

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

DAVID LEE BUESS,
Plaintiff-Appellant,

AND

RODNEY DALE CLASS,
Plaintiff-Appellant,

v.

**UNITED STATES AND INTERNAL REVENUE
SERVICE,**
Defendants-Appellees,

AND

STATE OF OHIO,
Defendant-Appellee,

AND

STATE OF NORTH CAROLINA,
Defendant-Appellee,

AND

GASTON COUNTY TAX DEPARTMENT,
Defendant-Appellee,

AND

REGINALD J. ROUTSON,
Defendant-Appellee.

2011-1318

Appeal from the United States District Court for the District of Columbia in case no. 09-CV-2151, Judge Henry H. Kennedy, Jr.

ON MOTION

Before NEWMAN, SCHALL, and DYK, *Circuit Judges*.

PER CURIAM.

O R D E R

The United States and the Internal Revenue Service (US) move to dismiss David Lee Buess's and Rodney Dale Class's (Buess) appeal for lack of jurisdiction.

The complaint filed in the United States District Court for the District of Columbia essentially includes claims of tax fraud against the United States. The district court dismissed the complaint for failure to state a claim upon which relief may be granted. After dismissal, Buess filed a notice of appeal, identifying this court, and the appeal was docketed. It appears that the appeal was also docketed in the United States Court of Appeals for the District of Columbia.

This is a court of limited jurisdiction. 28 U.S.C. § 1295. Based on our review, it is clear that the district court's jurisdiction did not arise in whole or in part under the laws governing this court's appellate jurisdiction. In these circumstances, we determine that it is unnecessary to transfer this case to the United States Court of Appeals for the District of Columbia, because that court has already docketed the appeal in this matter. See 28 U.S.C. §

1631 (court may, if it is in the "interest of justice," transfer an action to a court "in which the action or appeal could have been brought at the time it was filed or noticed").

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted.
- (2) Each side shall bear its own costs in this appeal.

FOR THE COURT

JUL 7 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: David Lee Buess
 Rodney Dale Class
 George A. McAndrews, Esq.
 John Schumann, Esq.
 Justin Michael Flint, Esq.
 Grady L. Balentine, Jr., Esq.
 Aaron D. Epstein, Esq.

FILED
 U.S. COURT OF APPEALS FOR
 THE FEDERAL CIRCUIT

JUL 07 2011

**JAN HORBALY
 CLERK**

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ISSUED AS A MANDATE: **JUL 7 2011**