UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

FORD T. JOHNSON, JR., *Plaintiff-Appellant,* v. UNITED STATES OF AMERICA, *Defendant-Appellee.*	No. 02-1240

Appeal from the United States District Court
for the District of Maryland, at Baltimore.
Frederic N. Smalkin, Chief District Judge.
(CA-98-3050-S)

Submitted: October 17, 2002

Decided: November 6, 2002

Before WILLIAMS and TRAXLER, Circuit Judges, and
HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Ernest P. Francis, ERNEST P. FRANCIS, LTD., Arlington, Virginia, for Appellant. Eileen J. O'Connor, Assistant Attorney General, Kenneth L. Greene, Karen D. Utiger, Tax Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Ford T. Johnson, Jr., appeals from the district court's order granting summary judgment to the United States on Johnson's claim for refund of the 100% penalty assessed against him under 26 U.S.C. § 6672 (2000), and the United States' counterclaim for the remainder of the penalty, for the third and fourth quarters of 1994 and the first quarter of 1995. We have reviewed the record, including the district court's opinion, as well as the parties' briefs and find no reversible error. The evidence before the district court established that Johnson "willfully" failed to pay over the payroll taxes at issue, within the meaning of § 6672. *See Plett v. United States*, 185 F.3d 216 (4th Cir. 1999). To the extent that Johnson challenges the government's alleged attempts to double-collect the unpaid taxes at issue, the district court's opinion clearly states that "no double recovery . . . shall be permitted."

Accordingly, we affirm on the reasoning of the district court. *See Johnson v. United States*, No. CA-98-3050-S (D. Md. Jan. 29, 2002). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED