

07-308 UNITED STATES V. CLINTWOOD ELKHORN MINING

DECISION BELOW: 473 F.3d 1373

LOWER COURT CASE NUMBER: 04-5155, 04-5156

QUESTION PRESENTED:

Whether a taxpayer who would have been entitled to file a tax refund action in federal court to seek a refund of taxes (and interest thereon), but who failed to satisfy a statutory prerequisite to such an action (namely, the filing of a timely administrative refund claim) and is therefore barred from bringing such an action, may obtain a refund, and interest thereon, through an action directly under the Constitution pursuant to the Tucker Act, 28 U.S.C. 1491(a).

CERT. GRANTED 12/3/2007