

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARTA GROPPER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 04-CV-279
	:	
UNITED STATES,	:	
	:	
Defendant.	:	

MEMORANDUM

GREEN, S.J.

April 12th , 2005

Presently pending is Defendant’s Motion for Summary Judgment and Plaintiff’s Response in Opposition thereto. For the reasons set forth below, Defendant’s motion will be denied.

BACKGROUND

Both parties agree to the following pertinent facts: In 1994 Plaintiff won the Pennsylvania state lottery in the amount of \$5.6 million which entitled her to receive annual installments of \$271,197.50. In September 1999 she signed a lottery prize assignment agreement and received \$600,000.00. Plaintiff signed an affidavit before a notary public stating that “I also recognize and understand that I will be responsible for payment of any taxes due on the \$600,000.00 purchase price.” In late 1999, Plaintiff attended a hearing in the Court of Common Pleas for Dauphin County wherein the court approved the lottery assignment agreement. Plaintiff did not file her 1999 taxes until December 2001. The return showed that Plaintiff owed \$270,452.00 in total taxes, with a net tax due of \$169,219 after adjustments for withheld taxes and additional credits were applied. Plaintiff paid the taxes due in two installment on March 5, 2002 and August 26, 2002. In February 2002, Plaintiff was assessed penalties pursuant to 26 U.S.C. §§ 6651(a) and 6641(a)(2) and fined approximately \$42,000.00, \$22,000.00, \$43,0000.00 for failure to file, failure to pay, and interest, respectively.

Plaintiff subsequently paid the assessments¹ and then filed an administrative claim for a return of the penalties paid.

In her administrative claim Plaintiff stated that due to various medical conditions she was unable to manage her affairs since 1997. Plaintiff alleges that the severity of her conditions and the effects of the medications she took, made her unable to file her income tax returns as they were due.

DISCUSSION

Summary judgment shall be granted "...if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(c). Summary judgment will be inappropriate where a dispute regarding a material fact is genuine, that is, if the evidence is such that a reasonable jury could return a verdict for the non-moving party. The evidence presented must be viewed in the light most favorable to the non-moving party. Lang v. New York Life Ins. Co., 721 F.2d 118, 119 (3d Cir. 1983). In deciding this motion, I must draw all reasonable inferences in favor of the party against whom judgment is sought. See, American Flint Glass Workers, AFL-CIO v. Beaumont Glass Co., 62 F.3d 574, 578 (3d Cir. 1995). The substantive law controlling the case will determine those facts that are material for the purpose of summary judgment. See, Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S.Ct. 2505, 2510 (1986). The moving party has the initial burden of demonstrating that no genuine issue of material fact exists. See, Celotex Corp. v. Catrett, 477 U.S. 316, 323 (1986), 106 S.Ct. 2548, 2552 (1986).

¹Plaintiff paid a portion of the assessment due in June 2003. The Internal Revenue Service confiscated Plaintiff's 2001 and 2002 tax refunds to satisfy the remainder of the assessment.

In order to be excused from the imposition of penalties for failure to file, or the late filing of a tax return, a taxpayer must demonstrate that the failure to timely file was not due to willful neglect, and that the failure was due to reasonable cause. United States v. Boyle, 469 US. 241, 245 1985). Whether the elements that constitute “reasonable cause” are present in a given situation is a question of fact, but what elements must be present to constitute reasonable cause is a question of law. Id. (Court determining that duty of filing is on taxpayer and not agent or employee of taxpayer, therefore there was not reasonable cause for failure to file when taxpayer relied on agent to timely file). In this case the court concludes that there is a question of fact as to whether Plaintiff’s illness, medical condition, or other disability precluded her from filing her 1999 taxes until December 2001. Plaintiff provides the court with the affidavit of Dr. Guy Fried which states that Plaintiff was incapable of taking care of herself, required the assistance of others to take care of her daily needs, and was consequently incapable of filing her tax returns. (Pl.’s Exh. 30, pg 3). In contrast, Defendant points to the facts that Plaintiff ran her dog breeding business during 1999 and 2000, which included writing checks for creditors, dog handling and kennel fees, internet fees, office supplies and other expenses. (Def.’s Exh. 5) Defendant also relies on Plaintiff’s alleged consultation with attorneys and accountants in 1999, travel to a dog show in 2000, and travel to Atlantic City in 2000 to support its position that Plaintiff was able to file her 1999 tax return timely and had no reasonable cause for not doing so.

Viewing the evidence in the light most favorable to Plaintiff, the court concludes that a genuine issue of material fact exists regarding Plaintiff’s ability to conduct her own affairs, whether she willfully neglected filing her taxes, and whether she - due to her medical condition - had reasonable cause for failing to file her 1999 taxes timely. Dr. Fried, one of Plaintiff’s treating physicians, stated that she was incapable of doing so. The court must view the evidence in the light most favorable to the non-movant, and therefore concludes that Plaintiff

has presented sufficient evidence to raise a genuine issue of fact regarding whether she had reasonable cause for failing to file her 1999 taxes as they were due. Although at trial her burden will be heavy, on summary judgment Plaintiff has presented sufficient factual disputes to survive Defendant's motion for summary judgment. Defendant's motion for summary judgment will accordingly be denied.

An appropriate order follows.

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UNITED STATES,	:	
	:	
Defendant	:	

ORDER

AND NOW this 12th day of April 2005, **IT IS HEREBY ORDERED** that Defendant's Motion to for Summary Judgment is **DENIED**.

BY THE COURT:

s/ _____
Clifford Scott Green