

IN THE MAGISTRATE DIVISION
OF THE OREGON TAX COURT
Small Claims
Income Tax

CHARLES W. CARTER III)	
)	
Plaintiff,)	No. 000847C
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
STATE OF OREGON,)	
)	
Defendant.)	DECISION AND JUDGMENT OF DISMISSAL

This matter is before the court on its own motion to dismiss this case for want of prosecution.

A case may be dismissed when the participant seeking relief fails to appear. For purposes of a telephone proceeding, a participant "appears" by being available at the telephone number provided to the court by that participant on the date and at the time prescribed.

Plaintiff is in the military and has apparently moved since this action was initiated. Plaintiff did not include his phone number on his Complaint as requested on the court's Complaint form. As a result, the first scheduled hearing scheduled for August 28, 2000, was cancelled and the court attempted to resolve this matter through written correspondence. That effort failed because plaintiff did not respond by submitting his W-2 or any other information. Thereafter, several proceedings were set, the latest of which was to be held March 15, 2001. In each instance written notice was issued by the court using the latest address information available. In each instance plaintiff failed to appear.

The court has gone to extraordinary lengths to keep plaintiff's address and phone number current. It has sent letters and other written correspondence to try and resolve the matter. It has telephoned plaintiff's parents (using a number provided by the plaintiff) to update plaintiff's address and left a message on January 18, 2001, with a Mr. Kowalski, who is apparently plaintiff's roommate. Plaintiff has systematically avoided the court's efforts to resolve this matter.

Because plaintiff failed to appear for the scheduled proceeding, the court finds the case should be dismissed.¹ Now, therefore;

IT IS HEREBY ADJUDGED AND DECREED that the Complaint is dismissed.

Dated this _____ day of March, 2001.

DAN ROBINSON
MAGISTRATE

THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON MARCH 23, 2001. THE COURT FILED THIS DOCUMENT ON MARCH 23, 2001.

¹Plaintiff is encouraged to submit his W-2 to the Oregon Department of Revenue if he feels it would be helpful in resolving his dispute. The department has historically accepted such documentation and made adjustments where appropriate, notwithstanding an unfavorable appeal outcome, as in this case.