

DEC 27 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RANDOLPH FRODSHAM,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 09-70220

Tax Ct. No. 13980-07L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted December 14, 2010**

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

Randolph Frodsham appeals pro se from the tax court's order dismissing for failure to prosecute his petition contesting the Commissioner's issuance of a Notice of Determination sustaining a tax lien against him to collect purported income tax liabilities for tax years 2003 and 2004. We have jurisdiction under 26 U.S.C.

* 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).

§ 7482(a)(1). We review 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 by dismissing Frodsham's petition for failure to prosecute because Frodsham failed to appear for trial and provided no legitimate excuse for his failure to appear. *See id.* (holding that the tax court did not abuse its discretion by dismissing the taxpayers' petitions for failure to prosecute where the taxpayers had, among other things, failed to appear for trial).

Frodsham's remaining contentions are unpersuasive.

AFFIRMED.