

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA
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WILLIAM B. GUTHRIE, CLERK
BY _____ DEPUTY CLERK

**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
Motion to dismiss indictment
Jurisdiction Challenged

Jimmy C. Chisum's Motion to Dismiss Indictment and Jurisdictional Challenge

The Federal Practice and Procedure sect. 3522 clearly establishes that once jurisdiction has been challenged it is presumed that the court lacks jurisdiction unless or until the evidentiary sufficiency is provided and submitted to the record. The presumption id that the court lacks jurisdiction on a particular issue until it has been demonstrated that jurisdiction over the subject matter exists. The facts showing the existence of jurisdiction must be affirmatively in the record. If jurisdiction is challenged, the burden is on the party claiming jurisdiction to demonstrate that the court had jurisdiction over the subject matter. The limits upon jurisdiction must be neither disregarded or evaded. The requirement to submit admissible evidence upon the record proving jurisdiction once jurisdiction is challenged is mandatory. The Supreme Court of the United States as well as lower courts have consistently reaffirmed the requirement that once jurisdiction is challenged those who claim jurisdiction must submit evidence to prove the validity of the claim. See *Twining v New Jersey*, 21 U.S. 78, 29 S.Ct. 14, 24 (1908); *Old Wayne Mutual Life v McDonough*, 204 US 8, 27 S. Ct. 236(1907); *Scott v. McNeal*, 154 US 34, 14 S. Ct. 1108 (1894); *Pennoyer v. Neff*, 95 US 714, 733 (1877); *Hagen v. Lavine*, 415 U.S. 528, 533, 39 L.Ed. 577, 94 S.Ct. 1372 (N.Y. March 28, 1974); *United States v. Roger*, 23 f. 658 (W.D. Ark 1885); *State of Maine v. Thiboutot*, 448 U.S. 1, 100 S.Ct. 2502 (1980); *McNutt v. General Motors Acceptance Corporation of Indiana Inc.*, 298 U.S. 178,, L.Ed. 1135, 56 S.Ct. 780 (1936); [jurisdiction

may never be presumed] *Special Identity Fund v. Pruitt*, 205 F.2d. 3006, 201 Okl. 308; [jurisdiction must be affirmatively shown], *United States v. Chairito*, 69 F.Supp. 317 (D. Or. 1946); [jurisdiction can not be presumed], *Standard v. Olesen*, 98 L. Ed. 1151, 74 S.Ct. 768 (1954); *Garcis v. Dail*, 586 S.W. 2d. 524, at 528 (Tex. C.A. 1980); **(lack of jurisdiction required dismissal)**, *Burks v Laskar*, 441 U.S. 471 (1979), and Title 5 U.S.C. 556 and 558(b).

Brief in Support of Motion to Dismiss – F.R.Crim.P. rule (B) the indictment is defective – lack of personal jurisdiction over the presumed parties

Without waiving *in personam* jurisdiction, the court is noticed that the so-called indictment fails to show factual sufficiency that Jimmy C. Chisum committed an offense to the laws of the United States ***within the geographical boundaries of the federal district of Eastern District of Oklahoma.***

Conclusion regarding Jimmy C. Chisum's

First Jurisdictional Challenge 03/09/06

Whereas the court has actual knowledge that once jurisdiction is challenged, the business of the court is stayed in the respective case until such time as the party asserting that the court has jurisdiction, proves, via submitted material and relevant facts into the record by and through a competent fact witness testifying under oath and subject to cross examination, that the claim of jurisdiction is factually sufficient. Absent those proofs, the court has a non-discretionary duty to dismiss the cause, and whereas, this court shall not notice any material, relevant facts whatsoever to establish that Jimmy C. Chisum committed an offense to the laws of the United States within the geographic boundaries of the federal district called Eastern District of Oklahoma, this court has a non-discretionary duty to dismiss this instant case.

Brief in support of Motion to dismiss –

F.R.Crim.P rule (B) the indictment is defective

Lack of subject matter jurisdiction over the presumed causes of action

The court is noticed that the indictment is facially void for stating conclusions of law as if the conclusions were facts, to wit: see "INTRODUCTION – At all times relative to this indictment: Items 1-8 are merely conclusory arguments proffered by Jeffrey Gallant. ***Jimmy C. Chisum disputes the factual significance of these conclusions and demands strict proof thereof.***

This court is further noticed: so-called "**COUNT ONE**" FAILS TO CHARGE Jimmy C. Chisum with a crime. "there are no common law crimes in the federal." Count one fails to cite a statute which makes Jimmy C. Chisum subject to and liable for a tax. Count one fails to cite a statute which makes Brian and Mitzi Chadsey liable for a tax.

This court is further noticed: so-called **Count two, Count three, and count four** are insufficient in the same manner as count one and none state a statute which makes Jimmy C. Chisum subject to and liable for a tax. Counts 2, 3, and 4 fail to state as statute that makes Brian and Mitzi Chadsey subject to and liable for a tax.

This court is additionally noticed: the so-called Counts 1, 2, 3, and 4 fail to allege a statute that makes any of the alleged affirmative acts a violation of federal law. The exercise of multiple rights doing legal actions can not be reduced to a crime for convenience or by subterfuge. Where there was no statute making Brian and Mitzi Chadsey subject to or liable for a tax; no amount of planning can evade what was never imposed by congress. The penalty statute at 26 U.S.C. 7201 does not stand alone; and absent the liability statute making Chisum liable for a tax, or Brian and Mitzi Chadsey liable for a tax there is nothing to avoid nor can the crime of Tax evasion have occurred. Where there is no statute imposing a duty the indictment must be dismissed.

Conclusions regarding Second Jurisdictional challenge 03/09/06

Whereas this court has actual knowledge that once jurisdiction is challenged, the business of the court is stayed, in the respective case until such time as the party asserting that the court has jurisdiction, proves via submitting material and relevant facts into the record by and through a competent facts witness testifying under oath and subject to cross-examination, that the claim of jurisdiction is factually sufficient. Absent these proofs, the court has a non-discretionary duty to dismiss the cause; and whereas, this court shall not notice any material, relevant facts whatsoever to establish that the so-called indictment of Jimmy C. Chisum cites any federal statute that makes Jimmy C. Chisum or Brian and Mitzi Chadsey subject to and liable for a tax and fails to cite any statute that would make any of the alleged acts a violation of federal law, or chargeable for a crime. There is not a crime of tax evasion to aid or abet; 18 U.S.C. 1.

Special notice to this court

26 U.S.C. 7214 **Offenses by officers and employees of the United States**

STATUTE:

(a) Unlawful acts of revenue officers and agents:

Any officer or employee of the United States in connecton with any revenue law of the United States-

(1) **who is guilty of any extortion of willful oppression under color of law:** or

(2) **who knowingly demands other or greater sums than are authorized by law,**

or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or (7) **who makes or signs any fraudulent entry in any**

book, or makes or signs any fraudulent certificate, return, or statement: or (8) **who**

having knowledge or information of the violation of any revenue law by any

person, or of fraud committed by any person against the United States under any

revenue laws. **Fails to report, in writing, such knowledge or information to the**

Secretary: shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution.

In the present case each, every, and all the alleged IRS witnesses are guilty of failure to report criminal activity by every other IRS witness who testified; thus meaning Skaggs and Hall are guilty of six counts each for 18 years; Scheets seven counts for 21 years; each of Scheets other six "under covers" Scheets testified as taking part in the illegal undercover 6 counts for 18 years; and other unnamed co-conspirators as well as the AUSA for suborning perjury by each every and all of his witnesses. The testimony alone proves the confession of rampant criminal activity by chooses of ignorance of law, never knowing the law by choice is not an excuse for those sworn to uphold and faithfully execute the law within the IRS.

Both the court and prosecutor as officers of the court have a moral, ethical, constitutional and statutory duty to stop crime committed in their presence; and every IRS agent witness who took the stand confessed criminal activity; just the least of which is hypothecation of oath, perjury and trespass on the authority of the Secretary; illegal impersonation of a Criminal investigator of Intelligence Division of ATF is a serious crime. And all are conspiring (28 U.S.C. 371) to collect amounts greater than imposed by congress by each of their own proud, personal, voluntary confession under oath. Not a single IRS agent or employee could correctly cite the Supreme Court authority for the definition of income; nor could a single witness testify to statutory or delegation of authority from the Secretary; yet they daily impersonate Internal Revenue Service

agents and employees collecting and administering income tax. No wonder GAO in 1996 said the IRS was too corrupt to be fixed; Speaker Gingrich called IRS the world's largest terror organization; and the senate defined the Internal Revenue Service as a "rogue agency wholly out of control".

Does this court condone and coddle criminals or faithfully adhere to its oath to see law correctly enforced and administered. According to 18 USC Chapter 43 section 912:

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

And at 913; Whoever falsely represents himself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings, or other property of any person, shall be fined under this title or imprisoned not more than three years, or both.

Both witnesses, Erika Skaggs and Steve Scheets, confessed illegal searches; Skaggs had 7 co-conspirator perpetrators on the physical search on Chadsey done under a perjured and fraudulent affidavit for warrant; while Scheets had only 6 co-conspirig criminals according to his testimony. The others criminal conspirators only confessed to conducted their criminal enterprise by paper, mail fraud and wire fraud. How many crimes of wire fraud and mail fraud do these agents represent? 26 USC 7608 expressly excludes Skaggs and Scheets from enforcement activity of Subtitle A and C taxes by expressly limiting the authority to E; no other enforcement statute exists in 26 U.S.C..

WHEREFORE; defendant moves this court for an immediate dismissal of the indictment and case; immediate arrest warrants for each every and all of the agents who willfully testified to criminal activity before the court; complete exoneration of defendant

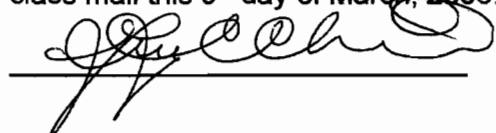
and restoration of all rights; appropriate sanctions and criminal charges against prosecutor for subornation of perjury; other sanctions the court deems appropriate.

Prepared and submitted this 9th day of March, 2006 AD

A handwritten signature in cursive script, appearing to read "Jimmy C. Chisum", written over a horizontal line.

Jimmy C. Chisum, sui juris

Jimmy C. Chisum hereby certifies to service of the foregoing motion to dismiss upon Jeffrey Gallant, AUSA, 1200 W. Okmulgee St., Muskogee, Oklahoma 74401 by first class mail this 9th day of March, 2006.

A handwritten signature in cursive script, appearing to read "Jimmy C. Chisum", written over a horizontal line.

3/9/06