

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

August 23, 2013

Lyle W. Cayce
Clerk

No. 12-60932
Summary Calendar

ROBERT L. BERNARD; DIOLINDA B. ABILHEIRA,

Petitioners - Appellants

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent - Appellee

Appeal from a Decision
of the United States Tax Court
(5787-10)

Before HIGGINBOTHAM, DENNIS, and GRAVES, Circuit Judges.

PER CURIAM:*

In this pro se appeal from the United States Tax Court, Robert L. Bernard and his wife Diolinda B. Abilheira challenge the Tax Court's order finding a deficiency in their 2007 income tax of \$36,950 and an accuracy-related penalty of \$6,640 under § 6662(a) of the Internal Revenue Code.

Bernard and Abhileira's appellate submissions fail to properly brief arguments with relevant case citations or provide a record from which to review

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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the merit of his arguments. We have previously held that “[b]riefs by pro se litigants are afforded liberal construction.” *Johnson v. Quarterman*, 479 F.3d 358, 359 (5th Cir. 2007) (citing *Haines v. Kerner*, 404 U.S. 519, 520 (1972)). However, we have also held that even pro se litigants must brief arguments in order to preserve them on appeal. *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

The Supreme Court’s rationale for allowing liberal construction in *Haines* was to hold briefs by pro se litigants to “less stringent standards than formal pleadings drafted by lawyers.” 404 U.S. at 520. This rationale is inapplicable given that Bernard, who authored the appellate submissions, is a former Assistant United States Attorney and has therefore been trained as a lawyer. Even with the benefit of liberal construction, Bernard and Abilheira have failed to brief any argument challenging the basis of the Tax Court’s order. Accordingly, Bernard and Abilheira have waived any such challenge on appeal. *See Yohey*, 985 F.2d at 224-25; *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Furthermore, Bernard and Abhilheira have not provided any grounds on which we may conclude that the Tax Court’s order was erroneous. Rather, Bernard and Abilheira’s stated arguments, citing, *inter alia*, the Magna Carta and the Declaration of Independence, are irrelevant to the result that the Tax Court reached. Consequently, their appeal is DISMISSED AS FRIVOLOUS. *See* 5TH CIR. R. 42.2.