

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-1429

Kenneth L. Israel; Dee Ann Israel,	*
	*
Appellants,	*
	* Appeal from the United States
v.	* District Court for the
	* Southern District of Iowa.
Internal Revenue Service,	*
	* [UNPUBLISHED]
Appellee.	*

Submitted: December 7, 2006
Filed: December 29, 2006

Before MURPHY, BYE, and MELLOY, Circuit Judges.

PER CURIAM.

Kenneth L. and Dee Ann Israel appeal from the district court's¹ dismissal of their civil action against the Commissioner of the Internal Revenue Service and the denial of their postjudgment motions. The government has filed a motion for sanctions to partially cover its expenses in defending this suit; it seeks sanctions in the amount of \$8,000 for defending a frivolous appeal. Appellants have filed a motion against sanctions, repeating many of their arguments about jurisdiction and sovereignty.

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.

After de novo review, see LeMay v. U.S. Postal Serv., 450 F.3d 797, 799 (8th Cir. 2006), we conclude the dismissal was proper for the reasons explained by the district court. We also find no abuse of discretion in either the denial of the Israels' disqualification motion or the denial of their Federal Rules of Civil Procedure 60(b)(3) motion. See United States v. Edwards, 159 F.3d 1117, 1131 (8th Cir. 1998) (standard of review for disqualification motions); E. F. Hutton & Co. v. Berns, 757 F.2d 215, 217 (8th Cir. 1985) (standard of review for Rule 60(b)(3) motions). Accordingly, we affirm. See 8th Cir. R. 47B.

Regarding the request for sanctions, we may award "just damages" and single or double costs if we determine that an appeal is frivolous. See 28 U.S.C. § 1912; Fed. R. App. P. 38. In this case, we find that the Israels have filed a frivolous appeal raising tax-protester arguments which have been repeatedly rejected in numerous other proceedings, including some involving the Israels. Moreover, the district court repeatedly warned the Israels that continuing to press such patently frivolous arguments would likely result in sanctions. In these circumstances, we conclude that sanctions are appropriate. See United States v. Gerads, 999 F.2d 1255, 1256-57 (8th Cir. 1993) (per curiam) (when appellant brought frivolous appeal based on tax-protester argument, court granted government's motion for sanctions). After considering appellants' motion against sanctions, we deny their motion. The government is awarded \$5,000 in sanctions, with Judge Bye dissenting from the imposition of sanctions.
