



plaintiff. Plaintiff may not venture beyond the express limitations of the manual without express written authority. The limitations to jurisdiction in the United States Attorneys Manual as cited in pretrial are the limits to Plaintiff Attorney's legitimate authority absent other proofs entered on the record by a competent fact witness, which excluded the attorney. On August 11, 2005 Defendant was subjected to wrongful arrest based on a perjured Affidavit of probable cause erroneously sworn by alleged CID agent Skaggs as suborned by AUSA Gallant or others associated with IRS or US Attorney.

3. On August 12, 2005 Magistrate Duncan conducted fraudulent process without Jurisdiction or authority and wrongfully imprisoned defendant over to August 16, 2005 for further illegitimate process. Duncan attempted to extort a fraudulent contract from defendant to waive rights and jurisdiction. Jurisdiction can not be waived; stolen; extorted; or captured as prize by privateers; and was not granted by defendant. No evidence of jurisdiction was entered into the record by a competent fact witness to establish subject matter jurisdiction and all acts of Duncan are factually and legally voids.

4. On August 16, 2005 Magistrate Duncan continued the extortion process attempting to lure defendant into some sort of equity or admiralty contact to grant the court powers not present in the constitution or Statute. No magistrate has felony powers granted by congress, 28 U.S.C. 636, and are not Article III judicial officers or judges. All acts and actions are criminal acts by a perpetrator of fraud; wrongfully induced by plaintiff agents or assigns in a series of malicious criminal acts to extort or trick the court into wrongful imprisonment from false arrest.

5. On August 22, 2005 Kimberly West, EDOK, again fraudulently attempted to induce defendant into some sort of contract for waiver of rights and jurisdictional challenge, resorting to the sophistry of adding a stand by council over objections; and repeatedly trying to trick defendant into admitting knowledge of the terms and conditions

of the proposed contract. West acknowledged receipt of challenge to jurisdiction, and demand for Nature and cause, a substantial due process right protected by the U.S. Constitution, and continued the fraudulent process absent any lawful authority to do so. The force of guns and menace of threatened additional wrongful imprisonment do not create jurisdiction.

6. On September, 23, 2005, October 17, 2005, October 28, 29, 30, and 31, 2005 Ronald White continued the attempted inducement and sophistry by trick and subornation in the attempt to trick, intimidate, coerce or extort defendant out of his rights to know the nature and cause and all challenges to jurisdiction. On September 23, the Ronald White made promises it he did not keep as part of the apparent solicitation for contact ? contract ? in waiver of rights into some strange or foreign jurisdiction where the decisions of the Supreme Court are frivolous and the statutes passed by congress are laughable or to be scoffed at by the judge. Complete and entire prejudice reigned in the court with a little polite humor as part of the sales pitch for the fraudulent contract inducement in various attempts to capture subject matter jurisdiction by subterfuge.

7. At every juncture in the proceeding terms and conditions of the proposed contract were concealed, no consideration was offered or received and there was no meeting of the minds necessary for contract; and defendant has no capacity to yield jurisdiction without proof. All the badges of fraud are present and there is no contract.

#### **More Particularly**

8. On September 23, 2005 the Court denied the Defendant Motion to Dismiss and challenge to Jurisdiction based on the Collins decision from 10<sup>th</sup> Circuit Court of Appeals in 1990, 920 F2d 619, and calling the defendant's motions frivolous. Collins is falsely and fraudulently alleged in cronyism, collusion, or conspiracy by the Court and prosecutor to have overruled more than 140 years of Supreme Court precedent; even negating decisions not yet made concerning the limits to federal jurisdiction (NY v US

1992; Alden v Maine, 1999) that were decided years after the Collins decision. Collins did not overturn or abrogate any Supreme Court decision; and the Supreme Court is not frivolous. Ronald White repeatedly refused to answer Nature and Cause or to demand any proof or fact witnesses from the plaintiff in apparent cronyism, collusion, or conspiracy to defraud Jimmy C. Chisum out of substantive Due Process Rights.

9. On November 17, 2005, the Court denied the Defendant Motion to Reconsider and Motion challenging indictment as defective and all other challenges to jurisdiction; again based on Collins; again ruling Supreme Court decisions frivolous; Congressional Statutes laughable, and manuals of no authority. Ronald White again declared his personal ownership of the court and process.

10. Collins, on which the Court has relied was selectively read and prejudicially interpreted by the Court in apparent cronyism, collusion or fraudulent conspiracy with the prosecutor. The 10<sup>th</sup> ~~CKT~~ makes no declaratory or definitive statement in Collins that the Supreme Court decisions cited by defendant were frivolous, overruled or overturned. All the Supreme Court Precedent cited by defendant in the Motions and in the Judicial Notices 1, 2, and 3 remains governing authority from the Supreme Court upon the inferior courts of the United States to which Ronald White and Jeffrey Gallant and all lawful federal agents have sworn fidelity and obedience.

**FEDERAL MARITIME COMMISSION v. SOUTH CAROLINA STATE PORTS AUTHORITY *et al.* certiorari to the United States Court of Appeals for the fourth circuit No. 01-46. Argued February 25, 2002--Decided May 28, 2002:**

11. Inferior Courts do not have the authority to overrule Supreme Court Precedent; but are by Oath, Statute, Code of Conduct, and Rule require faithfully execution and specifically following, without prejudice or personal interpretation.

12. Collins, on which the court relied, sets in that very same decision at page 631, deficiency as an essential element for the prosecution of tax evasion crimes.

13. The 3rd Circuit sets assessment as the essential element for prosecution of a Tax Evasion Charge, McGill and Wexler cases. Deficiency requires assessment.

14. The 14<sup>th</sup> Amendment to the United States Constitution guarantees equal protection under law thus elevating defendant right to an essential element of deficiency based on a lawfully made assessment for tax.

15. No competent witness testified to the liability for tax in any of the statutes passed by congress and codified in 26 U.S.C. at 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. No liability for tax means no crime occurred and all the participants in the fraud should be held liable personally as they willfully and intentionally acted outside delegated authority.

16. At the time of the True Bill from Grand Jury there was no assessment for tax, and no deficiency, owed by Brian or Mitzi Chadsey; and no competent witness to establish liability, deficiency, or jurisdiction.

17. No Deficiency or assessment for tax owed by Brian or Mitzi Chadsey on which a Tax Evasion Charge must rely appears in the indictment; and no competent witness to establish liability, assessment or jurisdiction is noted or appeared.

18. No Deficiency or Assessment for tax owed by Brian or Mitzi Chadsey on which the Tax Evasion Charge depends was provided in the Bill of Particulars submitted by plaintiff at pre trial conference November 17, 2005; and no competent fact witness appeared to testify and be cross examined on the issues of liability, assessment or jurisdiction.

19. No Assessment Officer or agent with authority to assess a tax was presented to the grand jury, District court when seeking warrant, pretrial proceedings to establish essential elements, liability for tax, assessment, or jurisdiction. The same fraud upon the court continued at trial. No deficiency appears on the record, nor was there testimony to any assessment or deficiency by any competent witness capable of creating proof of jurisdiction. The witness who testified he had authority to make Notices of Deficiencies did not testify to having made one; and none was presented as an exhibit. Only an estimate of "we think" and "approximately" were presented as to any possible tax debt; and that is insufficient proof for jurisdiction or the essential element.

20. The defect in the indictment caused by failure to allege the essential element of deficiency and assessment is jurisdictional, and incurable.

***"...jurisdiction of the Courts of the United States means a law providing in terms of revenue; that is to say, a law which is directly traceable to the power granted to Congress by '8, Article I, of the Constitution, 'to lay and collect taxes, duties, imposts, and excises.'" US v Hill, 123 US 681, 686 (1887).***

***"Where jurisdiction is challenged, it must be proven... The law requires proof of jurisdiction to appear on the proceedings... Jurisdiction may never be assumed, it must be proven." Hagen v. Lavine, 415 US 528, at 533, 39 L.ed. 577, 94 S Ct, 1372 (N.Y. March 28, 1974).***

***"The question of Jurisdiction in the court either over the person, the subject matter or the place where the crime was committed can be raised at any stage of a criminal proceedings; it is never presumed but must be proved; and it is never waived by the defendant." United States v. Roger, 23 F. 658 (W.D. Ark. 1885).***

***"Jurisdiction once challenged cannot be assumed and must be decided." State of Maine v. Thiboutot, 448 US 1, 100 S. Ct. 2502 (1980).***

21. The defect or lack of jurisdiction to proceed, absent that essential element, is fatal to the prosecution; and to the jurisdiction of the court.

UNITED STATES v. MERSKY, 361 U.S. 431 (1960).

***"The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other... When the statute and regulations are so inextricably intertwined, the dismissal must be held to involve the construction of the statute."***

CALIFORNIA BANKERS ASSN. v. SHULTZ, 416 U.S. 21 (1974).

***“...we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone.”***

#### **PRECEDENT AND DOUBLE JEOPARDY**

22. Jeopardy has attached and the Prosecution has rested. Defendant has been irrevocably and incurably damaged in his reputation, liberty, and livelihood. Damage occurred by the fraudulent and defective indictment; fraudulently obtained warrant for arrest; incarceration under pretense of authority and fraud upon the court; and the sentencing to “get out of business” and the chilling of rights imposed by court and actions of Probation Officer in want or excess of authority, and under color of law.

23. Defendant's protection against double jeopardy prohibits any correction in this matter of the essential element and jurisdictional defect.

24. This honorable court was fraudulently induced to err in not instructing the Jury correctly on the law, in that no instruction was given on the “essential element” of deficiency or assessment. The Court assumes awesome power, and responsibility to correctly know and apply the whole law when it sets itself as the only source of law to the jury. The only presumption available to defendant is that this honorable court is in collusion with the Assistant United States Attorney to create the illusion that the defendant has waived and then conceal the essential element of the crime and pretend subject matter jurisdiction by fraud upon the court.

25. The Court erred in not instructing the jury correctly on the definition of income in Supreme Court Precedent, opting rather to abandon its solemn oath to faithfully follow the Supreme Court decisions, as governing precedent, in favor of 26 USC 61, with demonstrated prejudice. Gross income does not define income or change the Supreme Court Precedent; Cited in Judicial Notices; none of which has been overturned. Money received must first be income, as defined by the Supreme Court, to

become gross income as defined by Congress and the Supreme Court, which definition has already been received by this honorable court in Judicial Notices 1, 2, 3 and is binding upon the court.

26. All Supreme Court Precedent even those contained in Judicial Notices 1, 2, and 3, are legally and ethically binding upon this court, plaintiff, and witnesses. (FCC v NextWave, SC 2003) Those Precedent cases verify that the Congress is prohibited from defining income as anything other than its definition in the Supreme Court decisions; which is corporate profit from excise taxable activity. 10<sup>th</sup> Circuit or local inferior court "interpretation" do not overturn or alter the simple language contained in the precedent decisions of the Supreme Court making Ronald White's understanding and interpretation based on Collins in fact a void judgment. And it is plain error, in rebellion against Constitution, statute, and rule, to think the 10<sup>th</sup> Circuit decision in 1990 overruled Supreme Court precedent repeated in US v Lanier 1997, NY v US 1992, Alden v Maine 1999, FMC v SC 2002, and FCC v NextWave 2003 decisions; or vacated the oath and allegiance of US Attorney to the United States Attorneys manual in 2005.

27. Supreme Court decision Precedent clearly states that the first step in interpreting tax statute is the plain language used by congress. The trial court and 10<sup>th</sup> Circuit, as inferior Courts owe loyalty to the simple language used in the precedent.

MERCHANTS' LOAN & TRUST CO. v SMITANKA, 255 US 509, 519 (1921):

***"The Corporation Excise Tax Act of August 5, 1909, was not an income tax law, but a definition of the word 'income' was so necessary in its administration..."***

***"It is obvious that these decisions in principle rule the case at bar if the word 'income' has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and that it has the same scope of meaning was in effect decided in Southern Pacific v Lowe..., where it was assumed for the purpose of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When we add to this, Eisner v Macomber...the definition of 'income' which was applied was adopted from Stratton's Independence v Howbert, supra, arising under the Corporation Excise Tax Act of 1909... there would seem to be no room to***



**doubt that the word must be given the same meaning in all the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act, and that what that meaning is has now become definitely settled by decisions of this Court.**

Where the Supreme Court Justices bind themselves to language as written by Congress in statutes; the inferior courts can do no less in respecting the Supreme Court's language.

Oath, law, ethics, and rule of law make Supreme Court precedent binding in its simple language; even extending itself to say that where there is a difference of opinion about tax law, or precedent, the difference must be settled in favor of the taxpayer.

Helvering v. Edison Brothers' Stores 8 Cir. 133 F2d 575 (1943):

**"The Treasury cannot by interpretive regulation make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax that which is not income within the meaning of the 16th Amendment."**

GOULD v. GOULD , 245 U.S. 151 (1917):

**"In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the citizen. United States v. Wigglesworth, 2 Story, 369, Fed. Cas. No. 16,690; American Net & Twine Co. v. Worthington, 141 U.S. 468, 474 , 12 S. Sup. Ct. 55; Benziger v. United States, 192 U.S. 38, 55 , 24 S. Sup. Ct. 189."**

This honorable Court made a different choice on the record repeatedly calling Precedent frivolous and deciding repeatedly in favor of prosecution.

#### **FRAUD UPON THE COURT; impersonation of authority**

28. 26 USC 7608 expressly limits the delegation of authority for enforcement activity to Criminal investigators for the Intelligence Division in the Criminal investigation division of United States Treasury and further limits the authority to Subtitle E taxation or other excises for Alcohol, Tobacco, and Firearms.

29. None of the agents who testified for the Grand Jury, gave oath for the Arrest Warrant or testified at trial were from the Intelligence Division of CID or ATF. Every

agent that testified proved their own perjury before the court, and their crime of impersonating Intelligence Division Authority and office by impersonating an agent of Intelligence Division and willfully exceeding their limited authority. NONE testified to being with ATF, intelligence division, or enforcing Subtitle E taxes. And none testified to being THE UNITED STATES OF AMERICA or even alleged that they lawfully acted on behalf of that entity, agency, or state.

30. No Criminal investigator for the intelligence division was present in the case at any point; no excise taxable activity or corporate privilege was alleged; and no prosecuting authority was verified.

31. The united states of America or UNITED STATES OF AMERICA is not named anywhere in 26 USC, or 26 CFR as having prosecuting authority.

32. The united states of America or UNITED STATES OF AMERICA is not named in the United States Constitution as having any taxing or prosecuting authority.

33. The United States of America is named as a separate political or legal entity in the Selective Service Act, Prisoner exchange statute; and 26 USC names only the President of the United States of America as having and exercising authority to apply foreign income treatment to Military personnel serving abroad as previously noted to the Court in Judicial Notice.

#### NO LIABILITY STATUTE

34. No liability statute making Brian and Mitzi Chadsey liable for a tax subject to 7201 crime or 7608 enforcement is before the court because none exist. #15 ibid

Helvering v. Edison Brothers' Stores 8 Cir. 133 F2d 575 (1943):

***"The Treasury cannot by interpretive regulation make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax that which is not income within the meaning of the 16th Amendment."***

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***"In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the***

*language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government, and in favor of the citizen. United States v. Wigglesworth, 2 Story, 369, Fed. Cas. No. 16,690; American Net & Twine Co. v. Worthington, 141 U.S. 468, 474, 12 S. Sup. Ct. 55; Benziger v. United States, 192 U.S. 38, 55, 24 S. Sup. Ct. 189.”*

35. The Statute at Large complete history under 1939 and 1954 Code for 26 USC 7201 is before the court and binding upon the court in Judicial Notices 1, 2, and 3. No opposing Statute, regulation, or rebuttal evidence appears in the record.

36. Absent Statute and Regulation the court is deprived of Jurisdiction and barred from imposing sentence. There is no applicable regulation for 7201 affecting Chadsey or Chisum related to subtitle A, B, or C taxation and under the Mersky doctrine the code without appropriate regulations does nothing.

37. Prosecution brought in absence of Statute and Regulation is fraud upon the court and malicious prosecution.

38. Arbitrary and Capricious determinations by Plaintiff, and Court, without statutory and regulatory authority deprive defendant of any semblance of due process.

39. When the Court is deprived of jurisdiction its only recourse is to dismiss; or in this matter since jeopardy has attached the verdict of acquittal, or vacation of the jury verdict and dismissal are the only lawful recourses.

#### **DENIALS OF DUE PROCESS**

40. Defendant was denied due process in the indictment because the essential element of deficiency or assessment was not presented before the Grand Jury. Defendant was not given notice or opportunity to appear and give evidence or testimony to the Grand Jury on behalf of Jimmy C. Chisum.

41. Defendant was denied due process because the agent who swore the affidavit of probable cause for the warrant had no such authority; and the affidavit was perjured.

42. Defendant was denied due process because Magistrate Duncan has no statutory authority to act in a felony case by 28 USC 635; but fraudulently preceded.

43. Defendant was denied due process by Magistrate West proceeding to arraignment without properly hearing or deciding jurisdiction challenge.

44. Defendant was denied due process by Magistrate West proceeding in want of authority, having no felony authority or jurisdiction granted by Congress in 28 USC 635.

45. Defendant was denied due process by Magistrate West failing to answer the Nature and Cause and failing to order Prosecution to produce proof of the Nature and cause by the testimony of a competent fact witness testifying under oath and subject to Cross-Examination.

46. Defendant was denied due process by trial Court proceeding to other items of business without first requiring evidence, hearing proof and deciding jurisdictional challenge. The Court errs in declaring "this is my court"; as the code of conduct makes it clear this court is for the parties and the law. His honor does not own any part of the court but is a sworn public servant for justice.

47. Defendant was denied due process by arbitrary, capricious and prejudicial treatment and decisions of trial court in rebellion against precedent, rule, ethics and statute.

48. Defendant was denied due process in jury instructions wholly prejudiced to prosecution based solely on personal prejudice and alleged form error.

#### **Summary**

49. There is no assessment or deficiency, "essential element" as required for the charge.

50. None of the agents who testified proved authority to enforce subtitle A or C taxes.

51. Collins and other inferior court decisions do not overrule or overturn Supreme Court precedent, or future decisions by the Supreme Court not yet made at the time Collins and other decisions were decided in the lower courts.

52. No Criminal Investigator from Intelligence division was involved in the prosecution.

53. 26 USC 7608 is the only specific enforcement provision in the Internal Revenue Code; and does not apply to Subtitle A and C taxation; the Chadseys or defendant.

54. No Subtitle E taxes, other excise taxes, and no corporate franchise privilege subject to 26 USC 7201 are present, or even alleged in the case.

55. United States of America lacks Constitutional or Statutory authority to appear in this case as an injured party; paper entities can not be injured, or bring charges.

56. Fraud upon the court resulting in judicial error is destructive to the jurisdiction and worthy of sufficient sanction to alter the behavior.

57. Erroneous jury instructions are arbitrary and capricious denials of due process.

58. Due process was butchered in prejudice doing violence against the Constitution.

#### **Counterclaim for Damages and Restitution**

59. Counterclaimant re-alleges paragraphs 1-48 as of fully restated and further alleges.

60. The prosecution was malicious and intentional by fraud upon the court; without Constitutional or Statutory Authority; and all the participants are sworn servants of the law who must be presumed to have known the law they were violating.

61. Counterclaimant was intentionally damaged with forethought and planning in a planned effort for his harm; drives Chisum out of business; chills first amendment free exercise; and willfully damages dozens or hundreds of citizens' private property at home.

62. AUSA, Gallant, and agents willfully and intentionally brought the prosecution to damage Counter-Claimant's liberties granted by Almighty God and protected by the Constitution which Gallant, and agents have allegedly sworn to serve.

63. Prosecution acted without the express territorial limitation contained in US Attorneys manual; and acting outside the law waives all official protection or immunity.

64. Counter-Claimant was deprived of liberty for 6 days in physical confinement and 6 days of necessitated court appearance and restrained in his liberty for 109 days; and damaged in his freedoms, livelihood, and free exercise of first amendment liberties from October 30 to present (124 days and counting); all in want of authority.

65. The federal standard for compensation for wrongful imprisonment has been adjudicated at \$27,000 per hour in Florida; the restraint of liberty during the process would be at some lesser rate to be determined by a jury; and the intentional damage to livelihood, religious and political freedoms should be at such a rate to discourage or alter the behavior of Plaintiff and plaintiff's attorney; IRS, UNITED STATES OF AMERICA, and United States.

#### **RELIEF SOUGHT**

**WHEREFORE** defendant moves this honorable court for a verdict of acquittal not with standing the verdict of the jury;

Sanctions against prosecutor sufficient to alter the behavior by removing him from public interface, conduct of litigation in EDOK, and or terminating employment and licensure;

Sanctions against agents who participated in the prosecution by removing them from public office, and any position that could allow the repeating of the behavior;

Restoration of all rights civil, public, and political;

Civil damage of \$12,500,000; and

such other relief as the court or jury deems just.

Respectfully submitted this 22nd day of February, 2006 AD; all rights reserved



Jimmy C. Chrisum, defendant

**CERTIFICATE OF SERVICE**

I, **Jimmy C. Chisum**, hereby certify that I have served a copy of this Motion and Brief on Plaintiff by first class mail, postage paid and addressed to Jeffrey Gallant, AUSA; US Attorney's Office; 1200 W. Okmulgee St., Muskogee, Oklahoma 74401 this 9th day of March, 2006.



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

**United States District Court  
Eastern District of Oklahoma**

<b>United States of America</b>	)	<b>Judge White</b>
<b>Plaintiff</b>	)	
v.	)	<b>CASE NO. CR 05-43 WH</b>
	)	
<b>Jimmy C Chisum</b>	)	<b>BRIEF IN SUPPORT OF THE</b>
<b>Accused Pro Per</b>	)	<b>Motion for Verdict of</b>
	)	<b>Acquittal Notwithstanding</b>
	)	<b>the Verdict of the Jury</b>
	)	

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Comes now, the defendant, to furnish this Brief in Support of the Motion for Verdict of Acquittal, Notwithstanding the Verdict of the Jury, for the consideration of this honorable court.

**STATEMENT OF CAUSE**

The transcript of all the EDOK proceedings are already a part of the record and limited citations are added to this Brief for economy of the court’s time in review. The errors and abuse of Authority of Magistrate Duncan, Arizona District, will be addressed to Arizona Court in Void Judgment and Judicial Complaint and with the congress on suggestion of impeachment. Only the acts and actions of EDOK are briefed.

**WEST; LACK OF JURISDICTION; DENIAL OF DUE PROCESS**

1. Magistrate West did willfully and intentionally with apparent malice and forethought proceed on August 22, 2005 against the defendant in want of jurisdiction and in lack of Judicial authority to proceed in any felony matters as emphasized by Justice O’Connor in New York v United States, 505 US 124 if authority is not expressly delegated it is reserved; and none is delegated here.



New York v US 505 US 124, 155

***“the constitution created a Federal Government of limited powers”*** Gregory v Ashcroft, 501 U.S. 452, 457 (1991); ***and while the Tenth Amendment makes explicit that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people,”... “all is retained that is not surrendered,”*** US v Darby, 312 US 100, 124(1941). [notice that both NY v US and Gregory v Ashcroft are after Collins].

2. The Statute, passed by congress, and codified in 28 USC 635, do not delegate Article III Judicial Power to Magistrate West, thus depriving her of the authority to take any action, make any decision or enforce any ruling in the matter of a felony charge and case.
3. Even the EDOK website emphasizes that Magistrate is not a Judicial officer with Article III judicial powers; this declaration is either a true statement of law, depriving Magistrate of judicial authority; or Consumer fraud meant to misinform, and defraud the public out of Constitutional protections.
4. There is no other Judicial Power named or delegated in the US Constitution; so it is plain that Magistrate West acted without actual authority, under color of law, extra-constitutionally, in absence of authority, and quite likely criminally impersonating a judicial officer or judicial authority in the process.
5. West Arbitrarily and Capriciously deprived defendant of due process in that she refused to answer, hear, require proof or decide on the record either the Motion Challenging Jurisdiction or Notice and Demand of defendant. West is required by rule and Supreme Court decisional Precedent to require proof of Jurisdiction and Authority any time Jurisdiction is challenged before moving on to other actions; and failed to properly execute her alleged office.

6. Magistrate West's action must be either due to incompetence of judicial authority; known lack of judicial authority, color of authority, color of law or disability due to prejudice; any of which make Magistrate West actions Void and erroneous.

7. The result is that defendant was never lawfully arraigned; another gross violation of protected due process rights.

### **Void judgments**

8. All decisions and actions by a court made without authority or Jurisdiction are void judgments; subject to direct or collateral attack in any court at any time.

9. The fraud upon the court, by the Plaintiff's failure to allege the essential element of deficiency or assessment, makes it plain that the Court lacked jurisdiction; and the fraud vitiates everything it touches; and here it vitiates the whole Arraignment hearing and any pretense of due process thereafter.

10. The trial Court's cover-up efforts add additional disrepute to the court and government by the blatant disregard for law and precedent.

11. Magistrate West forcibly inserted, for her own benefit, an Attorney into the case as standby council, in an apparent attempt to gain a waiver of Jurisdiction from the defendant is at minimum coercive fraud.

12. This fraudulent attempt, to gain contractual waiver of jurisdiction, is a violation of Constitutional rights, due process rights, Judicial Ethics and the code of conduct bringing the court into disrepute by fraudulent exercise of judicial authority and attempting to capture defendant as a prize in this missed war; a government at war against its own Citizens, whom it has been established and sworn to serve.

13. Warring against the Constitutional limitations, verified by the Supreme Court, as stated in Judicial Notice does irreparable damage to the integrity of the court and the process.

14. Magistrate West became irritated and upset at being reminded of Supreme Court rulings (she has sworn to follow) that post date the Collins case cited by prosecution and the court, notably Lanier 1997, when she attempted to fraudulently induce defendant by declaring that rules are not written in plain English, that men of common intellect can not understand or follow the rules; and that rules are only usable or understandable by Attorneys, with special education, title of nobility and licensed as officers of the court (cronyism).

15. In Lanier any law written in such complex (secret legal) language that men of common intellect can not understand or might differ at their meaning impose no duty.

16. By that Supreme Court Precedent Magistrate West declared the rules as imposing no duty on the defendant.

17. Rights can not be converted to privileges by custom or rule of the court any more than they can by usurpation in statutes, policies, codes, regulations, or rules at least according to the Supreme Court.

18. Constitutional limitations can not be abrogated by special privilege and license; and the rule of law applies to Magistrate West as it does to all sworn public servants.

19. Defendant is a living, breathing man and member of the Public, deserving loyal service, under oath, by all sworn servants in his government established to serve his just needs; and the EDOK Court is established as part of the Judicial Branch of the United States government, in part, to protect defendant rights against abuses by other

branches of government; and unlawful trespass by federal agencies on the sovereignty of the States and People.

20. Yick Wo v Hopkins; NY v US; Alden v Maine; FCC v NextWave; and other previously cited Supreme Court authorities define the true power structure and jurisdiction available to Article III courts; and there is no constitutional delegation of power to non judicial courts.

21. In the present case, the court appears to be in cronyism, collusion or conspiracy with Plaintiff and plaintiff Council, to deprive defendant of numerous rights guaranteed and protected by Constitution and laws.

22. The judicial Code of conduct demands the court avoid all such appearances of impropriety and diligently follow precedent to protect the reputation and honor of the court.

23. Rebellion against the rule of law works violence against the Constitution and is reason for discipline of judicial officers, even attorneys.

### **BURDEN OF PROOF**

#### **White errors**

24. The Plaintiff has the burden of proof of Jurisdiction and authority as surely as it has the burden on the facts. (see Judicial Notice on delegation of authority)

25. The Court's demonstrated prejudice, that all proof of law and limitations to jurisdiction are placed on defendant, instead of on the prosecution as required by law and precedent, is rebellion against the Supreme Court precedent; and wars against the constitutional guarantees of due process and separations of power. NY v US explains that the powers delegated, in the Constitution, to one branch of the federal

government can not be delegated to another branch, even with consent. It would seem obvious, to defendant, that **Congress alone has powers for laying and collecting taxes in Article 1** of the Constitution, with certain specific restrictions as the Supreme Court precedent (NY v US) declares; forbidding the delegation of such power, even with consent to the executive branch.

26. But then Constitution, law and the **Supreme Court precedent are deemed and declared frivolous by the trial court**; improper form outweighs all law and truth presented in substance by defendant; and Plaintiff is wholly relieved of its lawfully required proof of jurisdiction, Nature and cause, essential element of deficiency and assessment (Collins 131) and authority to proceed; **again the US Supreme Court is frivolous, at the declaration of this “inferior” court.**

27. His Honor insults the defendant and the Supreme Court with regularity; only occasionally patronizing defendant personally in a friendly tone, for cover up purposes, attempting to avoid being held accountable for breeches of ethics, prejudice, trespass, and fraudulent collusion.

28. The Court on multiple occasions sought or solicited concession from defendant to waive defendant's right to sue the court for redress as guaranteed by the first amendment. Judicial immunity does not cover void judgments in want of subject matter jurisdiction or willful breeches of ethics; and suit is part of peaceful redress.

29. On **September 23, 2006** the Trial Court did Arbitrarily and capriciously, with apparent malice and forethought declare its prejudice in promising to be more threatening and intimidating than Magistrate West had been in August; and then failed and **refused Supreme Court directed due process** by first declaring “in my

court I decide when and how things are done” when challenged about jurisdiction being first.

30. When the defendant challenged the Court about due process of arraignment hearing by West and deciding challenge to jurisdiction was frivolous without any proof or input from Plaintiff; based on zero proof of personam, territorial, or subject matter jurisdiction furnished by the plaintiff.

31. When asked for proof of oath and authority, the Court declared its pride in his commission, but refused to provide any proof of official oath or appointment.

32. When challenges of jurisdiction and demand for Nature and Cause were repeated the court yelled at defendant to “shut up” and “do not mention that again” and “do not interrupt me when I am talking” and “in my court I do not answer questions I only as them”.

33. The court further **summarily refused to disclose its proof or decision about the jurisdiction**, repeatedly refused and rejected the inquiry into Nature and Cause, or to give any finding of facts or conclusions of law on any decisions, or even order the Plaintiff to state Nature and Cause in the Bill of Particulars though earlier in the session the court had promised to do so.

34. When reminded of this defect in the Bill of Particulars on November 17, 2005, pretrial proceeding the court stated it did not read that detail in the transcript; acknowledging it had not thoroughly read the transcript for detail; or apparently cared about this part of the Constitutional right to due process issue.

35. In absence of any proof by Plaintiff; and in face of refusal and rejection of inquiry by the court the Defendant furnished nature and cause to the court in Judicial

Notice that is binding upon the court after having been once accepted into the record over plaintiff objections; no contradicting authority was submitted and the plaintiff defaulted the opportunity to furnish the facts and laws establishing jurisdiction apparently preferring to rely on Court prejudice.

36. The court in its prejudice ignores all law and calls the **Supreme Court** precedent cited **frivolous**; a direct violation of ethics.

37. All due process, procedure, and jurisdiction motions were summarily called frivolous without explanation other than a passing reference to Collins, 10<sup>th</sup> Circuit 1990 and dismissed.

38. The Challenge to the defective arraignment was also called frivolous; and the court tried to trick defendant into a plea without ever hearing or knowing the Nature and Cause as guaranteed in the Constitution and after the time for arraignment had expired.

39. Rebellion against due process, and rule of law for personal pride and prejudice does violence against the Constitutional form of government, and brings the judiciary into ill repute.

40. The atmosphere in what Judge White erroneously called “my court” was quite jovial and friendly on November 17, 2005; though the prejudicial abuses of process and procedure continued unanimously to favor the plaintiff and plaintiff attorney with little pretense of fairness.

41. Judge Continued the Void process in trickery, deceit, cronyism, collusion, or conspiracy with plaintiff and plaintiff attorney. The court repeatedly attempted to get defendant to waive jurisdictional challenge; without success. No contract was

formed; and all attempts were without full disclosure or consideration on the part of plaintiff and court.

42. The judicial Notices were accepted, with illegal and unlawful reservations, by the court to aid plaintiff; and make sure the railroad kept running.

43. Plaintiff's Bill of Particulars added nothing to the defective indictment and did not allege the essential element of deficiency and assessment; nor did it show any particular tax for which the Chadseys were liable by "Statute and Regulation" violated for which 7201 applies; Connolly, Mersky, and Public Law history of 7201 were cited in Judicial Notices and are incorporated by reference.

44. The indictment is void on its face for failure to allege the essential elements; for fraud upon the grand jury and for fraud upon this honorable court by and on behalf of plaintiff. Fraudulent inducement for prejudice in the court is criminal activity by plaintiff attorney; breeches bar and judicial oaths; and is worthy of correction.

#### **ABUSE OF AUTHORITY; WHITE**

45. On November 17, 2005, Defendant filed a notice of appeal on first amendment collateral issues concerning the free exercise of religion.

46. By rule and precedent the automatic stay occurs with the Notice of Appeal.

47. Judge White through his clerk, in want of authority and abuse of discretion called Defendant and asked defendant/appellant for citations of authority for the automatic stay contained in rule and precedent.

48. Appellant complied with the request which unfairly delayed the submission of the docketing statement and Emergency request for stay to the 10<sup>th</sup> Circuit.

49. Judge White decided on Thanksgiving eve, the last business day before trial that



he intended to proceed to trial; was not going to comply with the automatic stay; and did not care about 10<sup>th</sup> Circuit or Supreme Court precedent.

50. 10<sup>th</sup> Circuit used trickery in the language of rules to deny stay and dismiss the appeal. As long as the railroad changes stations often enough the due process of collateral issue appeal is stolen by trickery; and constitutional rights abrogated.

#### **ABUSES DURING TRIAL**

51. The trial continued the rampant abuse and prejudice.

52. 7 of the 8 IRS witnesses testified to be trespassing on authority or illegally impersonating federal officers.

53. Cross examination verified criminal conduct taking place in the trial; yet the Court took no action to see the criminals prosecuted for the perjury or violations of the law; again bringing the court into ill repute in violation of code of conduct, constitution, statute and rules.

54. None of the alleged agents knew the definition of income as provided by Supreme Court precedent; yet were testifying about income tax matters; an obvious perjury.

55. None of those claiming to be agents could verify their authority or even knew what the coding on their official Pocket Commission identification means; yet were claiming authority delegated only to Criminal Investigators of the Intelligence Division in 26 USC 7608; the only Code section for enforcement.

56. None of the witnesses knew; and the court rejected the law concerning pocket Commissions.

57. None of the alleged agent witnesses presented any lawful delegation of authority but were granted a free pass around the law by the Court to evade the law, commit perjury, impersonate authority, act under color of law and color of authority; and directly lie about what the code and statutes say.

58. The testimony that income defines income by exclusion, offered by the summary expert, was parroted by the court to the jury in direct fraud upon the jury.

59. The Court told the Jury it would instruct them about the law and perjured itself openly; conduct unbecoming a federal jurist.

60. This conduct of prejudice hypothecates the office; vacates the court and makes everything about the case void judgment for fraud on the court by the prosecutor and fraud by the court on the jury and defendant.

61. The grossest prejudice was for the court to reject all of defendant's proposed jury instructions because they were supposedly not in the right form; and instructing the jury in complete prejudice contrary to oath and law.

62. Gross income in section 61 can not define income; only classify one form of what had to already be income as defined by the Supreme Court and the trial Court stuck with its declared authority to interpret Supreme Court decisions and call precedent frivolous in complete prejudice for plaintiff.

63. Fraudulent instructions that directly lie about the law to command the jury to reach a guilty verdict is conduct unbecoming any sworn officer; breeches code of conduct; perjures the oath of office and tampers with the jury.

**NO INJURED PARTY AT LAW**

64. The accuser never appeared in person to be cross examined as required.

65. UNITED STATES OF AMERICA is an apparent artificial personality of some portion of a government established among men to serve the just needs of the governed.

66. UNITED STATES OF AMERICA does not appear in the United States Constitution as a receiver of delegated power to prosecute for tax crimes, lay and collect taxes, or have standing before Article III courts.

67. As stated in the Selective Service Act, Prisoner exchange Statutes, and as noted in 26 USC, UNITED STATES OF AMERICA and United States are separate, distinct, and foreign to one another.

68. United States is the constitutionally created government that is delegated limited powers by the Constitution.

69. UNITED STATES OF AMERICA is not legally identified in the true bill, indictment, affidavit for warrant, pretrial proceeding, or testimony at trial; no appearance of record exists for any UNITED STATES OF AMERICA ATTORNEY, nor any statute or rule enabling Assistant United States Attorney Gallant to represent UNITED STATES OF AMERICA.

70. None of the agent witnesses were employed by UNITED STATES OF AMERICA, nor presented any documentation or credential as UNITED STATES OF AMERICA to be the accuser or injured party under Article III, at law jurisdiction.

71. UNITED STATES OF AMERICA never appeared to show its injury or to be cross examined as required by constitutional due process.

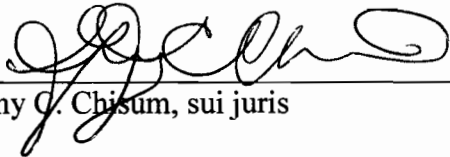
72. No contract between defendant and UNITED STATES OF AMERICA was placed in the record to establish an equity or admiralty maritime jurisdiction.

73. UNITED STATES OF AMERICA has no standing before the Grand Jury, or the Court as an injured party for 26 USC 7201 tax crimes under Alcohol, tobacco, and firearms excise taxation by corporate privilege.

74. AUSA Gallant, Agent Skaggs, and others willfully conspired to defraud the court in pretense of jurisdiction and authority in malicious prosecution for the purpose of chilling defendant's first amendment rights, and depriving defendant of lawful livelihood as trustee in legal tax avoidance arrangements permitted by law and recognized by the US Supreme Court as not taxable and as not rising to the definition of doing business for tax purposes.

75. Fraud upon the Court is reason for severe sanctions against AUSA and agents; in Dixon v CIR, 9<sup>th</sup> Cir 2003 the attorneys were barred from trials.

Prepared and submitted this 9<sup>th</sup> day of March, 2006 AD

A handwritten signature in black ink, appearing to read 'Jimmy C. Chisum', written over a horizontal line.

Jimmy C. Chisum, sui juris