

No. _____

In the
Supreme Court of the
United States

Bart H. Rippl,
Petitioner

v.

UNITED STATES OF AMERICA
Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Sixth
Circuit

Bart H. Rippl
% 30628 Detroit Rd., #140
Westlake, Ohio 44145
440 835 6969
*Party Appellant in
Propria Persona

QUESTIONS PRESENTED

Does the Fifth Amendment's "due process of law" guarantee apply to the specific language set forth in the Internal Revenue Code and other laws, and in substantive regulations?

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Constitution for the United States of America,
Art. III; 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS,
STATUTES, AND REGULATIONS IN-
VOLVED

The constitutional provisions, statutes and regulations involved in the case include the Fifth Amendment & Sixteenth Amendment; 4 U.S.C. §§ 71 and 72; 5 U.S.C. §§ 551(13); 26 U.S.C. § 6001; 26 U.S.C. § 6020; 26 U.S.C. § 6065; 26 U.S.C. § 6203; 26 U.S.C. § 6303; and implementing regulations at 26 C.F.R. § 1.6001-1; 26 C.F.R. § 301.6020-1; 26 C.F.R. § 1.6065-1(a); 26 C.F.R. § 301.6203-1; 26 C.F.R. § 301.6303-1; and 44 USC §3101.

The Fifth Amendment to the United States Constitution states, in pertinent part:

No person shall...be deprived of life, liberty, or property, without due process of law..."

The Sixteenth Amendment states:

Title 5, United States Code, section 551, subsection (13), the definition of “agency action”:

includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act;

Other identified provisions of law and implementing regulation are lengthy, and are therefore reproduced in the Appendix at App. 32-72:

26 U.S.C. § 6001

26 C.F.R. § 1.6001-1

26 U.S.C. § 6020

26 CFR 301.6020-1

26 U.S.C. § 6065

26 C.F.R. § 1.6065-1(a)

26 U.S.C. § 6203

26 C.F.R. § 301.6203-1

26 U.S.C. § 6303

26 C.F.R. § 301.6303-1

44 USC §§ 3101

Federal Rules of Evidence Rule 803.

in the INTERNAL REVENUE CODE, Public Law 83-591, 68A Stat. 911, 26 U.S.C. § 7701(a)(14), and 26 C.F.R. § 301.7701-1(a), with respect to tax imposed in Internal Revenue Code Subtitle A;

(2) that “Substitute[s] For Return — under 26 U.S.C. § 6020 — are subject to the “Verification of Returns” mandate in 26 U.S.C. § 6065 and required to be made under penalty of perjury.

(3) that the “method of assessment” provision of 26 U.S.C. § 6203 requires that “the assessment shall be made by recording the liability of the taxpayer in the office of the Secretary.”

(4) that, pursuant to 26 U.S.C. § 6203, “Upon request of the taxpayer, the Secretary shall furnish the taxpayer a copy of the record of the assessment.”

(5) that the “Notice and demand for tax” provision at 26 U.S.C. § 6303 is mandatory.

Sixth Circuit Judges GUY, COOK, and DONALD affirmed in an ORDER filed on May 23, 2018, specifically rejecting Petitioner’s ar

It is beyond reasonable dispute that "Federal tax law begins with the Internal Revenue Code (IRC)..."¹

It is beyond reasonable dispute that the Fifth Amendment to the United States Constitution secures the due process of law — including the Tax Law of the United States — to all Citizens and/or persons within the jurisdiction of the United States.

The United States failed in its duty to comply with the Congressionally-enacted language of the Internal Revenue Code, the Administrative Procedure Act and failed its duty to uphold the Fifth Amendment's due process guarantee.

The case below was decided in a way that both conflicts with relevant decisions of this Court and in respect of an important question of federal law that has not been, but should be, settled by this Court.

¹ Source: <https://www.irs.gov/privacy-disclosure/tax-code-regulations-and-official-guidance>

is clear, and Petitioner is guaranteed the Due Process thereof by the Fifth Amendment to the United States Constitution.

The courts²

“...are not at liberty to construe any statute so as to deny effect to any part of its language. It is a cardinal rule of statutory construction that significance and effect shall, if possible, be accorded to every word. As early as in Bacon's Abridgment, § 2, it was said that 'a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word, shall be superfluous, void, or insignificant.' This rule has been repeated innumerable times.” Justice Strong, United States v. Lexington Mill & E. Co., 232 US 399, pp. 409. (1914) [emphasis added];

And as recently as November 8, 2017, the United States Supreme Court upheld the rule of decision that laws must be interpreted by the words enacted by Congress. Hamer v. Neighborhood Housing Servs. Of Chicago, 583 U. S. ____ (2017); Slip Op. 7, 8, citing Dodd v.

² Regardless of their Constitutional status.

government's investigation was rife with procedural errors. Rippl's arguments are frivolous." Petitioner made no such argument, putting forth, rather, that the government failed to follow governing statutes, to wit 26 U.S.C. § 6203, the provisions of which were duly enacted by Congress, in the administration of tax laws.

(2) Returns, declarations, statements, and other documents required to be made under any provision of the internal revenue laws or regulations must be made under the penalties of perjury. Public Law 83-591, 26 U.S.C. § 6065, 68A Stat. 749, as amended by Public Law 94-455, 90 Stat. 1824, 1834, is clear, and Petitioner is guaranteed the Due Process thereof by the Fifth Amendment to the United States Constitution.

The record below demonstrates that such Due Process was denied to Petitioner.

26 U.S.C. § 6065, as amended in 1976, also clearly holds serious Fifth Amendment implications.

returns until the Tax Reform Act of 1976 (October 4, 1976), Public Law 94-455, Title XIX, § 1906(a)(6), 90 Stat. 1824, amended 26 U.S.C. § 6065:

“...striking out subsection (b) (relating to verification by oath), and by striking out in subsection (a) the following : " (a) PENALTIES OF PERJURY.-”

Public Law 94-455, 90 Stat. 1824.

Regardless of the existence of a “a section 6020(b) return”, the aforementioned “Forms 4340” and “Forms 2855” provided the only foundation for the “presumption of correctness” afforded to the District Court.

That “presumption of correctness” (originating in Welch v. Helvering, 290 U.S. 111, 115 [1933]) was based upon a form invented in the Internal Revenue Manual⁵, similar to the form at issue in Florsheim Bros. Drygoods Co. v. United States, 280 U.S. 453 (1930) (finding a form discussed therein “was an invention of the Commissioner”).

⁵ See n 3.

STATUS OF PERTINENT REGULATION

Based upon substantive⁷

⁷ See: Chrysler v. Brown, 441 U.S. 281, at 301-302

(1979), wherein the Supreme Court stated:

"[I]n Morton v. Ruiz, 415 U.S. 199, 94 S.Ct. 1055, 39 L.Ed.2d 270 (1974), we **1718 noted a characteristic inherent in the concept of a "substantive rule." We described a substantive rule — or a "legislative-type rule," *id.*, at 236, 94 S.Ct., at 1074 — as one "affecting individual rights and obligations." *Id.*, at 232, 94 S.Ct., at 1073. This characteristic is an important touchstone for distinguishing those rules that may be "binding" or have the "force of law." *Id.*, at 235, 236, 94 S.Ct., at 1074."

And, at 303:

"[T]he promulgation of these regulations must conform with any procedural requirements imposed by Congress. Morton v. Ruiz, *supra*, at 232. For agency discretion is limited not only by substantive, statutory grants of authority, but also by the procedural requirements which "assure fairness and mature consideration of rules of general application." NLRB v. Wyman-Gordon Co., 394 U.S. 759, 764 (1969).

See also: Armstrong World Industries, Inc. v. Commissioner, 974 F.2d 422, 430 (3rd Cir. 1992):

"Moreover, legislative regulations not promulgated under the general authority to "prescribe all needful

declaration, statement, or other document, to contain or be verified by a written declaration that it is made under the penalties of perjury, such return, declaration, statement, or other document shall be so verified by the person signing it." (emphases added)

From 1977 onward, "...the form and instructions with respect to... tax imposed by subtitle A..." at 26 U.S.C § 1 was required to contain or be verified by a written declaration that it is made under the penalties of perjury by the person signing it", per 26 C.F.R. § 1.6065-1(a).

A "substitute for return" with respect to... [the same] tax imposed by subtitle A..." at 26 U.S.C § 1 was required by 26 C.F.R. § 1.6065-1(a) to ...contain or be verified by a written declaration that it is made under the penalties of perjury by the person signing it".

A "Form 4340", invented in the Internal Revenue Manual, purporting to be construed as a legally valid "substitute for return" was completely devoid of authority; a bootleg created by an outlaw.

Murray's Lessee v. Hoboken Land & Improvement Co., 18 How. 272 (1856); and John Jay, A Hint to the Legislature of the State of New York (1778) (quoting BLACKSTONE, 1 OF THE RIGHTS OF PERSONS, COMMENTARIES ON THE LAWS OF ENGLAND 137-138 (Univ. of Chicago Press 1979) (facsimile of the first edition of 1765-1769).

The District Court clearly erred in allowing Respondent, his agency, and subordinates, to disregard provisions of law enacted by Congress and regulations promulgated by the Secretary; to disregard definitions enacted in, and procedural duties imposed upon the Secretary by, the Eighty-Third Congress in the INTERNAL REVENUE CODE, Public Law 83-591, as amended; and abused its discretion in admitting hearsay evidence that was non-compliant with Federal Rule of Evidence 803.

Returns, declarations, statements, and other documents required to be made under any provision of the internal revenue laws or regulations must be made under the penalties of

Commissioner, 932 F.2d 1128, 1133 (5th Cir. 1991), affg. in part, revg. in part and remanding T.C. Memo. 1990-68; United States v. Bess, 623 F.2d 463, 465 (6th Cir. 1980); Schad v. Commissioner, 87 T.C. 609, 618 (1986), affd. without published opinion 827 F.2d 774 (11th Cir. 1987); Jackson v. Commissioner, 73 T.C. 394 (1979); Weimerskirch v. C. I. R., 596 F.2d 358 (1979).

Respondent's reliance upon hearsay evidence, non-compliant with Federal Rule of Evidence 803, justifies reversal and remand.

CONCLUSION

In the context of the Fifth Amendment Due Process Clause, the word "due" simply means "owed", and Petitioner seeks only that which is due him: "...the formal part, or method of proceeding..." of all language in all provisions of all the tax law of the United States.

Based upon any or all of the foregoing reasons, and any combination thereof, the deci