

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 30 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 15-15023

Plaintiff-Appellee,

D.C. No. 1:06-cv-01368-AWI-MJS

v.

MEMORANDUM*

LOWELL BAISDEN,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted June 26, 2017**

Before: PAEZ, BEA, and MURGUIA, Circuit Judges.

Lowell Baisden appeals pro se from the district court's judgment modifying a permanent injunction under 26 U.S.C. § 7408 barring Baisden from promoting an abusive tax scheme. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's legal conclusions, for clear error its factual findings, and

* 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).

for an abuse of discretion its decision to grant a permanent injunction and the scope of the injunction. *Columbia Pictures Indus., Inc. v. Fung*, 710 F.3d 1020, 1030 (9th Cir. 2013). We affirm.

The district court did not abuse its discretion by issuing the permanent injunction, as modified, because the injunction “state[s] its terms specifically” and “describe[s] in reasonable detail . . . the act or acts restrained.” Fed. R. Civ. P. 65(d)(1); *United States v. Kapp*, 564 F.3d 1103, 1114 (9th Cir. 2009) (upholding against a vagueness and overbreadth challenge an injunction prohibiting a defendant from preparing tax returns claiming a specified tax deduction).

We reject as meritless Baisden’s contentions that the injunction punishes past conduct and violates his First Amendment rights. *See United States v. Estate Pres. Servs.*, 202 F.3d 1093, 1106 (9th Cir. 2000) (upholding against a First Amendment challenge a 26 U.S.C. § 7408 injunction because it “proscribes only fraudulent conduct” and defendants “may continue to publish legitimate tax planning advice”).

AFFIRMED.