

UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 87-3271

ARTHUR D. WARD

Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF FLORIDA

ORLANDO DIVISION

BRIEF OF APPELLEE

Statement of the Case

A. Course of Proceedings and Disposition in the Court Below

On December 17, 1986, the appellant was indicted by a Federal Grand Jury sitting in Orlando, Florida, in a five count indictment alleging tax evasion and false statements in regard to tax years 1980 through 1982. (R1-1) Trial commenced on March 2, 1987, before visiting Judge Richard B. Kellam. (R4-3) During the trial, the appellant moved for a judgment of acquittal, which was denied ultimately following a post trial motion for acquittal. (R3-86, 2-46) Prior to the jury deliberations, a charge conference was held, and certain instructions requested by the appellant were not allowed by the Court. (R4-3 to 9; R6-3 to 31) Specifically, appellant's

ARGUMENT

ISSUE I

THE TRIAL COURT PROPERLY DENIED THE
DEFENDANT'S MOTIONS FOR JUDGMENT OF
ACQUITTAL

The basis for the appellant's motion for a judgement of acquittal, lay in his own tortured theory as to the government's lack of jurisdiction over him. He arrives at this conclusion through a patently ludicrous argument involving phrases and definitions used out of context, together with deliberate ignorance of relatively simple tax regulations. The government is unable to find any case law directed at this specific tax protest theory. The government is unable, therefore, to offer case authority for the universally accepted proposition that a citizen of the United States, working and residing in the United States, subject to federal law, earning wages, and responsible for filing an income tax return, is liable for taxation. The argument itself is frivolous in the extreme and should be dealt with summarily by this court.

CONCLUSION

For the foregoing reasons, the district court's rulings on the appellant's motions were correct, and the appellant's conviction and sentence should be affirmed.

Respectfully submitted,

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By

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that two copies of the Brief of the Appellee were furnished by mail delivery to Lowell H. Becraft, Jr., Esquire, 209 Lincoln Street, Huntsville, Alabama 35801; this 22nd day of September, 1987.

Bruce Hinshelwood
Assistant United States Attorney