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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

[DATE STAMP]
United States Court of Appeals
Tenth Circuit
June 10, 2024
Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

RYAN K. JONES; TARAH F. JONES,
Defendants - Appellants.

No. 23-5112
(D.C. No. 4:19-CV-00432-TDD-JFJ)
(N.D. Okla.)

ORDER AND JUDGMENT*

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* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for

Before **TYMKOVICH**, **BACHARACH**, and **CARSON**, Circuit Judges.

The United States commenced this action pursuant to 26 U.S.C. § 7401 to reduce unpaid income tax and related penalties and interest to a judgment. The district court granted summary judgment for the United States. We have jurisdiction pursuant to 28 U.S.C. § 1291, and affirm.

I. Background[1]

For each of tax years 2001, 2002, and 2003, Appellant Ryan K. Jones had estimated gross income of over $300,000. Federal law required Mr. Jones to file tax returns. He failed to do so.[2] The IRS assessed income tax, penalties, and interest totaling over $467,000. It gave Mr. Jones notice of the assessments and demanded payment.

For tax years 2012, 2013, 2014, and 2016, Mr.

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its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

[1] We draw the factual background from the summary judgment record. It is undisputed except where attributed to only one party.

[2] As the district court summarized, Mr. Jones's "failure to file tax returns stemmed from his belief that no law required him to maintain a social security number [SSN]." App. at 193. In his words, he therefore "rescinded and disassociated from" his assigned SSN. *Id.* at 53. But he "reassociated" with his SSN in 2012. *Id.* at 35 (internal quotation marks omitted).

Jones and his spouse, Tarah F. Jones, filed joint income tax returns but they did not pay the amounts they reportedly owed. For those years, the IRS assessed them tax, penalties, and interest totaling over $194,000. The IRS gave the Joneses notice of these assessments and made demands for payment.

The Joneses did not pay the amounts assessed. The United States commenced this action in 2019 to reduce the unpaid tax, penalties, and interest to a judgment.[3] On cross-motions for summary judgment, the district court granted summary judgment for the United States. It found that Mr. Jones owed $585,883.74 for tax years 2001–2003, and the Joneses jointly owed $247,768.52, for tax years 2012, 2013, 2014, and 2016. It entered judgment in those amounts, with interest continuing to accrue. The Joneses appeal.

II. Discussion

We review the district court's summary judgment rulings de novo. *Lindsay v. Denver Pub. Sch.*, 88 F.4th 1323, 1327 (10th Cir. 2023). We likewise

[3] Around thirty months after filing a pro se answer to the complaint, the Joneses, then represented by counsel, sought to amend their answer to add affirmative defenses. The district court concluded the proposed amendment was futile because the defenses could not survive summary judgment. *See* App. at 20–25. The Joneses then raised the same constitutional and legal issues they had sought to plead as affirmative defenses as summary judgment arguments. In granting summary judgment, the district court rejected the Joneses' arguments for the same reasons it denied them leave to amend. *See* App. at 201.

review de novo questions of law, including the constitutionality of a statute. *United States v. Streett*, 83 F.4th 842, 852 (10th Cir. 2023), *petition for cert. filed* (U.S. Apr. 26, 2024) (No. 23-7321).

A. The District Court Properly Granted Summary Judgment

No party disputes the material facts.[4] In the district court, the United States filed certificates of assessments (Form 4340), along with declarations and other documents supporting its motion for summary judgment. This provided "presumptive proof of a valid assessment." *March v. IRS*, 335 F.3d 1186, 1188 (10th Cir. 2003) (internal quotation marks omitted); *see also Long v. United States*, 972 F.2d 1174, 1181 (10th Cir. 1992) ("For purposes of granting summary judgment, a Certificate of Assessments and Payments is sufficient evidence that an assessment was made in the manner prescribed by [26 U.S.C.] § 6203 and [26 C.F.R. §] 301.6203-1.").

The Joneses thus had the burden to overcome the presumption of the IRS's assessments' validity. *See Long*, 972 F.2d at 1181 n.9. They did not do so. Although they raised arguments contesting the IRS's authority to assess and collect the amounts owed, they presented no evidence or arguments contesting the accuracy or validity of the IRS's assessments. The

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[4] The Joneses did not contest any of the material facts identified as undisputed by the United States' motion for summary judgment.

district court therefore properly relied on the Form 4340 certifications and summary judgment record to grant summary judgment against the Joneses. *See Guthrie v. Sawyer*, 970 F.2d 733, 737–38 (10th Cir. 1992) ("If a taxpayer does not present evidence indicating to the contrary, a district court may properly rely on the [Forms 4340] to conclude that valid assessments were made."); *Long*, 972 F.2d at 1181.

B. The Joneses' Arguments are Meritless

On appeal, the Joneses do not contest the facts underlying the judgment against them. Instead, they raise arguments challenging the United States' authority to assess and collect the amounts owed. All lack merit.

The Joneses refer to myriad constitutional provisions, historical documents, Internet sources, and other texts. Most of their briefing attacks an array of targets, including the Supreme Court's Commerce Clause decisions, the constitutionality of both the Federal Reserve Bank and paper money, Theodore Roosevelt, *Chevron* deference, United States energy policy, the Food and Drug Administration, federal agencies in general, federal regulations, and Supreme Court constitutional decisions the Joneses characterize as Marxist. However strongly the Joneses—or their counsel—hold these views, they have no bearing on the disposition of this case.

The Joneses acknowledge—as they must—that their arguments "cannot succeed under existing case

(and statutory) law," Aplt. Reply Br. at 17 (emphasis removed), and that "under existing caselaw Plaintiff is entitled to summary judgment," Aplt. Opening Br. at 6. That acknowledgment is, of course, fatal to their appeal. We must apply our precedents. *See Vincent v. Garland*, 80 F.4th 1197, 1200 (10th Cir. 2023), *petition for cert. filed* (U.S. Dec. 26, 2023) (No. 23-863). And, even if, as the Joneses argue, the Supreme Court wrongly decided its longstanding jurisprudence, "[o]nly the Supreme Court can overrule its own precedents." *United States v. Maloid*, 71 F.4th 795, 808 (10th Cir. 2023), *cert. denied*, 144 S. Ct. 1035 (2024). Because the Joneses acknowledge the district court's rulings applied controlling precedent, they provide no basis to reverse.

The Joneses' contentions on appeal repeat the same arguments the district court rejected. Given their acknowledgment that controlling law defeats their arguments, and because we agree with the district court's reasoning, we address them only briefly.

First, the Joneses claim an equal protection violation based on an inapplicable statute of limitations. The United States usually cannot assess taxes more than three years after a taxpayer files a return, 26 U.S.C. § 6501(a); it then has ten years from the date of the assessment to commence a court action, 26 U.S.C. § 6502(a)(1). If that provision applied, Mr. Jones argues it would time bar the claim for his 2001–2003 taxes. But it does not apply. The IRS can assess taxes "at any time" for taxpayers who, like Mr. Jones, never filed returns. 26 U.S.C. § 6501(c)(3). Mr. Jones argues this raises an equal protection violation,

claiming the constitution requires that he benefit from the same time limits as taxpayers who filed returns.[5]

This argument fails. The statutory distinction between taxpayers who file tax returns and those who do not is not a suspect classification so rational-basis constitutional review applies, making it valid so long as there is some "rational relationship between the disparity of treatment and some legitimate governmental purpose." *Armour v. City of Indianapolis*, 566 U.S. 673, 680 (2012) (internal

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[5] Mr. Jones alleges he *offered* to file returns, but the IRS would not accept them without a social security number. Yet nothing prevented him from using his assigned social security number, and he did not file returns for 2001–2003, with or without a SSN. To the extent that the Joneses challenge the legality of either the issuance of SSNs in general or the requirement to include them on tax returns, we reject those arguments as frivolous and insufficiently developed. Again, the Joneses do not argue they could prevail on such an argument under controlling precedent; instead, they argue that we and the Supreme Court have wrongly decided long-established constitutional jurisprudence.

The Joneses also argue the IRS *could* have prepared returns for Mr. Jones beginning in 2004, pursuant to 26 U.S.C. § 6020(a). But that statute provides only that "the Secretary [of the Treasury] *may* prepare [a] return" (emphasis added), and therefore "operates only at the discretion of the Secretary," *In re Mallo*, 774 F.3d 1313, 1324 (10th Cir. 2014). The statute does not require the IRS to prepare a return for Mr. Jones, and not doing so had no effect on the statute of limitations. *See United States v. Stafford*, 983 F.2d 25, 27 (5th Cir. 1993) ("[A]lthough [§ 6020(a)] authorizes the Secretary to file for a taxpayer, the statute does not require such a filing, nor does it relieve the taxpayer of the duty to file.").

quotation marks omitted). As applicable here, "legislatures have especially broad latitude in creating classifications and distinctions in tax statutes." *Id.* (brackets and internal quotation marks omitted). The district court concluded "there is a rational basis for not applying the limitations period to non-filers: 'to ensure that passage of time will not prevent collection of the tax unless the Government has been informed by the taxpayer that there is, or might be, tax liability.'" App. at 23 (quoting *Lucia v. United States*, 474 F.2d 565, 570 (5th Cir. 1973)). We agree a rational basis exists for treating Mr. Jones differently from taxpayers who filed tax returns. The Joneses do not argue the statutory distinction lacks a rational basis, instead attacking the rational-basis standard of review in general and arguing the Supreme Court wrongly interprets the Interstate Commerce Clause. As above, their arguments ask us to overturn controlling precedent and therefore fail. *See Maloid*, 71 F.4th at 808.

Second, Appellants argue the IRS lacks constitutional authority to impose penalties or collect interest. We agree with the district court that this argument is frivolous. *See* App. at 21, 25; *see generally Lonsdale v. United States*, 919 F.2d 1440, 1448 (10th Cir. 1990) (listing "meritless" "tax protester arguments" and imposing sanctions against pro se taxpayers for pursuing them). This argument contradicts long-established precedent upholding the federal government's tax and regulatory authority. *See, e.g.*, *Helvering v. Mitchell*, 303 U.S. 391, 399 (1938) (stating Congress has authority "as to internal revenue, taxation, and other subjects . . . to impose

appropriate obligations, and sanction their enforcement by reasonable money penalties, giving to executive officers the power to enforce such penalties . . . ."). It thus fails. *See Maloid*, 71 F.4th at 808.

Third, the Joneses argue the doctrine of laches should bar this action. The district court applied the legal rule that "laches . . . usually may not be asserted against the United States." App. at 24 (quoting *Ute Indian Tribe of the Uintah v. Myton*, 835 F.3d 1255, 1263 (10th Cir. 2016)); *accord Dial v. Comm'r*, 968 F.2d 898, 904 (9th Cir. 1992) ("[L]aches is not a defense to the United States' enforcement of tax claims."). The Joneses argue the law should be different, but they cannot prevail under existing law, so again their argument fails. *See Vincent*, 80 F.4th at 1200.

III. Conclusion

For these reasons, we affirm the district court's judgment.

Entered for the Court

Joel M. Carson III
Circuit Judge

[LETTERHEAD OF THE U.S. COURT OF APPEALS FOR THE TENTH CIRCUIT]

June 10, 2024

Mr. Clifford N. Ribner
Clifford N. Ribner
320 South Boston Avenue, Suite 1130
Tulsa, OK 74103

RE: 23-5112, United States v. Jones, et al
Dist/Ag docket: 4:19-CV-00432-TDD-JFJ

Dear Counsel:

Attached is a copy of the order and judgment issued today in this matter. The court has entered judgment on the docket pursuant to Fed. R. App. P. Rule 36.

Pursuant to Fed. R. App. P. Rule 40(a)(1), any petition for rehearing must be filed within 14 days after entry of judgment. Please note, however, that if the appeal is a civil case in which the United States or its officer or agency is a party, any petition for rehearing must be filed within 45 days after entry of judgment. Parties should consult both the Federal Rules and local rules of this court with regard to applicable standards and requirements. In particular, petitions for rehearing may not exceed 3900 words or 15 pages in length, and no answer is permitted unless the court enters an order requiring a response. *See* Fed. R. App. P. Rules 35 and 40, and 10th Cir. R.35 and 40 for further information governing petitions for rehearing.

Please contact this office if you have questions.

Sincerely,

/s/

Christopher M. Wolpert
Clerk of Court

cc: Pooja Boisture
Michael J. Haungs

CMW/at

Sydney Arrington

From: ca10_cmecf_notify@ca10.uscourts.gov
Sent: Monday, June 10, 2024 10:02 AM
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Subject: 23-5112 United States v. Jones, et al "Case termination for order and judgment" (4:19-CV-00432-TDD-JFJ)

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Tenth Circuit Court of Appeals

Notice of Docket Activity

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Case Name: United States v. Jones, et al
Case Number: 23-5112
Document(s): Document(s)

Docket Text:

[11096476] Affirmed. Terminated on the merits after submissions without oral hearing. Written, signed, and unpublished. Judges Tymkovich, Bacharach, and Carson(authoring judge). Mandate to issue. [23- 5112]

Notice will be electronically mailed to:

Ms. Pooja Boisture: appellate.taxcivil@usdoj.gov, pooja.a.boisture@usdoj.gov
Mr. Michael J. Haungs: appellate.taxcivil@usdoj.gov, Michael.J.Haungs@usdoj.gov
Mr. Clifford N. Ribner: cribner@mac.com

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Document Description: Order and Judgment
Original Filename: 23-5112.pdf
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Recipients:

- Ms. Pooja Boisture
- Mr. Michael J. Haungs
- Mr. Clifford N. Ribner

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

v.

RYAN K. JONES and TARAH F. JONES,
Defendants.

Case No. CIV-19-432-TDD-JFJ

JUDGMENT

Pursuant to the Order entered this date, the Court enters judgment in favor of Plaintiff, United States of America, against Defendants, Ryan K. Jones and Tarah F. Jones, as follows:

Count I: Judgment is entered against Ryan K. Jones in the amount of $585,883.74, plus statutory interest accruing from March 30, 2023, to payment date.

Count II: Judgment is entered against Ryan K. Jones and Tarah F. Jones, jointly and severally, in the amount of $247,768.52, plus statutory interest accruing from March 30, 2023, to payment date.

ENTERED this 22nd day of September, 2023.

/s/
TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

v.

RYAN K. JONES and TARAH F. JONES,
Defendants.

Case No. CIV-19-432-TDD-JFJ

ORDER

Before the Court are cross-motions for summary judgment filed by Plaintiff, United States of America [Doc. Nos. 53, 54], and Defendants, Ryan K. Jones and Tarah F. Jones [Doc. Nos. 73, 74]. Both motions are fully briefed and at issue. *See* Defs.' Resp. Br. [Doc. No. 60]; Pl.'s Reply Br. [Doc. No. 63]. *See also* Pl.'s Resp. Br. [Doc. No. 75]; Defs.' Reply Br. [Doc. No. 77].

BACKGROUND

The United States commenced this action against Defendants, seeking to reduce to judgment certain unpaid federal income tax assessments made

against Mr. Jones for tax years 1999 – 2003 (Count I)[1], and jointly against Mr. and Mrs. Jones for tax years 2012 – 2014 and 2016 (Count II) [Doc. No. 1]. On March 30, 2023, the United States moved for summary judgment on both counts. Thereafter, the Court permitted Defendants to file a motion for summary judgment out of time [Doc. No. 72]. In their motion, Defendants do not provide evidence against the validity or amount of the United States' tax assessments as to Defendants, but instead argue the constitutionality of tax, penalty, and interest assessments in general. The Court is not persuaded that any of Defendants' constitutional arguments invalidate the tax assessments in this case or preclude summary judgment in favor of the United States.

UNDISPUTED FACTS[2]

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[1] Mr. Jones has since satisfied his unpaid tax liabilities for tax years 1999 and 2000.

[2] This statement includes material facts that are properly supported by the asserting party and not opposed in the manner required by FED. R. CIV. P. 56(c). Defendants did not dispute any of the United States' Undisputed Material Facts (UMF). *See* Defs.' Resp. Br. Accordingly, the Court accepts as true all material facts asserted and properly supported by the United States' motion for summary judgment. *See* LCvR56-1(c). The Court may consider evidence in the record not specifically cited by the parties, *see* FED. R. CIV. P. 56(c)(3), but the Court is not required to comb through the record to determine the bases for a claim that a factual dispute exists. *See Espinoza v. Coca-Cola Enterprises, Inc.*, 167 F. App'x 743, 746 (10th Cir. 2006) ("[W]here the nonmovant failed to support his case with adequate specificity, we will not fault the court for not searching the record on its own to make his case for him (nor will we take on that role of advocacy).").

I. Count I - Tax Years 2001, 2002, and 2003 (Mr. Jones)

Mr. Jones failed to file federal income tax returns (Forms 1040) for the 2001 through 2003 tax years, despite earning sufficient income. *See* 26 U.S.C. § 6012. For each of the three tax years, Mr. Jones estimated that he earned between $300,000 and $400,000 in gross income from general consulting services, software subscriptions, and royalties from published book sales.

Mr. Jones' failure to file tax returns stemmed from his belief that no law required him to maintain a social security number. Mr. Jones alleges he "dissociated" with his SSN and could not file his tax returns for the subject tax years because the IRS allegedly refused to accept the returns without an SSN. It is undisputed that Mr. Jones never completed or filed tax returns for years 2001 through 2003, with or without an SSN.

The IRS revenue agent assigned to Mr. Jones' tax liabilities determined his income based upon information received in response to administrative summonses issued to Mr. Jones' clients, banks, and third-party contacts. Mr. Jones admitted that the IRS gathered all the information necessary to determine his income tax liabilities for the years at issue. The IRS issued a notice of deficiency, dated October 9, 2008, which Mr. Jones did not challenge in Tax Court.

On March 2, 2009, a delegate of the Secretary of Treasury made income tax, penalty, and interest

assessments against Mr. Jones as follows:

Tax Year	Assess-ment Date	Amount	Assessment Type
2001	03/02/09	$151,686.00	Income Tax
		$6,061.92	Estimated Tax Penalty
		$34,129.35	Late Filing Penalty
		$37,921.50	Failure to Pay Penalty
		$96,594.92	Interest
2002	03/02/09	$49,243.00	Income Tax
		$1,645.57	Estimated Tax Penalty
		$11,079.68	Late Filing Penalty
		$12,310.75	Failure to Pay Penalty
		$26,268.42	Interest
2003	03/02/09	$20,664.00	Income Tax
		$533.16	Estimated Tax Penalty
		$4,649.40	Late Filing Penalty
		$5,166.00	Failure to Pay Penalty
		$9,421.16	Interest

The IRS sent notice of the assessments to Mr. Jones. *See* Defs.' Resp. Br. at 3 ("Sometime in 2008 or early 2009, Mr. Jones received a letter from [an IRS revenue agent] stating that he owed hundreds of thousands of dollars in taxes, penalties, and interest for the years between 1999 – 2003."). In support of its motion, the United States has included as exhibits Certificates of Assessments, Payments, and Other Specified Matters (Forms 4340) for each relevant tax year.

Mr. Jones has not satisfied his federal income tax liabilities for tax years 2001 through 2003. The balance owed as of March 30, 2023, was $585,883.74, which amount continues to accrue interest as a matter of law. *See* 26 U.S.C. §§ 6601(a), 6621.

II. Count II - Tax Years 2012, 2013, 2014, and 2016 (Mr. and Mrs. Jones)

Mr. Jones "reassociated" himself with his social security number sometime in 2012. For tax years 2012, 2013, 2014, and 2016, Mr. and Mrs. Jones filed joint federal income tax returns with the IRS. Mr. and Mrs. Jones self-reported owing tax, but failed to pay what they reportedly owed. Accordingly, a Secretary delegate made income tax, penalty, and interest assessments against Mr. and Mrs. Jones as follows:

Tax Year	Assess-ment Date	Amount	Assessment Type
2012	01/11/16	$6,259.00 $535.58	Income Tax Interest
2013	06/22/15	$8,476.00 $1,008.22 $366.07 $183.27	Income Tax Late Filing Penalty Failure to Pay Penalty Interest
2014	06/15/15	$19,068.00 $190.68 $95.84	Income Tax Failure to Pay Penalty Interest
2016	11/20/17	$150,000.00 $5,233.52 $3,177.92	Income Tax Failure to Pay Penalty Interest

The IRS gave notice of these assessments to Mr. and Mrs. Jones, as reflected in the Forms 4340. As of March 30, 2023, Mr. and Mrs. Jones' remaining balance for tax liabilities for years 2012 – 2014 and 2016 was $247,768.52, which continues to accrue statutory interest.

STANDARD OF DECISION

Summary judgment is proper "if the movant shows that there is no genuine dispute as to any

material fact and the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56(a). A material fact is one that "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute is genuine if the facts and evidence are such that a reasonable jury could return a verdict for the nonmoving party. *Anderson*, 477 U.S. at 248. All facts and reasonable inferences must be viewed in the light most favorable to the nonmovant. *Id.* at 255.

A movant bears the initial burden of demonstrating the absence of a dispute of material fact warranting summary judgment. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The nonmovant must then go beyond the pleadings and "set forth specific facts" that would be admissible and show a genuine issue for trial. *See Anderson*, 477 U.S. at 248; *Celotex*, 477 U.S. at 324. "To accomplish this, the facts must be identified by reference to affidavits, deposition transcripts, or specific exhibits incorporated therein." *Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 671 (10th Cir. 1998); *see* FED. R. CIV. P. 56(c)(1)(A). The inquiry is whether the facts and evidence identified present "a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law." *Anderson*, 477 U.S. at 251-52.

DISCUSSION

"In a suit brought by the government to collect taxes resulting from unreported income, the government establishes a *prima facie* case when it

shows a timely assessment of the tax due, supported by a minimal evidentiary foundation, at which point a presumption of correctness arises." *United States v. McMullin*, 948 F.2d 1188, 1192 (10th Cir. 1991). A presumption of correctness attaches to the assessment "once some substantive evidence is introduced demonstrating that the taxpayer received unreported income." *McMullin*, 948 F.2d at 1192.

The United States can meet its initial burden by providing self-authenticating Certificates of Assessments, Payments, and Other Specified Matters (Forms 4340) for each relevant tax year. *See Guthrie v. Sawyer*, 970 F.2d 733, 737 (10th Cir. 1992) (Form 4340 setting out tax assessment is "presumptive proof of a valid assessment."); *see also United States v. Welch*, 2013 WL 1444053, at *12 (D. Colo. Mar. 13, 2013) (citing *Long v. United States*, 972 F.2d 1174, 1181 (10th Cir. 1992)) ("It is settled law in [the Tenth] Circuit that for purposes of granting summary judgment, a Certificate of Assessments and Payments is sufficient evidence that an assessment was made in the manner prescribed by [26 U.S.C.] § 6203 and C.F.R. § 301.6203-1."). "If a taxpayer does not present evidence indicating to the contrary, a district court may properly rely on the forms to conclude that valid assessments were made." *Id.* at 737-38.

I. Correct and Valid Tax Assessments

In Count I, the United States seeks to reduce to judgment the unpaid tax, penalty, and interest assessments against Mr. Jones for tax years 2001, 2002, and 2003. In Count II, the United States seeks

judgment against Mr. and Mrs. Jones, jointly and severally, for unpaid assessments for tax years 2012, 2013, 2014, and 2016. In support of its motion for summary judgment [Doc. Nos. 53, 54], the United States provided declarations of IRS revenue agent Louis Jannacone and revenue officer advisor Billie Joe Brooks. *See* Pl.'s Mot. Ex. Nos. 1-2. Additionally, the United States attached Certificates of Assessments (Forms 4340) for each relevant tax year, as well as a Payoff Calculator reflecting Defendants' remaining balances as of March 30, 2023. *See* Pl.'s Mot. Ex. Nos. 3-10.

The United States has met its initial burden for summary judgment, and Defendants have provided no reasonable basis to refute the validity or amount of the subject tax assessments. Therefore, the Court finds that the assessments for tax years 2001-2003 against Mr. Jones, and for tax years 2012-2014 and 2016 against Mr. and Mrs. Jones, are presumptively valid. *See Long*, 972 F.2d at 1181.

II. Defendants' Response and Defendants' Motion for Summary Judgment

Because the assessments are presumptively valid, the burden shifts to Defendants to submit admissible evidence to rebut that presumption. *See Long*, 972 F.2d at 1181 n.9 ("[T]he taxpayer has the burden of going forward with evidence and the burden of persuasion to overcome the presumption attaching to the Forms 4340."). For both Counts I and II, Defendants fail to present any evidence on which a

reasonable jury could return a verdict in their favor. Even more, Defendants do not dispute any of the United States' Undisputed Material Facts or cite to any evidence attacking the validity or amount of the United States' tax assessments.

a. Statute of Limitations

For Count I, Mr. Jones argues that the ten-year statute of limitations for IRS collection after "assessment" bars the United States' action. *See* Resp. Br. at 4-5. Under 26 U.S.C. § 6501, the "amount of any tax imposed by this title shall be assessed within 3 years after the return was filed…." 26 U.S.C. § 6501(a). Thereafter, any collection action must begin "within 10 years after the assessment of the tax." 26 U.S.C. § 6502(a)(1). Notably, "[i]n the case of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time." 26 U.S.C. § 6501(c)(3).

Mr. Jones does not dispute that he failed to file tax returns for years 1999 – 2003. Rather, he asserts that he offered sometime in 2001 to submit certain tax returns, but was told by the IRS the returns would not be accepted without a social security number. And, since Mr. Jones had "dissociated" himself from his SSN, he was allegedly "incapable" of submitting his tax returns.[3] Citing the Secretary of the Treasury's

[3] Nothing prevented Mr. Jones from filing the tax returns with his assigned social security number.

ability to prepare a return on behalf of a taxpayer, *see* 26 U.S.C. 6020(a), Mr. Jones argues that his "offer" to submit tax returns in 2001 operated as an "offer to provide all the information necessary for a return pursuant to [Section 6020(a)] to be prepared by the IRS." *See* Defs.' Resp. Br. at 4. Thus, according to Mr. Jones, the ten-year statute of limitations for collection began running no later than 2004, and expired years before this suit was filed in 2019. *See* Defs.' Resp. Br. at 4-5.

Mr. Jones' position ignores the plain language of Section 6501(c)(3), which allows tax to be assessed "at any time" where a taxpayer fails to file a return. Although the Secretary *may* prepare tax returns on behalf of a taxpayer under Section 6020(a), the Secretary is under no obligation to do so. 26 U.S.C. § 6020(a); *see also United States v. Stafford*, 983 F.2d 25, 25 ("[A]lthough the section authorizes the Secretary to file for a taxpayer, the statute does not require such a filing, nor does it relieve the taxpayer of the duty to file."). Accordingly, Mr. Jones' mere offer to submit tax returns without a social security number did not trigger the ten-year statute of limitations for collection, nor did it require the Secretary to prepare tax returns on Mr. Jones' behalf. As it is undisputed that neither Mr. Jones nor the Secretary filed a return for tax years 1999-2003, the tax could be assessed "at any time" and collected within ten years of assessment. *See* 26 U.S.C. §§ 6501(c)(3), 6502(a)(1).

b. Defendants' Arguments Previously Rejected by This Court

In June of 2022, Defendants moved for leave to amend their answer [Doc. No. 34], seeking to add certain affirmative defenses. Defendants' proposed amended answer [Doc. No. 34-1] is nearly identical to their "Statement of Undisputed Facts and Law" in opposition to the United States' motion for summary judgment. *See* Defs.' Resp. Br. at 1- 10. In both filings, Defendants argue: 1) Mr. Jones' equal protection rights were violated because he did not receive the benefit of a statute of limitations that applies to individuals who file a tax return; 2) the United States acted in an "arbitrary and capricious" manner by refusing to accept the tax returns without a social security number and declining to prepare returns on behalf of Mr. Jones; 3) the Sixteenth Amendment provides no enabling authority for the United States to impose penalties or interest in collecting taxes; and 4) the United States is barred by laches due to the IRS' refusal to accept tax returns without a social security number.

This Court previously rejected each of these proposed affirmative defenses and arguments in its Order denying Defendants' motion for leave to amend their answer [Doc. No. 46]. The Court found that each of the affirmative defenses would be subject to dismissal and that leave to amend would thus be futile. For the same reasons set forth in the Court's prior Order [Doc. No. 46], the Court rejects Defendants' equal protection, laches, and Sixteenth Amendment arguments.

Additionally, Defendants criticize Supreme Court precedent interpreting the Interstate Commerce

Clause and further question the United States' power to assess tax, penalties, and interest. Although Defendants' positions lack clarity, they certainly constitute "tax-defying," which courts have repeatedly rejected. *See Lonsdale v. United States*, 919 F.2d 1440, 1447-48 (10th Cir. 1990) (sanctioning litigants whose "suit constitutes a refrain about the federal government's power to tax wages or to tax individuals at all" and listing common tax-defier arguments that are "patently frivolous"); *see also Crain v. C.I.R.*, 737 F.2d 1417, 1418 (5th Cir. 1984) (finding where a plaintiff brings "a hodgepodge of unsupported assertions, irrelevant platitudes, and legalistic gibberish," there is "no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit.").

Defendants have failed to provide evidence from which a reasonable factfinder could find in their favor with respect to the presumptively valid assessments for tax years 2001-2003, 2012-2014, and 2016. Thus, the United States is entitled to summary judgment on both Counts I and II.

CONCLUSION

IT IS THEREFORE ORDERED that the United States' Motion for Summary Judgment [Doc. Nos. 53, 54] is **GRANTED**. Judgment will be entered against Mr. Jones for Count I in the amount of $585,883.74, and jointly and severally against Mr. and Mrs. Jones for Count II in the amount of $247,768.52, both of which judgment amounts shall continue to

accrue statutory interest from March 30, 2023, to the date of payment. A separate judgment will be entered.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment [Doc. Nos. 73, 74] is **DENIED**. Accordingly, Defendants' Motion to Strike [Doc. No. 76], in which Defendants request that the Court strike language in their own motion for summary judgment for page-limit purposes, is **DENIED** as **MOOT**.

IT IS SO ORDERED this 22nd day of September, 2023.

/s/
TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

APPENDIX D

The Constitution Of The United States

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I § 8

The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

****

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

****

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

****

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

Article V

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI

This Constitution….shall be the supreme law of the land….

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others

retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Amendment XIII

Section 1.

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2.

Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal

protection of the laws.

****

Section 5.

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment XV

Section 1.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

Section 2.

The Congress shall have power to enforce this article by appropriate legislation.

Amendment XVI

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

Amendment XVIII

Section 1.

After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2.

The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

Amendment XIX

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

26 U.S.C. § 6020(a) Preparation of Return by Secretary.—

If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

26 U.S.C. § 6020(b) Execution of Return by

Secretary.—

26 U.S.C. § 6020(b)(1)Authority of secretary to execute return.—

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

26 U.S.C. § 6020(b)(2)Status of returns.—

Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

26 U.S.C. § 6502(a)Length of Period.–

Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun-

26 U.S.C. § 6502(a)(1)

within 10 years after the assessment of the tax, or...

26 U.S.C. § 6501(c)(3) provides as follows:

In the case of failure to file a return, the tax may be

assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

26 U.S.C. § 6651(a) Addition to the Tax.—

In case of failure—

26 U.S.C. § 6651(a)(1)

to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes) or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

26 U.S.C. § 6651(a)(2)

to pay the amount shown as tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it

is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

****