UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Belton v. Commissioner

595 F. Supp. 494 (D.D.C. 1984) · Decided September 5, 1984

SUMMARY

The court considers Beverly Belton's application for attorneys' fees under the Equal Access to Justice Act after the IRS wrongfully levied approximately $350 from accounts belonging to her and her daughter. The court rejects the government's arguments that its position was substantially justified or that special circumstances barred an award. Although it finds the requested hourly rate reasonable, the court reduces the requested fee to $1,500 based on the documented time and circumstances.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Barrington D. Parker
JURISDICTION	USA
DECIDED	September 5, 1984
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, having prevailed against the United States in an action to recover funds wrongfully levied and seized by the IRS, sought attorneys' fees and expenses under the Equal Access to Justice Act. The court granted the fee application but reduced the requested amount from $13,147.50 to $1,500.
STANDARD OF REVIEW	The government bears the burden of showing that its position was substantially justified; substantial justification requires more than mere reasonableness and requires a reasonable basis in law and fact. The reasonableness of the requested fee was assessed based on the record, the difficulty of the issues, the skill required, and counsel's experience, reputation, and ability.
PRECEDENTIAL VALUE	Published federal district court memorandum order; persuasive authority outside the case and district, subject to applicable rules governing unpublished or memorandum decisions.

TOPICS

attorney fees · tax collection · tax liens · tax statute of limitations · civil procedure

PRACTICE AREAS

Federal tax litigation | Equal Access to Justice Act | attorneys' fees | tax levy and collection

QUESTIONS PRESENTED

1. Whether the government's position in defending the wrongful levy and seizure action was substantially justified under the Equal Access to Justice Act.
2. Whether special circumstances made an award of attorneys' fees unjust under the EAJA.
3. Whether the plaintiff's requested attorneys' fee of $13,147.50 was reasonable and adequately documented.

HOLDINGS

1. The government's position was not substantially justified because it lacked a reasonable basis in law and fact, particularly where the government had admitted that the accounts were wrongfully seized and lacked evidence that Belton was liable for her former husband's business taxes.
2. Special circumstances did not make an award unjust.
3. The requested fee of $13,147.50 was excessive on the record, and a fee award of $1,500, based on 20 hours at $75 per hour, was fair and reasonable.

KEY QUOTATIONS

> *"The government has the burden of proving that its position was "substantially justified" and the applicable standard is slightly more stringent than one of reasonableness."* (595 F. Supp. at 496)

> *"The government's position in litigation also must have "a reasonable basis in law and fact.""* (595 F. Supp. at 496)

> *"This Court agrees with plaintiffs that $75 per hour is a reasonable rate in the District of Columbia for an attorney such as the plaintiff's who has an LL.M degree in addition to the J.D. degree, and has practiced law at least since 1976."* (595 F. Supp. at 497)

FACTUAL BACKGROUND

The IRS seized approximately $350 from bank accounts owned by Beverly Belton and her daughter based on the mistaken belief that Belton was a co-owner of her former husband's business and jointly liable for its unpaid withholding and unemployment taxes. Belton twice sought a refund after an IRS officer advised her that the seizure was erroneous, but the IRS did not respond. The government nevertheless defended the subsequent recovery action on the merits and under a statute-of-limitations theory, despite admitting that the accounts had been wrongfully seized.

PROCEDURAL HISTORY

The IRS seized approximately $350 from accounts owned by Beverly Belton and her daughter to satisfy the tax debt of Belton's former husband. After Belton's refund requests went unanswered, she filed suit in May 1981. On cross-motions for summary judgment, the court granted Belton's motion on June 30, 1982, ordered the IRS to refund the funds, and rejected the government's statute-of-limitations defense. Belton then moved for attorneys' fees under the EAJA, resulting in this memorandum order.

DISPOSITION

other

CASES CITED

- Spencer v. National Labor Relations Board, 712 F.2d 539, 557-558 (D.C. Cir. 1983)
- Nunes-Correia Haig, 543 F. Supp. 812, 817 (D.D.C. 1982)
- Glus v. Brooklyn Eastern District Terminal, 359 U.S. 231, 232 (1959)
- Alley v. Dodge Hotel, 551 F.2d 442, 446 (D.C. Cir. 1977)
- Alley v. Dodge Hotel, 551 F.2d 442, 446 (D.C. Cir. 1977), cert. denied, 431 U.S. 958 (1977)
- Heckler v. Community Health Services of Crawford County, Inc., 467 U.S. 51 (1984)
- Copeland v. Marshall, 641 F.2d 880, 892 (D.C. Cir. 1980)
- Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974)
