

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

United States of America)
Plaintiff)
V.)
Jimmy C. Chisum, sui juris)
Defendant)

Case 05 CR 043 WHT

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA
06 MAR -9 AM 11:52
WILLIAM B. GUTHRIE, CLERK
BY _____ DEPUTY CLERK

Jimmy C. Chisum's Judicial notice F.R.E. 401

1. This court is noticed of the United States Constitution's mandate for due process.
2. This court is noticed of the oath occurring at **28 USC sec. 453** TITLE 28 – JUDICIARY AND JUDICIAL PCEDURES PART 1 – ORGANIZATION OF COURTS CHAPTER 21 – GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES Sec. 453 Oath of Justices and Judges. Each justice or judge of the United States take the following oath or affirmation before performing the duties of this office. "I _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ under the Constitution and Laws of the United States, So help me God." This court is further noticed that the refusal of production of the oath as verification of jurisdiction and authority creates the presumption that no such oath exists and the office of judge in the court remains vacant until such time as authority is proven by substantive evidence and reliable fact witness.
3. This court is noticed of decisions by the United States Supreme Court wherein that court ruled and determined that the Sixteenth Amendment conferred no new taxing powers on Congress which were not inherent from the beginning of the Constitution, that the income tax is an indirect tax in the nature of an excise tax applying uniformly to

revenue taxable activities. See *Brushaber v Union Pacific Railroad*, 240 US 1, at page 18 (1916); *Redfield v. Fisher*, 292 P 813, at page 819 (1930); *Eisner v Macomber*, 252 US 189 at age 206; *Stanton v. Baltic Mining Co.* 240 US 103 at page 112-113; *William E. Peck v. Lowe*, 247 US 165 at page 172; and *Evans v. Gore*, (06/01/20), Supreme Court of the United States, 1920 SCT 40362, 40 S. Ct. 263, 243 US 245.

4. This court is noticed that inferior court decisions, such as Collins 920 F.2d, 619, do not and can not ignore, overrule or overturn existing decisional precedent from the Supreme Court, nor do inferior courts (USDC and 10th Cir.) have the power to interpret, ignore, or make frivolous any Supreme Court decision; but rather are by Oath, statute and precedent inferior and therefore obligated by rule of law to follow precedent without question or debate. Calling the Supreme Court authority frivolous is a serious violation of judicial code of conduct; and brings ill repute upon the Supreme Court.

5. This court is noticed that it is unlawful and a felony for this court in connection with the collection of a tax, to use this court's power of office extortionately, to ask for or demand sums that are greater than or different from actually due and owing the Treasury, or receive any sums as a bonus or reward in conjunction with the collection of any tax except as authorized by law, to prepare a false document relative to a tax or to fail to report a violation of revenue laws. See 26 USC sec. 7214(a).

6. This court is noticed that the Income taxes are Constitutional laid and clearly articulated by Congress pursuant to Article 1 at 26 USC ss 4001, 4003, 4041, 4042, 4051, 4064, 4071, 4081, 4091, 4121, 4131, 4161, 4181, 4251, 4261, 4271, 4371, 4461, 4481, 4611, 4661, 4671, 4682, 4701, 4911, 4912, 4940, 4942, 4943, 4944, 4945, 4948, 4951, 4952, 4953, 4955, 4958, 4971, 4972, 4974, 49975, 4976, 4977, 4978, 4979, 4979A, 4980, 4980B, 4980C, 4980D, 4980E, 4981, 4982, 4999, 5000, 5001, 5041, 5051, 5701, and 5881.

7. This court is noticed that the defendant is not engaged in any activity identified in any of the above code sections and foregoing statutes, and therefore not made liable for an income tax.

8. This court is judicially noticed that 26 USC 7201 is a penalty statute; and not a taxing statute. Where there is no taxing statute as in 6 and 7 there can be no penalty imposed and where there is no regulation there is no penalty imposed; UNITED STATES v. MERSKY, 361 U.S. 431 (1960); CALIFORNIA BANKERS ASSN. v. SHULTZ, 416 U.S. 21 (1974).

9. This court is noticed that the indictment does not contain any one of the above statutes making either Brian and Mitzi Chadsey or defendant liable for any of the taxes laid by Congress within Congresses power to lay and collect taxes.

10. This court is noticed that the "Bill of Particulars dies not allege or contain verifiable fact or competent witness notice of testimony to verify any of the above liability statutes or obligations to income tax imposed by Congress."

11. The Court is noticed that the evidence submitted and testimony does not contain any proof of any of the above liability statutes or Code sections to impose a tax liability on Brian and Mitzi Chadsey or defendant. There is no documentary evidence verified by the testimony of a competent fact witness to establish any statutory liability for any of the Constitutional taxes imposed by Congress.

12. The court is noticed that there is no tax assessment, Summary record of Assessment Form 23 (C), Assessment, or registry of Assessment alleged in the indictment as an essential element of the alleged grime.

13. The court is noticed that there is no Tax Assessment, Summary record of Assessment Form 23(C), or registry of assessment alleged or verified in the Bill of Particulars.


14. The court is noticed that there is no Tax Assessment, Summary Record of Assessment Form 23(C), or registry of Assessment presented at trial by any competent fact

witness to authenticate and verify an assessment, an essential element of the alleged criminal conduct.

15. This Court is noticed of Article 1 Section 10 Clause 1 of the United States Constitution and its prohibition against any lawmaking to impair the obligations of contract. United States and Washington D.C. are defined as states in 26 USC 7701, and Supreme Court Precedent and therefore has no power to impair the obligations of contracts.

16. This court is noticed that any judgment or decision administratively or judicially done without jurisdiction or authority or that denies due process is a Void Judgment. *Milliken v. Meyer*, 311 U.S. 457; **Fed. Rules Civ. Proc., Rule 60(b)(4)**, 28 U.S.C.A.; **U.S.C.A. Const. Amend. 5**. Void order may be attacked, either directly or collaterally, at any time, *In re Estate of Steinfield*, 630 N.E.2d 801, certiorari denied, See also *Steinfeld v. Hoddick*, 513 U.S. 809, (Ill. 1994).


Prepared and submitted this 6th day of March, 2006 AD



Jimmy C. Chisum, sui juris

Certificate of Service

I, Jimmy C. Chisum, hereby certify that a copy of the foregoing Judicial Notice has been delivered to Jeffrey Gallant, AUSA this 9th day of March, 2006.



Jimmy C. Chisum, Sui Juris, Pro Per