

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 07 2008

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

JOHN H. WEBSTER,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 06-74611

Tax Ct. No. 24277-04

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ and McKEOWN, Circuit Judges.

John H. Webster appeals pro se from the tax court's order granting summary judgment for the Commissioner and imposing a penalty against Webster under 26 U.S.C. § 6673. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review de

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

novo the tax court's summary judgment. *Miller v. Comm'r*, 310 F.3d 640, 642 (9th Cir. 2002). We review for abuse of discretion the tax court's imposition of a section 6673 penalty. *Grimes v. Comm'r*, 806 F.2d 1451, 1454 (9th Cir. 1986) (per curiam). We affirm.

Webster contends that no law requires him to pay taxes, and that, given the government's actions in an unrelated felony case against him, the Thirteenth Amendment prohibits collection of taxes from him. We reject these arguments as frivolous. *See, e.g., Wilcox v. Comm'r*, 848 F.2d 1007, 1008 (9th Cir. 1986). Contrary to Webster's contention, the tax court lacks jurisdiction to investigate unrelated claims. *See Comm'r v. McCoy*, 484 U.S. 3, 7 (1987). This court therefore also lacks jurisdiction. *See id.* at 7. The tax court properly upheld the Commissioner's tax determination.

The tax court also acted well within its discretion when imposing a penalty against Webster for taking a frivolous position. In a previous case, the tax court had warned Webster that section 6673 penalties would be imposed "if he returns to this Court with similar arguments in the future." *Webster v. Comm'r*, T.C. Summary Opinion 2002-43 (April 24, 2002).

Webster's remaining contentions are unpersuasive.

AFFIRMED.