

19-8603

IN THE SUPREME COURT OF THE UNITED STATES

MELVIN P. WHITE JR.

PETITIONER

VS.

UNITED STATES

UNITED STATES ATTY. GEN.

WILLIAM BARR

RESPONDENT

PETITION FOR WRIT OF CERTIORARI

ORIGINAL

Supreme Court, U.S.
FILED

MAR 04 2020

OFFICE OF THE CLERK

.. ACCORDING TO F.R.C.V.P. 79 RECORDS KEPT BY THE CLERK: (CIVIL DOCKET).
.. DID THE U.S. DISTRICT CT. CLERK FAIL TO ENTER PETITION FOR REVIEW ST.
.. CT. CASE NO 18CV0167 JUDGE ORDER FOR MONEY OWED IN THE CIVIL DOCKET?

.. ACCORDING TO F.R.C.V.P. 72(b) STANDARD OF REVIEW FOR THE U.S. DISTRICT CT.
.. TITLE 28 USC 636 (b)(1)(A) - A RECORD MUST BE MADE OF ALL EVIDENTIARY
.. PROCEEDINGS. DID U.S. DISTRICT CT. MAGISTRATE JUDGE NUMBERS II FAIL
.. TO COMPLY WITH THE U.S. DISTRICT CT. STANDARD OF REVIEW?

.. ACCORDING TO F.R.C.V.P. 5.1 CONSTITUTIONAL CHALLENGE TO A STATUTE, NOTICE
.. CERTIFICATION AND INTERVENTION IS REQUIRED OF THE 4TH CIR. CT OF
.. APPEALS AND U.S. ATTY. GEN. WILLIAM BARR ON APPEAL, IS TITLE 31 CFR.
.. IRS. REG. GOVERNING THE PRACTICE OF ATTORNEYS CONSIDERED A PUBLISHED
.. RULE? DOES IT INCLUDE THE U.S.?

STATE CT. CASE NO 18CV1067 - JUDGMENT FILED FEB. 6, 19

MELVIN P. WHITE JR. VS. U.S. INTERNAL REVENUE SERVICE

U.S. DISTRICT CT. CASE NO 2:19-CV-9-FL JUDGMENT FILED JUNE 6, 19

MELVIN P. WHITE JR. VS. U.S. INTERNAL REVENUE SERVICE

U.S. CT. OF APPEALS 4TH CIR CASE NO 19-1747 JUDGMENT FILED NOV. 25, 19

MELVIN P. WHITE JR. VS. U.S. ATTY. GEN WILLIAM BARR

U.S. CT. OF APPEALS 4TH CIR. CASE NO 19-1747 MANDATE FILED FEB. 19, 20

MELVIN P. WHITE JR. VS. U.S. ATTY. GEN. WILLIAM BARR

CITATIONS OF OPINIONS AND ORDERS

U.S. DISTRICT CT. CASE NO 2:19-CV-9-FL ORDER FILED JUNE 6, 19

BIVENS VS SIX UNKNOWN NAME AGENTS OF FED. BUREAU OF NARCOTICS 403 US

388(1971), F.D.I.C. VS MEYER 510 US 471(1994), TITLE 28 USC 1915(E)(2)(B)

U.S. CT. OF APPEALS 4TH CIR. CASE NO 19-1747 ORDER FILED NOV. 25, 19

AFFIRMED THE OPINION OF THE U.S. DISTRICT CT. TITLE 28 USC 1915(E)(2)(B),

STATEMENT OF JURISDICTION

JURISDICTION FOR THE U.S. SUPREME CT. IS BASED ON TITLE 28 USC 2072 PROCEDURE

AND EVIDENCE UNDER SECTION TITLE 28 USC. 1291 WHEN A RULING OF A DISTRICT CT

IS FINAL FOR THE PURPOSE OF APPEAL, REVIEW SOUGHT FOR U.S. CT. OF APPEALS 4TH

CIR. CASE NO 19-1747 JUDGMENT ENTERED FEB 19, 20 4TH CIR. CT. OF APPEALS

STAY OF MANDATE FILED DEC. 10, 19 FED. R. APP. P. 41(D)(1).

PROVISIONS INVOLVED

TITLE 31 COFR. FED. REG. GOVERNING THE PRACTICE OF ATTORNEYS IRS. REG. TREAS. DEPT.

TITLE 28 USC 636(B)(1)(A) F.R.CV.P. 72(b) A RECORD MUST BE MADE OF ALL EVIDENTIARY

PROCEEDINGS, F.R.CV.P. 39 RECORDS KEPT BY THE CLERK, F.R.CV.P. 5.1 CONST. CHALLENGE

TO A STATUE.

STATEMENT OF THE CASE

BASIS FOR JURISDICTION THE 28 USC 1331, N.C. CASE NO. 18CV0167 FILED FEB. 6, 2019 ORDER FOR MONEY OWED PROCEEDING. DISTRICT CT. JUDGE FREEMAN PRESIDING, FILED PURSUANT TO TITLE 31 COFR. IRS. REG. FOR FED. INCOME TAX CLAIM DISALLOWANCE OF \$9,030.00 AND MONETARY DAMAGES FOR \$5,000,000.00 FOR THE IRS. FAILURE TO PAY FOR A PERIOD OF 10 YEARS. F.R.C.V.P. 56 MOTION FOR SUMMARY JUDGMENT WAS FILED WITH THE CT. PURSUANT TO TITLE 31 COFR. IRS. REG. 10.76 JUDGE DECISION. THE DEFENDANT DID NOT ANSWER OR APPEAR IN CT. THE JUDGE CONCLUDED THE CT. LACK JURISDICTION. THE CASE WAS REMOVED TO FED. DISTRICT CT PURSUANT TO THE 28 USC 1441, CASE NO. 2019-CV-9-FL, FEB. 28, 2019. THE U.S. DISTRICT CT. CLERK DID NOT ENTER THE JUDGE ORDER CASE NO. 18CV0167 IN THE CIVIL DOCKET PURSUANT TO F.R.C.V.P. 77(d), 79. U.S. MAGISTRATE JUDGE NUMBER II DID NOT FOLLOW THE U.S. DISTRICT CT. STANDARD OF REVIEW F.R.C.V.P. 72(b) TITLE 28 USC. 636(b)(1)(A) SUPPRESSING EVIDENCE U.S. DISTRICT CT. JUDGE FINNAGAN ADOPTED THE MAGISTRATE RECOMMENDATION TO DISMISS PURSUANT TO THE 28 USC. 1915(E)(2)(B). THE CASE WAS THEN APPEALED TO THE 4TH CIR. CT. OF APPEALS. THE APPEAL WAS CERTIFIED. THE U.S. ATTY. GEN. WILLIAM BARR WAS NOTIFIED PURSUANT TO F.R.C.V.P. 5.1 AND 4 TO INTERVENE AND PROSECUTE. THE 4TH CIR. AFFIRMED THE DECISION OF THE U.S. DISTRICT COURT.

ARGUMENT

THE 4TH CIR. HAS DECIDED AN IMPORTANT FED. QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THE SUPREME CT. SUPREME CT. DECISION IN MEAD, US. VS MEAD CORP. 533 US. 218, 121, S. CT. 2164, 150 L. ED. 2d (2001) ACCORDINGLY WE HOLD THAT UNDER IRC(6511(a)) A TAXPAYER CLAIM FOR CREDIT OR REFUND IS TIMELY IF IT IS FILED WITHIN 3 YRS. FROM THE DATE HIS INCOME TAX WAS FILED REGARDLESS OF WHEN THE RETURN WAS FILED. (HOLDING) OMOHUNDRO VS. U.S. 300 F.3d 1065 9TH CIR. (2002) HEID BECAUSE OMOHUNDRO CLAIM FOR OVERPAYMENT CREDIT WAS FILED WITHIN 3 YRS. FROM THE DATE OMOHUNDRO FILED RETURN. 4TH CIR DECISION IS IN CONFLICT WITH THE 9TH CIR. CT. OF APPEALS.

APPENDIX

U.S. DISTRICT CT. OPINION CASE NO 2:19-CV-9-FL SO ORDERED JUNE 6, 19
UPON FRIVOLITY REVIEW PURSUANT TO TITLE 28 USC 1915(E)(2)(B) PLAINTIFF
COMPLAINANT IS DISMISSED WITH PREJUDICE U.S. DISTRICT CT. JUDGE FIANAGAN.
U.S. CT. OF APPEALS 4TH CIR. OPINION PERCURIAM CASE NO 19-1747 NOV. 25, 19
WE HAVE REVIEWED THE RECORD AND FIND NO REVERSIBLE ERROR, ACCORDINGLY
WE AFFIRM. FOR THE REASONS STATED BY THE U.S. DISTRICT CT. BIVENS VS SIX
UNKNOWN NAME AGENTS OF FED. BUREAU OF NARCOTICS 403 U.S. 388 (1971) F.D.I.C.
VS. MEYER 510 U.S. 471 (1994) SUPREME CT. HAS RULED IRS IMMUNE TO A BIVENS
CLAIM.

N.C. STATE CT. OPINION CASE NO 18CVD167 ORDER FEB. 6, 19 - THE CT LACKS SUBJECT
MATTER JURISDICTION. IN THIS PROCEEDING, THE PLAINTIFFS COMPLAINT FOR MONEY
DOWED IS DISMISSED WITHOUT PREJUDICE TO ALLOW HIM TO FILE HIS CLAIM IN A CT.
OF COMPETENT JURISDICTION.

F.R.C.V.P. 79 RECORDS KEPT. BY THE CLERK, (A) CIVIL DOCKET. THE CLERK MUST ENTER
EACH CIVIL ACTION IN THE DOCKET. F.R.C.V.P. 72(B) MAGISTRATE JUDGE PRETRIAL
ORDER. TITLE 28 USC 636 (B)(1)(A) A RECORD MUST BE MADE OF ALL EVIDENTIARY
PROCEEDINGS. F.R.C.V.P. 5.1 CONSTITUTIONAL CHALLENGE TO A STATUTE. FILE NOTICE OF
CONST. QUESTION STATING THE QUESTION AND IDENTIFYING THE PAPER THAT RAISES IT
IF, (A) DO NOT INCLUDE THE U.S. TITLE 31 CFR. SUBTITLE-A PART-10 PUBLISHED
SEPT. 26, 07 IRS. REG. GOVERNING THE PRACTICE OF ATTORNEYS BEFORE THE
IRS. TITLE 31 CFR. ANSWER, DEFAULT. REG 10.64 (A) FILING. THE RESPONDENT MUST
FILE AN ANSWER WITH THE ADMIN. LAW JUDGE. AND SERVED ON THE DIRECTOR
WITHIN THE TIME SPECIFIED IN THE COMPLAINT. UNLESS THE TIME IS EXTENDED
BY THE JUDGE. FAILURE TO DENY OR ANSWER ALLEGATIONS IN COMPLAINT THAT IS NOT
DENIED IN THE ANSWER IS DEEMED ADMITTED AND WILL BE CONSIDERED PROVED.

Melvin P. White Jr.