

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRET W. OGILVIE,

Plaintiff - Appellant,

and

MERRY C. OGILVIE,

Plaintiff,

v.

CARRON COBB, Manager; et al.,

Defendants - Appellees.

No. 09-15631

D.C. No. 3:08-cv-00269-BES-
RAM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Brian E. Sandoval, District Judge, Presiding

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

* 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).

Bret W. Ogilvie appeals pro se from the district court’s judgment dismissing his action challenging the Internal Revenue Service’s (“IRS”) notices of levy and federal tax lien, and alleging wrongful levy and garnishment of wages. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004). We affirm.

The district court properly dismissed the claims against the IRS employees in their official capacities as barred by sovereign immunity. *See Gilbert v. DaGrossa*, 756 F.2d 1455, 1458 (9th Cir. 1985) (“[A] suit against IRS employees in their official capacity is essentially a suit against the United States.”).

The district court properly dismissed the claims against defendants Cobb and Klaich Animal Hospital, Ltd. for honoring a federal tax levy because they are entitled to immunity. *See* 26 U.S.C. § 6332(e) (those who comply with the levy are “discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment”).

We do not consider arguments raised for the first time on appeal. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

Ogilvie’s remaining contentions are unpersuasive.

AFFIRMED.