

Judge Kent J. Dawson finally ruled on my four motions to dismiss for lack of subject matter jurisdiction. However I still have another one in regarding the failure of the government to produce those two documents and my Motion to Suppress, plus others which I will not list here.

Since I am now extremely pressed for time with preparing my numerous exhibits and jury instructions for trial, I do not have any time to comment on Judge Dawson's Ruling except to say:

- 1) He filed it late enough so I could not file a motion for Reconsideration in which I could answer his "findings";
- 2) I have no time in in which to file an interim appeal;
- 3) Notice in his ruling he does not address, let alone refute, even one of the arguments I raised in my four motions. The government's admission in its footnote in its Motion in Limine alone, means I won my motion on "liability.
- 4) All of my motions contained a lot more than "snippets"
- 5) Of course, even if a Supreme Court decision is over 30 years old, does not mean it doesn't have to be followed - if the decision has never been reversed or overruled and none of the Supreme Court decisions cited in all my briefs have never been reversed or overruled - lower courts simply ignores them. The Supreme Court also ignores them, but doesn't overrule them.
- 6) What Judge Dawson has essentially said is: "Look, for 30 years federal courts have ignored all of these controlling Supreme Court decisions as well as the statutes in the 1954 Code that were written to comply with them, and we are not about to start complying with them now, and you are going to be in deep trouble for even bringing these Supreme Court decisions and these statutes to my attention."

Actually I feel sorry for Judge Dawson. How can I expect him to Rule favorable on these motions (which his oath of office still requires him to do), and thus admit that all of the criminal trials that all of his "brother" judges have been conducting overt the last 70 years (as

well as all the civil seizures they have allowed to happen) have all been illegal. The extent of the fraud is mind blowing. It makes Watergate look like the proverbial Sunday School picnic.

When will somebody do a documentary on this?

Irwin

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

IRWIN SCHIFF, CYNTHIA NEUN AND
LAWRENCE COHEN a/k/a LARRY
COHEN,

Defendants.

Case No. CR-S-04-0119-KJD (LRL)

ORDER

Presently, the Court has before it the Report and Recommendation (#85) entered by the Honorable Lawrence R. Leavitt on December 6, 2004. The Report and Recommendation addressed Defendant Irwin Schiff's ("Defendant") Motion to Dismiss All Counts Involving Income Taxes, Since This Court Has No Jurisdiction with Respect to an Alleged Tax That Is Not "Traceable to Congress' Power to Tax (#13), Motion That All Counts Involving Income Taxes Be Dismissed, Since No Statute Makes Any of the Defendants Nor Anyone Else, "Liable" for Income Taxes (#14), Motion to Dismiss All Counts in the Indictment Related to Income Taxes, Since All Such Counts Were Secured by Fraud (#15), Motion to Dismiss All Counts Alleging Violations of 26 U.S.C. Since Federal Courts Were Given No Jurisdiction to Prosecute Alleged Criminal Violations of Title 26

1 (#16). Pursuant to 28 U.S.C. § 636(b)(1)(B) & (C), these motions were referred to a United States
2 Magistrate Judge, whose report recommended denying each one. Defendant has filed objections.

3 Pursuant to 28 U.S.C. § 636(b)(1), a magistrate judge may file proposed findings and
4 recommendations concerning motions to dismiss an indictment. See 28 U.S.C. § 636(b)(1)(B), (C).
5 Within ten days of being served the magistrate judge's report, a defendant may file written objections
6 to any of the proposed findings or recommendations. See id. § 636(b)(1). The Court shall review de
7 novo those portions of the report and recommendation to which objections were made. See id.

8 After having reviewed de novo those aspects of the Report and Recommendation to which
9 Defendant objects, as well as reading and considering his original four motions to dismiss, the
10 Government's opposition, and his reply, the Court finds that the magistrate judge properly
11 recommended the denial of the motions to dismiss. Defendant's interpretation of early Supreme
12 Court decisions, federal statutes, Congressional Reports and IRS publications is tortuous. Defendant
13 parses phrases, splices commas and transplants legal snippets in an attempt to support arguments the
14 courts have repeatedly rejected as frivolous. In so doing, he has created the legal equivalent of a
15 Frankenstein monster which he cannot control and which threatens to bring about his own ruin.

16 Defendant fails to cite any case from the last 30 years that supports his arguments. No case
17 during this time frame uses the "direct/indirect" dichotomy. Moreover, no case during this time
18 frame has specifically held that direct federal income taxes must be apportioned among the states,
19 that income for federal taxes purposes is only corporate profit, that Congress has not granted federal
20 courts jurisdiction over criminal prosecutions concerning federal taxes, or that no federal statute
21 makes anyone liable for federal income taxes. Defendant's argument that recent court decisions are
22 erroneous is unpersuasive.¹ The failure of any case to hold these arguments valid would be a very

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24 ¹In order to find Defendant's arguments valid one must make the following incredible
25 assumptions: That beginning in 1916 and continuing into the 1920's the Supreme Court routinely
26 ruled that 16th Amendment, despite its clear language to the contrary, still required federal income
taxes to be apportioned among the states, that despite these rulings the legislative, executive and
judicial branches of the federal government have conspired to ignore these binding precedents and
foisted upon millions of hapless individuals an unconstitutional income tax for over eighty years, that


1 good indication to Defendant that his arguments lack legal merit.² If Defendant is convicted he may
2 raise these arguments before the circuit court.

3 Accordingly, IT IS HEREBY ORDERED that Defendant Schiff's Objections to Magistrate
4 Judge Lawrence R. Leavitt's "Report & Recommendation" (#107) are **OVERRULED**.

5 IT IS FURTHER ORDERED that the magistrate judge's Report and Recommendation is
6 **APPROVED** and **ADOPTED**.

7 IT IS FURTHER ORDERED that Defendant's Motions to Dismiss (#13, 14, 15, 16) are
8 **DENIED**.

9 DATED this 31st day of August 2005.

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13 Kent J. Dawson
14 United States District Judge
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19 the conspiracy is so widespread that even members of the conspiracy (i.e. members of congress,
20 federal bureaucrats, judges, etc.) pay this allegedly unconstitutional income tax, and that Defendant,
21 although having never been successful in his more than twenty years of litigation concerning the
22 federal income tax, is one of those lone voices in the wilderness.

23 Or applying the principle of Ockham's Razor, one could realize that the federal judiciary's
24 silence for the past 80 years (and, more importantly, its repeated rulings against Defendant and his
25 followers) indicates that Defendant's arguments lack any legal merit. Moreover, one would realize
26 after reading these early Supreme Court cases that Defendant's interpretation of them is completely
erroneous.

²At a recent hearing, Defendant stated that he cannot retain an attorney (or have one
appointed for him) because they would fear court sanctions for making the legal arguments he
desires. This should be another indication to Defendant that his arguments lack legal merit such that
a court would find an attorney in contempt because of the misinterpretation of case law, federal
statutes, constitutional text, and government publications.