

MAY 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>TENNISON DONG,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p style="text-align: center;">v.</p> <p>COMMISSIONER OF INTERNAL REVENUE,</p> <p style="text-align: center;">Respondent - Appellee.</p>

No. 08-72529

Tax Ct. No. 25138-06L

MEMORANDUM *

Appeal from a decision of the
United States Tax Court
Robert A. Wherry, Jr., Judge, Presiding

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

Tennison Dong appeals pro se from the tax court’s order granting the Commissioner of Internal Revenue’s (“Commissioner”) motion to dismiss Dong’s petition contesting the Commissioner’s issuance of a Notice of Determination

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

sustaining a tax lien against him to collect purported income tax liabilities for 2000. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review a tax court's decision to dismiss a case for lack of prosecution for an abuse of discretion.

Edelson v. Comm'r, 829 F.2d 828, 831 (9th Cir. 1987). We affirm.

The tax court did not abuse its discretion in dismissing Dong's petition for failure to prosecute given that Dong did not attempt to enter into a stipulation with the Commissioner's counsel and failed to appear at trial on two separate occasions. *See id.* (holding that the tax court did not abuse its discretion in dismissing the taxpayers' petitions for failure to prosecute where the taxpayers had, among other things, failed to enter into a stipulation of facts and to appear for trial).

Dong's remaining contentions are unpersuasive.

AFFIRMED.