

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-10068  
Conference Calendar

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ALLISON MCCOY,

Plaintiff - Appellant,

versus

INTERNAL REVENUE SERVICE; INTERNAL REVENUE SERVICE DISTRICT  
DIRECTOR, AUSTIN, TEXAS; INTERNAL REVENUE SERVICE CHIEF OF  
COLLECTIONS, AUSTIN, TEXAS; H. GADDAY; INTERNAL REVENUE SERVICE  
DISTRICT DIRECTOR, MEMPHIS, TENNESSEE; INTERNAL REVENUE SERVICE  
CHIEF OF COLLECTIONS, MEMPHIS, TENNESSEE,

Defendants -Appellees,

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ALLISON MCCOY,

Plaintiff-Appellant,

versus

INTERNAL REVENUE SERVICE; INTERNAL REVENUE SERVICE DISTRICT  
DIRECTOR, MEMPHIS, TENNESSEE; INTERNAL REVENUE SERVICE CHIEF OF  
COLLECTIONS, MEMPHIS, TENNESSEE; INTERNAL REVENUE SERVICE  
DISTRICT DIRECTOR, AUSTIN, TEXAS; INTERNAL REVENUE SERVICE CHIEF  
OF COLLECTIONS, AUSTIN, TEXAS; PAM C. BIGELOW, Director, Austin  
Customer Service Center; NANCY SPOTSER, Chief Customer Service  
Division, Austin, Texas,

Defendants - Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:00-CV-2786-M &  
USDC No. 3:00-CV-2787-M  
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October 29, 2002

Before DeMOSS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:\*

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined  
that this opinion should not be published and is not precedent  
except under the limited circumstances set forth in 5TH CIR.

Allison McCoy appeals from the district court's order granting summary judgment in favor of the Internal Revenue Service (IRS). McCoy argues on appeal that her wages are not taxable income and that income tax is unconstitutional because it violates her property rights.

McCoy's arguments are without merit. McCoy's tax returns for the relevant tax years reflect that she was employed by the United States Marine Corps and later by two private companies as a technician. Her wages from these employers constitute taxable income. See 26 C.F.R. § 1.61-2(a)(1)(providing that wages of persons in the United States military are income to the recipients unless excluded by law); 26 U.S.C. § 3401(a)(defining wages as all means of remuneration for services provided by an employee to an employer including cash and other mediums); 26 U.S.C. § 61(a)(1)(specifically including compensation for services in the definition of gross income). Similarly, McCoy's challenge to the constitutionality of income tax has been soundly rejected by this court. See Stelly v. Comm'r, 761 F.2d 1113, 1115 (5th Cir. 1985).

McCoy's appeal is without arguable merit and therefore frivolous. See Howard v. King, 707 F.2d 215, 219-220 (5th Cir. 1983). Accordingly, McCoy's appeal is DISMISSED. 5TH CIR. R. 42.2.

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R. 47.5.4.