

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution of the United States of America:

Article I, Section 8 Page 7

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Article I, § 1, cl. 1 Page 27

The Legislative Branch Section 1 - The Legislature

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

The Bill of Rights, Amendment 5..... Page 11
and, throughout

Trial and Punishment, Compensation for Takings

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Sixth Amendment Page 7

Amendment 6 - Right to Speedy Trial, Confrontation of Witnesses

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

26 USC Internal Revenue Code

26 U.S.C. §7206(2)	APPENDIX Index Page 5
26 U.S.C. § 7201	APPENDIX Index Page 5
26 U.S.C. §61 "Income defined"	APPENDIX Index Page 1
26 U.S.C. §1	APPENDIX Index Page 1
26 U.S.C. §63	APPENDIX Index Page 1
26 U.S.C. §6012	APPENDIX Index Page 2
26 U.S.C. §6001	APPENDIX Index Page 2
26 U.S.C. §6011	APPENDIX Index Page 2
26 U.S.C. §6201 (a) (1)	APPENDIX Index Page 3
26 U.S.C. §6203	APPENDIX Index Page 3
26 U.S.C. §6204	APPENDIX Index Page 3
26 U.S.C. §6211.....	APPENDIX Index Page 4
26 U.S.C. §6501 (c) (3).....	APPENDIX Index Page 4

STATEMENT OF THE CASE

Applicant convicted of thirteen counts after a 23-day trial and 10-day jury deliberation. Applicant has exhausted his appeals save this Petition.

On March 24, 2004, Applicant and two co-defendants were named in a 33 Count Federal Indictment filed in the District of Nevada. The Applicant was convicted of Count 1, charging a Klein conspiracy in violation of 18 U.S.C. §371. Counts 2 through 6 charged Applicant with aiding and assisting others in filing false and fraudulent income tax returns, in violation of 26 U.S.C. §7206(2).

Count 17 charged that Applicant attempted to evade and defeat the payment of income tax he allegedly owed for the years 1979 – 1985, in violation of 26 U.S.C. §7201. Finally, Counts 18 – 23 charged that Applicant filed false personal income tax returns for the years 1997 – 2002.

Applicant represented himself at the trial before United States District Court Judge Kent Dawson and a jury. On February 24, 2006, Judge Dawson sentenced Applicant to 151 months imprisonment to be followed by a 12-month consecutive sentence for Contempt of Court. (The premise of Applicant's defense was based upon law as written and Supreme Court decisions; the judge charged Applicant with contempt every time one of these slipped out in Applicant's questioning.)

Applicant's direct appeal raised six issues challenging (1) Applicant's competency to stand trial and claiming that his waiver of counsel was not knowing and voluntary; (2) the district court's orders holding Applicant in contempt; (3) the substantive reasonableness of the sentence; (4) Judge Dawson's failure to recuse himself; (5) the sufficiency of the evidence; and, (6) the fairness of Applicant's trial, especially in light of disparaging remarks the court made against Applicant.

On December 26, 2007, the Ninth Circuit Court of Appeals rejected all but one of the issues raised. A precedential opinion addressed Applicant's challenge to the district court's contempt citation. (See *United States v. Cohen*, 510 F.3d, 1114 (9th Cir. 2007). The court vacated the contempt citations and remanded the case back to the district court.

On September 5, 2008, the district court reinstated the findings of contempt and imposed a total consecutive sentence of eleven months imprisonment pursuant to those findings. Applicant appealed this decision, which was affirmed on June 11, 2010, however the public defender who did the appeal did not raise in that appeal the validity of the contempt orders, but validity of the court's allowing applicant to defend himself.

On July 14, 2009, applicant filed a motion pursuant to 28 U.S.C. §2255 to vacate his judgment of conviction and sentence. On October 31, 2011, applicant filed an amended §2255 motion based on his claims of ineffective assistance of counsel on direct appeal.

On September 21, 2011, the district court denied applicant's amended §2255 motion.

On November 9, 2012, the applicant moved the district court for a certificate of appeal ability, but his subsequent §2255 motion was denied on November 7, 2013, and was filed February 25, 2014.

REASONS FOR GRANTING THE PETITION

This case presents an issue of law with wide scale public importance. It brings a long overdue question appearing to have not come to the attention of this Court since the enactment of the 1954 Internal Revenue Code, and, deserves a thoughtful answer. Rarely (if ever) two federal judges agree on the law of a case whenever income tax cases come before them. Whether civil assessment, seizures or injunctions; or when charging jury instructions with the lives and liberties of men and women, whole families, and sometimes community survival is at stake in the case of businesses being shut down.

In 1954 Congress rightfully removed all of the mandatory provisions of law in Subtitle A, the income tax with respect to individuals in response to decisions of this Court. It also defined the term "income" for income tax purposes but that definition does not appear in the Internal Revenue Code and it is not being acknowledged in the courts. This Court should find this to be a compelling reason for granting this Petition.

The Court should grant this Petition because the jury in this case were charged with an instruction on the law that was clearly erroneous whereas the court put forth a combination of Code Sections and supplanted inside that formula the word "wages" trying to create a liability where no liability is provided by Congress; and, the words "wages" and "liability" appear nowhere in any of the Code Sections the court used to instruct the jury. The lower courts across this Land are making up various "liability" formulas for takings of monies, properties and liberties from the American People, enacting laws by Court Order on a case by case basis for the Internal Revenue Service, meaning that no one can know what the "law" is until the end of the trial when it is given to the jury or it comes out on a Court Order much too late to avoid the problem.

This Petition For Writ of Certiorari should be granted because the Applicant in this case has suffered a severe injustice due to agency failures in administrative procedures and misfeasance of federal prosecutors influencing the courts and jurors with misleading and false statements in violation of constitutional due process protections.

"Courts have no power to rewrite legislative enactments to give effect to their ideas of policy and fitness or the desirability of symmetry in statutes."

Busse v. Commissioner of Internal Revenue, 479 F2d 1143