

OCT 16 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA; JON  
SUSTARICH,

Plaintiffs - Appellees,

v.

MARK OTTOVICH,

Defendant - Appellant.

No. 11-17326

D.C. No. 3:11-cv-01793-JSW

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Jeffrey S. White, District Judge, Presiding

Submitted October 9, 2012\*\*

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

Mark Ottovich appeals pro se from the district court's order granting the government's petition to enforce a summons against him in connection with an investigation into income tax liabilities of his mother's estate. We have

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\* 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).

jurisdiction under 28 U.S.C. § 1291. We review for clear error. *United States v. Blackman*, 72 F.3d 1418, 1422 (9th Cir. 1995). We affirm.

The district court did not clearly err by granting the petition because Ottovich failed to rebut the government’s showing that the summons was issued in good faith. *See Stewart v. United States*, 511 F.3d 1251, 1254-55 (9th Cir. 2008) (explaining taxpayer’s “heavy” burden to show an abuse of process or lack of good faith once government makes prima facie showing that the summons was issued in good faith); *Crystal v. United States*, 172 F.3d 1141, 1144 (9th Cir. 1999) (“The government’s burden is a slight one, and may be satisfied by a declaration from the investigating agent[.]” (citation and internal quotation marks omitted)).

**AFFIRMED.**