United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-3772

United States of America,	*	
	*	
Appellee,	*	
	*	
v.	*	Appeal from the United States
	*	District Court for the
Philip N. Tharp, individually and as	*	Western District of Arkansas.
trustee for Philip N. Tharp, a purported	*	
simple trust,	*	[UNPUBLISHED]
	*	
Appellant.	*	

Submitted: February 21, 2006
Filed: February 24, 2006

Before RILEY, MAGILL, and GRUENDER, Circuit Judges.

PER CURIAM.

Philip Tharp (Tharp) appeals from the district court's[1] adverse grant of summary judgment in this action by the United States to recover erroneous income tax refunds. The government has filed a motion for sanctions to cover some of its expenses in defending this suit.

[1]The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas.

After de novo review, see Murphy v. Mo. Dep't of Corr., 372 F.3d 979, 982 (8th Cir.), cert. denied, 543 U.S. 991 (2004), we conclude the grant of summary judgment was proper for the reasons explained by the district court. 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 an appeal is frivolous. See 28 U.S.C. § 1912; Fed. R. App. P. 38. In this case, we find Tharp has filed a frivolous appeal raising tax-protester arguments of the kind he unsuccessfully raised below. Under these circumstances, we conclude 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).

Accordingly, we award the government $5000 in damages.

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