

DEC 14 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>TIMOTHY EDWARD HODGSON,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>UNITED STATES OF AMERICA,</p> <p>Defendant - Appellee.</p>
--

No. 08-15777

D.C. No. 2:07-CV-01536-WBS-  
JFM

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
William B. Shubb, District Judge, Presiding

Submitted November 17, 2009\*\*

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Timothy Edward Hodgson appeals pro se from the district court’s judgment dismissing his action alleging that the Internal Revenue Service (“IRS”) violated

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

26 U.S.C. § 6304. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal for lack of subject matter jurisdiction and dismissal for failure to state a claim. *Shanks v. Dressel*, 540 F.3d 1082, 1086 (9th Cir. 2008). We affirm.

The district court properly dismissed Hodgson's claim that the IRS violated § 6304 because Hodgson challenged only the IRS's failure to communicate properly with his counsel, not an improper communication with him. *See* 26 U.S.C. § 6304 (restricting certain communications with taxpayers and prohibiting abuse and harassment of taxpayers in connection with the collection of unpaid taxes).

The district court properly dismissed Hodgson's claim for declaratory relief because the United States is entitled to sovereign immunity from declaratory relief judgments "with respect to Federal taxes." 28 U.S.C. § 2201; *E.J. Friedman Co. v. United States*, 6 F.3d 1355, 1358-59 (9th Cir. 1993) ("Because the case at bar involves federal taxes, declaratory relief is unavailable, and § 2201 cannot serve as a waiver of sovereign immunity.").

**AFFIRMED.**