

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

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**JUL 15 1998**

**PATRICK FISHER**  
Clerk

EDWARD LESOON,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

No. 97-8105  
(D.C. No. 97-CV-015-D)  
(D. Wyo.)

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**ORDER AND JUDGMENT\***

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Before **BALDOCK**, **EBEL**, and **MURPHY**, Circuit Judges.

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After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiff Edward Lesoon, proceeding pro se, appeals the district court's order dismissing his action brought against the United States for various constitutional and statutory violations in connection with his tax deficiency for the 1991 tax year. The district court determined that it lacked subject matter jurisdiction over plaintiff's constitutional and statutory claims because he had previously filed a petition with the Tax Court disputing the tax imposed for the 1991 tax year. The district court also ruled that plaintiff failed to state a claim for relief pursuant to the Taxpayer Bill of Rights, 26 U.S.C. § 7433. We have jurisdiction under 28 U.S.C. § 1291 and affirm.

“We review de novo the district court's dismissal for lack of subject-matter jurisdiction.” Owen v. Magaw, 122 F.3d 1350, 1352 (10th Cir. 1997). Our review of an order of dismissal for failure to state a claim also is de novo. See Witt v. Roadway Express, 136 F.3d 1424, 1431 (10th Cir. 1998).

We have reviewed the parties' briefs, the district court's order, and the record on appeal. Upon de novo review, we affirm the district court's order dismissing plaintiff's claims for substantially the reasons stated in the order granting defendant's motion to dismiss dated September 22, 1997.

Defendant United States of America has requested imposition of sanctions for pursuing this frivolous appeal. Plaintiff has responded to the sanctions request. See Braley v. Campbell, 832 F.2d 1504, 1515 (10th Cir. 1987) (notice

and an opportunity to respond required before imposing sanctions). The district court cautioned plaintiff against pursuing his frivolous claims in this case. We determine that plaintiff's arguments on appeal are legally frivolous. Therefore, we impose sanctions against plaintiff Edward Lesoon in the amount of \$1,500, as authorized by 28 U.S.C. § 1912 and Rule 38 of the Federal Rules of Appellate Procedure, for the reasons stated in Casper v. Commissioner, 805 F.2d 902, 906 (10th Cir. 1986) (imposing flat fee of \$1,500 as sanction in frivolous tax appeal).

The judgment of the United States District Court for the District of Wyoming is AFFIRMED. The government's Motion for Sanctions is GRANTED in the amount of \$1,500. All other pending motions are DENIED. The mandate shall issue forthwith.

Entered for the Court

Michael R. Murphy  
Circuit Judge