ones that write the laws.

16 Okay, but under 1(c) it says unmarried individuals,
17 there is hereby imposed on the taxable income of every
18 individual, you know, basically it's a single individual who
19 is not married, a tax determined in accordance with the
20 following table.

21 So basically if your income is over a certain amount
22 you have to file a tax return. So it's, it is in there,
23 it's in the law, and I'm citing it to you.

24 THE WITNESS: Well, first of all, you do mention,
25 say the word "income". The point is, is that, quote,

1 "income" for wages is not a profit, it's you're not
2 increasing the value, you're giving away something which is
3 priceless for basically, you know, a relatively small
4 amount. You're never going to see those hours again, and so
5 if you even go by the definition of income --

6 THE COURT: But that argument, Mr. Webster, has been
7 rejected by this Court and all the Courts of Appeals.

8 THE WITNESS: Okay.

9 THE COURT: Okay, that argument that my wage, you
10 know, your labor is not taxed, you know, that has been
11 rejected. And again I cite to you, you know, the code
12 section that has been, you know, has been the law for many,
13 many years, and section 61(a) (1) (1) (sic) says that gross
14 income includes compensation, gross income means all income
15 from whatever source derived --

16 THE WITNESS: You don't have --I'm sorry.

17 THE COURT: --including but not limited to the
18 following items, compensation for services, including fees,
19 commissions, fringe benefit and similar items.

20 So, you know, in other words, the code is very
21 specific that if you get paid for your services, whatever
22 your services are, that's income and then you have to file a
23 tax return and you have to pay a tax.

24 THE WITNESS: Well, first of all, as you said, this
25 isn't a gross income tax. But I did want to --these

1 things, while the courts, quote, may "reject" them, they are
2 not frivolous, they're the very basics. But also this

3 THE COURT: But, Mr. Webster, frivolous, what it means
4 is this. You may say that it's not frivolous and that the
5 Court, the Tax Court and the District Courts and the Courts
6 of Appeals of this country, that they all said it's
7 frivolous and you may argue that's not frivolous. But what
8 the definition of frivolous is this, an argument that has
9 been rejected, in other words, has been rejected by various
10 courts and has been shown to have no merit, that is
11 frivolous.

12 So when the Courts of Appeals and the lower courts
13 like us, like the trial courts, and we say that those
14 arguments are frivolous, what that means is that those, your
15 arguments have been rejected by the courts, okay. Under our
16 system of government that's where you bring your arguments,
17 but if your argument has been rejected many times, then
18 it's, you know, it gets the definition of being frivolous.
19 And that's what it means.

20 THE WITNESS: But I do want to re-emphasize that you're
21 claiming that there is a law, that there --that these
22 arguments have been --

23 THE COURT: I'm not claiming, I'm just reading ton you
24 what Congress has written.

25 THE WITNESS: Okay, but the --I must also, you know,

1 get back to this thing about it's, I'm sorry, with, you
2 know, against me, these supposed tax laws are essentially
3 imposing involuntary servitude, because the United States
4 government has essentially shown that it is not protecting
5 my rights, that it's, it is not --it's not ensuring that I
6 get a fair trial, it's not, you know, it's essentially
7 allowing federal agents to manufacture evidence against me.

8 And then, as in this --I mean, after I send this
9 letter to the FBI, you know, the --enumerating the
10 situation, they come back with this letter. Now would you
11 like me to read it or shall I just give it to you?

12 THE COURT: Why don't you hand it to the Clerk.

13 Does Respondent's counsel already have a copy?

14 THE WITNESS: Yes, yes.

15 MS. DUONG: Yes, Your Honor.

16 THE COURT: Why don't you hand it to the Clerk, please.

17 Let me look at it first. Okay, did you want that as an
18 exhibit on the --you want us --you want that to be an
19 exhibit in your file here?

20 THE WITNESS: Yes, I'd also like then the letter that
21 that's a response to, to be an exhibit.

22 THE COURT: Okay, you have a copy for -

23 THE WITNESS: I have a copy but just regenerated
24 through my computer.

25 THE COURT: Why don't you give it to him, yes. To mark

1 them.

2 THE WITNESS: So my signature is not the original
3 signature.

4 THE COURT: Do you have a copy for Respondent's
5 counsel.

6 MS. DUONG: I already have a copy.

7 THE COURT: Okay. so we'll make the -- your letter,
8 we'll make that the first exhibit and then this.

9 THE CLERK: Exhibit 1-P has been marked for
10 identification.

11 (The document referred to
12 was marked for
13 identification as
14 Petitioner's Exhibit 1-
15 P.)

16 THE COURT: Okay, 1-P is the letter dated December 2nd,
17 2004, from the US Department Justice, Federal Bureau of
18 Investigation. And exhibit -

19 THE WITNESS: I might also -

20 THE COURT: Wait a minute, let me look at this here,
21 please.

22 THE CLERK: Exhibit 2-P has been marked for
23 identification.

24 (The document referred to
25 was marked for identification as

1 Petitioner's Exhibit 2

2 P.)

3 THE COURT: Yes, 2-P is your, I presume, it's your
4 letter to them; is that correct?

5 THE WITNESS: Yes.

6 THE COURT: Okay-

7 THE WITNESS: The only thing that s -

8 THE COURT: -- one moment here, November, it's dated
9 November 18th, 2004.

10 THE WITNESS: My signature is not the original
11 signature.

12 THE COURT: Okay, do you have --Respondent's counsel
13 have any objections to these two documents?

14 MS. DUONG: No, Your Honor.

15 THE COURT: I'm sorry?

16 MS. DUONG: No, Your Honor.

17 THE COURT: Okay, Exhibits 1-P is received into
18 evidence and 2-P is also received into evidence.

19 (The documents referred
20 to, having been
21 previously marked
22 for identification as
23 Petitioner's Exhibits 1-P

1 and 2-P, were received
2 in evidence.)

3 THE WITNESS: I might also note that I did a --what do
4 you call it --a short tax law case last --for 1997 in
5 which I had actually subpoenaed a police officer who would
6 have been working with the federal agency that would have
7 known and been able to -

8 THE COURT: But I don't -- I'm not sure what the
9 relevance of all that is, because basically what the -- what
10 we're here for is to determine your argument is that you
11 don't have to pay taxes, you don't have to report, you don't
12 have to pay taxes on the wages or your income that you made;
13 that's the only issue. The issue of an FBI agent or a
14 police officer, that has nothing to do with for what I can
15 tell.

16 THE WITNESS: It does -

17 THE COURT: One moment. From-

18 THE WITNESS: I'm sorry.

19 THE COURT: -- the issue of whether you have to pay your
20 -- pay taxes on your income.

21 THE WITNESS: Because all of these are subservient to
22 the Constitution of the United States and in this particular
23 case that's Amendment 13.

24 THE COURT: 1 -

25 THE WITNESS: Under the Constitution.

1 THE COURT: Yes, but, you know, the Constitution is the
2 highest, is the law of the land, it's the highest law of the
3 land, but it's up to the courts to interpret it, okay. And
4 if you have an argument with the Constitution, about the
5 Constitution, you know, you bring that in the courts.

6 THE WITNESS: Which I am -

7 THE COURT: And what I'm trying to say is -

8 THE WITNESS: -- what I'm doing.

9 THE COURT: -- yes, but the courts have already decided
10 those issues against similar arguments. The arguments that
11 you're making, you know, under the -- under that book you're
12 holding there, the US Constitution, if that's what you're
13 holding there -

14 THE WITNESS: Yes.

15 THE COURT: -- okay, the -- you know, it sets up the
16 third branch, which is, you know, which are the courts, and
17 the courts define what the law and define the Constitution.
18 And that's what they've done. They have basically, not -
19 they've defined what code section 61 means and it means that
20 you have to pay tax on your wages, has to be --if you
21 receive compensation you have to pay taxes on it -

22 THE WITNESS: And-

23 THE COURT: -- Mr. Webster.

24 THE WITNESS: -- my point is that the ability of the
25 United States government to collect taxes is directly

1 related to whether or not it lives up to things like the
2 Constitution and protecting people's rights and -

3 THE COURT: Okay.

4 THE WITNESS: -- and property.

5 THE COURT: Okay, anything else?

6 THE WITNESS: I -- no, I believe that's it.

7 THE COURT: Okay. You have any questions, Respondent's
8 counsel?

9 MS. DUONG: No, Your Honor.

10 (Witness excused.)

11 THE COURT: Okay, well, this case is on a motion for
12 summary judgment. And the Court will take the case under
13 advisement. Thank you.

14 MS. DUONG: Thank you, Your Honor.

15 THE COURT: We're adjourned for the day.

16 THE CLERK: All rise.

17 (Whereupon, at 3:58 p.m., the hearing in the above
18 entitled matter was concluded.)

19 //

20 //

21 //

22 //

23 //

24 //

25 //