

April 7, 2009

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Petitioner - Appellee,

v.

WILLIAM H. WESSON,

Respondent - Appellant.

No. 08-1373

(D. Colorado)

(D.C. No. 1:08-CV-01545-REB-MJW)

ORDER AND JUDGMENT*

Before **LUCERO, MURPHY, and McCONNELL**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

William H. Wesson appeals from an order of the district court enforcing a summons issued by the Internal Revenue Service (“IRS”) directing Wesson to appear before IRS revenue agents to give testimony and provide records. In

*This order and judgment is not binding precedent except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

granting the IRS's petition to enforce the summons, the district court concluded (1) it had jurisdiction over the matter pursuant to 26 U.S.C. §§ 7402(b), 7604(a) and 28 U.S.C. §§ 1340, 1345; and (2) the IRS had satisfied its burden of establishing a prima facie case that it fulfilled the due process requirements set out in *United States v. Powell*, 379 U.S. 48, 57-58 (1964); and (3) Wesson had failed to rebut the IRS's showing and had, instead, merely advanced long-discredited tax protester arguments.

As was the case before the district court, Wesson's arguments on appeal are limited to tax protester arguments that have been repeatedly rejected by this court. *See, e.g., United States v. Ford*, 514 F.3d 1047, 1053 (10th Cir. 2008) (labeling arguments like those advanced by Wesson on appeal as "patently frivolous" (quotation omitted)); *Lonsdale v. United States*, 919 F.2d 1440, 1448 (10th Cir. 1990) (labeling arguments like those advanced by Wesson in the instant appeal as "completely lacking in legal merit"). Because Wesson's arguments on appeal have no basis in either fact or law, this court exercises jurisdiction pursuant to 28 U.S.C. § 1291 and **affirms** for substantially those reasons set out by the district court.

ENTERED FOR THE COURT

Michael R. Murphy
Circuit Judge