

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20444

ESME J. HOLLAND,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
H-98-CV-4137
- - - - -

March 8, 2001

Before KING, Chief Judge, ALDISERT* and BENAVIDES, Circuit Judges.

PER CURIAM:**

Esme J. Holland appeals the grant of summary judgment in favor of the United States. She brought a claim for a refund under the Internal Revenue Code § 104(a)(2) which provides that income received in payment for personal injuries is excluded from taxation. See 29 U.S.C. § 104(a)(2). The district court granted summary judgment reasoning that Holland could not show that the payments stemmed from emotional damages. This Court affirms on alternative grounds as

* Circuit Judge of the Third Circuit, sitting by designation.

** 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

these grounds were properly asserted in district court.

It is clear under the plain language of the settlement agreement that Holland reserved all claims for personal injuries. As such her proceeds are not excludable under §104(a)(2) and instead constitute taxable income.

We AFFIRM.