

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-1976

DENISE CLAYTON; LEANN HARRIS,

Plaintiffs - Appellants,

versus

UNITED STATES OF AMERICA,

Defendant - Appellee.

Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. Frederick P. Stamp, Jr., Senior District Judge. (5:04-cv-00143-FPS)

Submitted: October 29, 2007

Decided: November 13, 2007

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

Affirmed by unpublished per curiam opinion.

Paul J. Harris, Wheeling, West Virginia, for Appellants. Sharon Lynn Potter, United States Attorney, Wheeling, West Virginia; Eileen J. O'Connor, Assistant Attorney General, Kenneth L. Greene, Patrick J. Urda, Tax Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Denise Clayton and Leann Harris appeal the district court's order granting summary judgment in favor of the United States on their tax refund suit, 26 U.S.C. § 7422 (2000). At issue is whether the proceeds from the settlement of a suit involving an inter vivos trust are excludable as income received by inheritance, 26 U.S.C. § 102(a) (2000), or as damages received on account of personal physical injuries or physical sickness within the meaning of 26 U.S.C. § 104(a)(2) (2000). We have reviewed the record included on appeal as well as the parties' briefs, and have found no reversible error. We note that the case relied upon by the Appellants in their brief, Murphy v. IRS, 460 F.3d 79 (D.C. Cir. 2006), was vacated on rehearing. See Murphy v. IRS, 493 F.3d 170 (D.C. Cir. 2007). Accordingly, we affirm for the reasons stated by the district court. Clayton v. United States, No. 5:04-cv-00143-FPS (N.D. W. Va. July 31, 2006). 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