IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-8633

CLARENCE W. STEINBRECHER and JEANETTE D. STEINBRECHER,

Plaintiffs-Appellants,

VERSUS

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
(SA-92-CV-409)

(November 4, 1994)

Before SMITH and EMILIO M. GARZA, Circuit Judges, and STAGG, District Judge.[*]

JERRY E. SMITH, Circuit Judge:[**]

Clarence W. Steinbrecher and Jeanette D. Steinbrecher, taxpayers, seek reversal of the denial of their motion for new trial under FED. R. CIV. P. 60(b)(2). In 1983, this court heard an

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[*] District Judge of the Western District of Louisiana, sitting by designation.

[**] Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

appeal from the Steinbrechers on issues involving tax years 1975 through 1979 and found their arguments "patently frivolous," awarding double costs pursuant to FED. R. APP. P. 38. Steinbrecher v. Commissioner of Internal Revenue, 712 F.2d 195, 196 (5th Cir. 1983). The government claims, and the Steinbrechers do not contest, that these sanctions still have not been paid.

This case raises the issue of whether this court should use its inherent powers to refuse to consider appeals from parties who have not paid their outstanding sanctions from earlier appeals. In Stelly v. Commissioner of Internal Revenue, 804 F.2d 868 (5th Cir. 1986), cert. denied, 480 U.S. 907 (1987), we considered the frivolous appeal of husband and wife taxpayers who, like the Steinbrechers, were proceeding pro se after having already been sanctioned by the court in an earlier case. The Stelly court wrote:

> Given the fact that this is the Stellys' second frivolous appeal on some of the same issues, we feel that the circumstances warrant additional sanctions. Consequently, the Clerk of the Court should not accept any new filings by the Stellys for any tax-related appeals until the sanctions we impose today are paid and proof of satisfaction of all prior judgments is provided. . . . One way or the other, we are determined to stop the growing number of patently frivolous appeals filed by abusers of the tax system whose sole purposes are to delay and harass the collection of public revenues.

Id. at 871-72. Other circuits have used their inherent powers to refuse to hear appeals from litigants with outstanding unpaid sanctions.[1]

[1] See, e.g., Hymes v. United States, 993 F.2d 701, 702 (9th Cir. 1993); Christensen v. Ward, 916 F.2d 1485 (10th Cir.), cert. denied, 498 U.S. 999 (1990); Zerman v. Jacobs, 814 F.2d 107, 109 (2d Cir. 1987); Shiff v. Simon &

For the sanctions imposed by this court to have an effect on those who continue to waste limited judicial resources in frivolous lawsuits, they must be enforced. It is an appropriate exercise of this court's inherent powers to refuse to hear appeals from parties that have outstanding sanctions from prior frivolous appeals on similar issues. Accordingly, we dismiss the Steinbrechers' appeal without reaching its merits.

DISMISSED.

Schuster, 766 F.2d 61, 62 (2d Cir. 1985); Weidenfield v. Pacific Improvement Co., 101 F.2d 699, 700 (2d Cir. 1939); Falcon v. General Tel. Co., 611 F. Supp. 707, 723-25 (N.D. Tex. 1985), aff'd on other grounds, 815 F.2d 317 (5th Cir. 1987).