

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 26 2023

FOR THE NINTH CIRCUIT

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

JEFFREY ALAN RISCHE,

Petitioner-Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent-Appellee.

No. 22-70082

Tax Ct. No. 12518-20L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted April 17, 2023**

Before: CLIFTON, R. NELSON, and BRESS, Circuit Judges.

Jeffrey Alan Rische appeals pro se from the Tax Court’s summary judgment allowing the Commissioner of Internal Revenue (“IRS”) to proceed with its action to collect a penalty imposed under 26 U.S.C. § 6702 for filing a frivolous tax return for tax year 2018. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We

* 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).

review de novo. *Sollberger v. Comm'r*, 691 F.3d 1119, 1123 (9th Cir. 2012). We affirm.

The Tax Court properly granted summary judgment because Rische failed to raise a genuine dispute of material fact as to whether he was not liable for the frivolous filing penalty. *See* 26 U.S.C. § 6702(a) (imposing civil penalty of \$5000 for filing a frivolous tax return); *Olson v. United States*, 760 F.2d 1003, 1005 (9th Cir. 1985) (affirming penalty for filing zero return).

We reject as meritless Rische's contention that a reference to the Internal Revenue Manual on IRS Form 8278 renders supervisory approval of the penalty invalid.

AFFIRMED.