

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 09-2045

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United States of America,

Appellee,

v.

Fred Neal, Jr., individually and as  
Trustee Fred Neal, Jr. Revocable Trust,

Appellant,

Doris Neal, individually and as Trustee  
Doris Neal Revocable Trust; John H.  
Sinclair, Trustee Deep Water Designs;  
Davis Munck, P.C.,

Defendants.

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Appeal from the United States  
District Court for the Western  
District of Arkansas.

[UNPUBLISHED]

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Submitted: August 30, 2010  
Filed: September 2, 2010

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Before BYE, BOWMAN, and COLLOTON, Circuit Judges.

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PER CURIAM.

Fred Neal appeals the district court's<sup>1</sup> adverse grant of summary judgment in this civil case involving certain tax assessments and the foreclosure of federal tax liens. He argues among other things that he did not owe any taxes, that the statute of limitations had expired, and that the district court should have allowed him to file certain additional documents.

After careful de novo review, viewing the evidence and all fair inferences from it in the light most favorable to Neal, see Johnson v. Blaukat, 453 F.3d 1108, 1112 (8th Cir. 2006), we conclude that the grant of summary judgment was proper for the reasons stated by the district court. We further conclude that Neal waived his statute-of-limitations argument, see United States v. Big D. Enter., Inc., 184 F.3d 924, 935 (8th Cir. 1999) (defense based upon statute of limitations is generally waived if not raised in responsive pleading), and, in any event, the argument is meritless, see 26 U.S.C. § 6502(a)(1) (where assessment of any tax imposed by this title has been made within period of limitation properly applicable thereto, such tax may be collected by levy or by proceeding in court, but only if levy is made or proceeding begun within 10 years after assessment of tax). We also find no reversible error in the court's handling of the record.

Accordingly, we affirm the district court's judgment. See 8th Cir. R. 47B.

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<sup>1</sup>The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.