

AUG 02 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KEITH R. DeORIO, dba DeORIO
WELLNESS CENTER,

Petitioner - Appellant,

v.

UNITED STATES OF AMERICA,

Respondent - Appellee,

and

INTERNAL REVENUE SERVICE; A.
GONZALES, IRS Agent; BANK OF THE
WEST,

Respondents.

No. 08-57064

D.C. No. 08-cv-932-CJC-ANx

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Submitted July 19, 2010**

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

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

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Keith R. DeOrio, dba DeOrio Wellness Center, appeals pro se from the district court's order dismissing for lack of subject matter jurisdiction his petition to quash an Internal Revenue Service summons under 26 U.S.C. § 7902(b). We have jurisdiction under 28 U.S.C. § 1291 and 28 U.S.C. § 7609(h)(1). We review de novo, *Ip v. United States*, 205 F.3d 1168, 1170 (9th Cir. 2000), and we affirm.

The district court properly dismissed the petition because DeOrio was not entitled to notice of the third-party summons issued to aid in collecting the unpaid assessed taxes of a predecessor or alter ego of DeOrio's business. *See* 26 U.S.C. § 7609(c)(2)(D) (notice of summons under section 7609(a) need not be given when summons is issued in aid of collection of a tax assessed against the liable party or a transferee); *see also Ip*, 205 F.3d at 1170 n.3.

DeOrio's remaining contentions are unpersuasive, and we do not consider issues he raises for the first time on appeal. *See Foti v. City of Menlo Park*, 146 F.3d 629, 238 (9th Cir. 1998).

AFFIRMED.