

NOV 02 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FREDERICK KERPSIE,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>COMMISSIONER OF INTERNAL REVENUE,</p> <p>Respondent - Appellee.</p>

No. 10-70655

Tax Ct. No. 21009-07L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted October 25, 2011**

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

Frederick Kerpsie appeals pro se from the Tax Court’s decision granting summary judgment for the Commissioner of Internal Revenue in his action challenging a notice of federal tax lien. We have jurisdiction under 26 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 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). We review de novo. *Miller v. Comm'r*, 310 F.3d 640, 642 (9th Cir. 2002). We affirm.

Because Kerpsie failed to oppose the Commissioner's summary judgment motion or file his own motion for summary judgment as ordered by the Tax Court, he has waived any challenge to the Tax Court's decision sustaining the filing of the notice of federal tax lien. *See Jenkins v. County of Riverside*, 398 F.3d 1093, 1095 n.4 (9th Cir. 2005) (per curiam) (plaintiff waived challenge to claims by failing to raise them in opposition to defendant's motion for summary judgment). Moreover, there is no merit to Kerpsie's primary contentions on appeal that the Sixteenth Amendment was never properly ratified, that no statute imposes liability for income tax, or that the payment of income tax is voluntary. *See, e.g., United States v. Nelson (In Re Becraft)*, 885 F.2d 547, 548-49 (9th Cir. 1989); *Wilcox v. Comm'r*, 848 F.2d 1007, 1008 (9th Cir. 1988) ("[P]aying taxes is not voluntary.").

Kerpsie's remaining contentions are unpersuasive.

AFFIRMED.