Burgo v. Commissioner, 69 T. C. 729 (1978)

A vacated criminal conviction is inadmissible as evidence in a tax case, either to prove unreported income or to impeach the taxpayer's credibility.

Summary

Lance Burgo was convicted of pimping in Boston Municipal Court, but the conviction was vacated upon appeal to the Superior Court and subsequently dismissed. The IRS attempted to use this vacated conviction as evidence of unreported income and for impeachment in a tax case. The Tax Court ruled that the vacated conviction was inadmissible for both purposes, as it was not a final judgment. Additionally, the court found that Burgo's expenditures were funded by his parents, not unreported income, thus no tax deficiencies were sustained.

Facts

Lance Burgo was convicted of receiving support from the earnings of a prostitute in June 1969 by the Municipal Court of Boston. He appealed this conviction to the Superior Court, where the judgment was vacated and the case dismissed. The IRS sought to introduce the vacated conviction in a tax case against Burgo to prove unreported income and to impeach his credibility. Burgo claimed that his expenditures, including a yacht, a Rolls Royce, and living expenses, were funded by his parents, who testified to providing financial support and using their own funds for these purchases.

Procedural History

Burgo was convicted in the Municipal Court of Boston in 1969. He appealed to the Superior Court, where the conviction was vacated, and the case was dismissed. The IRS issued a notice of deficiency against Burgo, alleging unreported income based on his expenditures. Burgo contested this in the U. S. Tax Court, which heard the case and ruled on the admissibility of the vacated conviction and the source of Burgo's funds.

Issue(s)

1. Whether a vacated criminal conviction is admissible as evidence in a tax case under Federal Rules of Evidence 803(22) and 609.
2. Whether Burgo had unreported taxable income during the years in question.

Holding

1. No, because a vacated conviction is not a final judgment and thus inadmissible under Federal Rules of Evidence 803(22) and 609.
2. No, because Burgo's expenditures were shown to be funded by his parents, not unreported income.

© 2025 SCOTUSreports.com. All rights reserved.

Court’s Reasoning

The Tax Court reasoned that under Federal Rule of Evidence 803(22), only final judgments are admissible as hearsay exceptions, and Burgo’s conviction was vacated and thus not final. For impeachment under Rule 609, the court inferred that a conviction reversed or vacated on appeal is inadmissible, supported by the rule’s provision that pending appeals do not affect admissibility, implying that successful appeals do. The court also considered Massachusetts law, where a vacated conviction is a nullity. Regarding Burgo’s income, the court found his parents’ testimony credible and supported by evidence that they funded his expenditures, concluding that Burgo had no unreported income.

Practical Implications

This decision establishes that vacated convictions cannot be used as evidence in tax cases, affecting how the IRS can use criminal records in tax disputes. It also underscores the importance of credible evidence of financial support from family members in negating claims of unreported income. Practitioners should be aware that only final convictions can be used for impeachment or as evidence of income, and taxpayers must provide clear evidence of alternative funding sources for their expenditures. Subsequent cases may reference Burgo when addressing the admissibility of vacated convictions and the substantiation of financial support in tax disputes.

© 2025 SCOTUSreports.com. All rights reserved.