

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. CR-05-043-WH
)	
JIMMY C. CHISUM,)	
)	
Defendant.)	

ORDER

Before the Court are various filings of the defendant, who was convicted by a jury of four counts of violating 26 U.S.C. §7201 and awaits sentencing. The filings largely deal with defendant’s contention (repeatedly rejected by this Court during the course of these proceedings) that the Court lacks subject matter jurisdiction.

Defendant has made it abundantly clear that he disagrees with *United States v. Collins*, 920 F.2d 619, 629 (10th Cir.1990) in this regard. This Court is bound to follow Tenth Circuit precedent and believes *Collins* was correctly decided in any event. Defendant may, on appeal, seek to convince the Tenth Circuit that 18 U.S.C. §3231 does not mean what it says or is otherwise infirm. This Court simply reiterates its previous rulings.

The remainder of defendant’s arguments, some intriguing in their ingenuity, are likewise rejected. The convictions stand. One filing is termed by defendant “Jimmy C. Chisum’s Judicial Notice F.R.E. 401.” The cited Rule provides a definition of “relevant evidence” and what defendant has submitted is simply more legal authority and argument. To the extent the filing asks the Court to take judicial notice of the materials therein, the

request is denied. The positive law and case law say what they say, and there is no need for “judicial notice” to be taken by this Court.

Accompanying defendant’s motion for verdict of acquittal notwithstanding the verdict of the jury is what purports to be a counterclaim for damages against the United States. The Court sees no provision in the Federal Rules of Criminal Procedure which permits a criminal defendant to assert a civil claim in a criminal proceeding, and in any event the jury trial has already been concluded. Accordingly, the counterclaim will be stricken.

It is the Order of the Court that the defendant’s motion to vacate (#83) is hereby DENIED. Defendant’s judicial notice (#84), construed as a request to take judicial notice, is hereby DENIED. Defendant’s motion to dismiss indictment and jurisdictional challenge (#85) is hereby DENIED. Defendant’s motion for verdict of acquittal notwithstanding the verdict of the jury (#86) is hereby DENIED. The accompanying counterclaim for damages is hereby stricken, not in the sense of physical removal from the case file, but in the sense that it is a legal nullity.

ORDERED THIS 10th DAY OF MARCH, 2006.

A handwritten signature in cursive script, reading "Ronald A. White", written over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma