

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

MAURICE WILSON & JAMIA WILSON,)	
)	
Petitioners,)	
)	
v.)	Docket No. 3669-17S.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit with this order to petitioners and respondent a copy of the pages of the transcript of the trial in this case before Judge Ronald L. Buch at St. Paul, Minnesota containing his oral findings of fact and opinion rendered at the trial session at which the case was heard.

In accordance with the oral findings of fact and opinion, decision will be entered under Rule 155.

**(Signed) Ronald L. Buch
Judge**

Dated: Washington, D.C.
December 13, 2017

1 Bench Opinion by Judge Ronald L. Buch

2 October 2, 2017

3 Maurice Wilson & Jamia Wilson v. Commissioner of Internal
4 Revenue

5 Docket No. 3669-17S

6 THE COURT: The oral findings of fact and
7 opinion may not be relied upon as precedent in any other
8 case. This opinion is in conformity with the Internal
9 Revenue Code section 7459(b) and Rule 152(a) of the Tax
10 Court Rules of Practice and Procedure.

11 Any section references refer to the Internal
12 Revenue Code or Treasury Regulations in effect during the
13 years at issue. And all rule references are to the Tax
14 Court Rules of Practice and Procedure.

15 This case was heard pursuant to section 7463.
16 Under section 7463(b), the decision to be entered in this
17 case is not reviewable by any other court, and this
18 opinion may not be treated as precedent for any other
19 case.

20 By stipulation of the parties, the only issue
21 remaining for the Court to resolve is whether or not
22 minors Z.T. and J.T., the niece and nephew of the
23 petitioners, were qualifying children during the years at
24 issue. But even more narrowly, the parties have resolved
25 everything except the residency test. The residency test

1 requires that those minors share with the petitioners the
2 same place of abode for more than six months, under
3 section 152.

4 I often say that evidence comes in two flavors.
5 Those flavors are documents and testimony. In this case,
6 there really are no documents evidencing the children's
7 place of abode, but the absence of documents doesn't mean
8 there is an absence of evidence.

9 While contemporaneous documents are, perhaps,
10 the best evidence, what we have is the credible testimony
11 of three witnesses. In particular, I'd note Mrs. Wilson's
12 testimony and her ability to nail down to a specific week
13 when the children would have -- her niece and nephew would
14 have moved into her home, the arrangements having been
15 made sometime on or about April 22nd, the date of her
16 son's birthday, and the children having moved in shortly
17 thereafter. Even if shortly thereafter were several weeks
18 later, it would more than satisfy the six-month test.

19 And so with that, the Court resolves the only
20 remaining issue in favor of petitioners, finding that they
21 have satisfied the residency test.

22 Because there are other concessions in this
23 case, a decision will have to be entered under Rule 155,
24 and we'll follow those normal time frames.

25 Any questions, Ms. Hang?



1 MS. HANG: No, Your Honor.

2 THE COURT: Any questions, Mr. George?

3 MR. GEORGE: No, Your Honor.

4 THE COURT: Thank you both for an excellent
5 presentation of the case. And with that, we'll simply go
6 off the record. Thank you.

7 MS. HANG: Thank you.

8 (Whereupon, at 1:03 p.m., the above-entitled
9 matter was concluded.)

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