

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 31, 2024

Lyle W. Cayce
Clerk

No. 24-20025
Summary Calendar

WILLIAM RUSSELL HARRISON,

Plaintiff—Appellant,

versus

COMMISSIONER OF INTERNAL REVENUE; DORI L. STRICKLIN,
Group Manager; MIGUEL PINEDA, *Revenue Officer*,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:23-CV-3475

Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Taxpayer William Harrison, pro se, petitioned the district court to quash third-party IRS summonses. The district court dismissed the action for lack of subject matter jurisdiction, which Harrison now appeals. We AFFIRM.

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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I.

In 2023, the IRS investigated Harrison for unpaid income tax assessed for tax years 2007-2010 and 2012. To further that investigation, on September 1, 2023, the IRS issued summonses to third parties connected to Harrison, which sought documents relating to Harrison's corporate entity alter ego, WRH ZServices LLC. Harrison then petitioned the district court to quash those summonses. The district court, however, dismissed the action for lack of subject matter jurisdiction under FED. R. CIV. P. 12(b)(1). Harrison appeals that judgment.

II.

We review de novo a dismissal for lack of subject matter jurisdiction under Rule 12(b)(1). *See Ballev v. Cont'l Airlines, Inc.*, 668 F.3d 777, 781 (5th Cir. 2012). "The party asserting jurisdiction bears the burden of proof for a 12(b)(1) motion to dismiss." *Id.* "A court can find that subject matter jurisdiction is lacking based on '(1) the complaint alone; (2) the complaint supplemented by undisputed facts evidenced in the record; or (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts.'" *Id.* (quoting *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001)).

III.

On appeal, Harrison argues that the district court had subject matter jurisdiction over the case because he had standing to challenge the summonses. He is wrong.

Generally, the IRS is required to give notice of a summons to anyone identified in that summons, which carries with it a right to move to quash the summons. *Polselli v. Internal Revenue Serv.*, 598 U.S. 432, 434 (2023). That is not true, however, when the summons is issued to a third party "in aid of

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the collection of...an assessment made...against the person with respect to whose liability the summons is issued.” 26 U.S.C. § 7609(c)(2)(D)(i).

Here, the IRS assessed a tax liability against Harrison but issued these summonses to third parties to aid in the collection of that liability. The IRS’s summonses, therefore, fall squarely under the notice exception found in Section 7609(c)(2)(D)(i). Thus, Harrison did not have standing to challenge these summonses, and the district court correctly held that it lacked jurisdiction to rule on Harrison’s challenge. *See Polselli*, 598 U.S. at 437.

IV.

In sum, the district court lacked jurisdiction over this case and its judgment is, therefore, in all respects,

AFFIRMED.