IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 13-cr-20371
	:	Judge Victoria A. Roberts
DOREEN HENDRICKSON,	:	
	:	
Defendant.	:	

DOREEN HENDRICKSON'S REPLY TO THE PURPORTED GOVERNMENT OPPOSITION TO HER MOTION TO VACATE AND FOR OTHER RELIEF

MRS. HENDRICKSON'S REPLY

1. Those responding in the government's name lack standing to do so.

On December 6, 2017, persons purporting to speak for the United States (Respondents) voiced opposition (Doc #180) to Doreen Hendrickson's Motion to Vacate and for Stay of Execution. Mrs. Hendrickson's motion is based on the fact that the orders for resistance to which she was indicted and made to stand trial, which are designed to elicit false tax returns from Mrs. Hendrickson, are themselves a criminal violation of 26 U.S.C. § 7206(2). Because those opposing Mrs. Hendrickson's Motion are doing so on behalf, and as a part, of the same crime, these persons do not actually speak for the United States:

> "[If an] officer...acts in excess of his statutory authority or in violation of the Constitution...**then he ceases to represent the Government.**"
>
> *Brookfield Co. v Stewart*, 234 F. Supp 94, 99 (U.S.D.C., Wash. D.C. 1964) (emphasis added)

Consistent with the self-evident and fundamental principle expressed by the *Brookfield* court, those whose names appear on the filed Response cannot and do not actually represent the United States, and never have. Advocates for the commission of crimes against the United States, involving deliberate defiance of the express will of Congress, cannot represent that same United States in so doing.

At the same time, neither those persons particularly, nor the "United States"--whether represented by those persons or not-- can have standing to appear, make

pleadings or arguments, or express opposition to a motion to undo the commission of a crime and its ill effects. As the Supreme Court has plainly said,

> "In order to satisfy Art. III, the plaintiff must show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant. [Citations omitted.] Otherwise, the exercise of federal jurisdiction "would be gratuitous, and thus inconsistent with the Art. III limitation." *Simon v. Eastern Kentucky Welfare Rights Org.*, supra at 426 U. S. 38."

Gladstone Realtors v. village of Bellwood, 441 U.S. 91 (1979)

No one can credibly claim themselves injured or capable of being injured by being thwarted in the commission of a crime. Thus, being merely self-serving criminals, and unable to allege injury to the United States or themselves in any case, Respondents have no standing to oppose Mrs. Hendrickson in this proceeding, just as they had none when seeking orders commanding Mrs. Hendrickson to produce false tax returns, or bringing charges against Mrs. Hendrickson, or moving the Court to find her in violation of supervised release.

Without such standing, there is no actual case or controversy and the courts to which these complaints are brought have no jurisdiction to act on the defective "plaintiff's" behalf. As observed by the Supreme Court:

> "In essence, the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. This inquiry involves both constitutional limitations on federal court jurisdiction and prudential limitations on its exercise. . . . In both dimensions, it is founded in concern about the proper -- and properly limited -- role of the courts in a democratic society."

Warth v. Seldin, 422 U. S. 490, 422 U. S. 498 (1975).

2. Jurisdiction remains available as a valid issue and source of remedy to Mrs. Hendrickson.

Respondents attempt to argue that Mrs. Hendrickson has somehow waived or foreclosed her opportunity to challenge her convictions and/or sentences on jurisdictional grounds. Doc #180 at 6, 7, and 8.

But jurisdiction is a more serious and inflexible issue than these purported spokespeople for the United States are willing to admit. A court's lack of jurisdiction to command the commission of a crime, or to punish anyone for refusing to commit a crime is a *fundamental* issue, in the purest sense of the word. Without jurisdiction, no court can do ANYTHING except recognize its inability to proceed, and dismiss. Anything it does without jurisdiction is always and forever void. Jurisdiction is the authority to act, and without it, *all* actions that are taken lack *any* authority. The effect of that lack of authority can never be cured, by time or otherwise, and the right to demand a remedy in the face of it is never waived, and, in fact, *cannot* be waived.

> **Subject matter jurisdiction cannot be conferred on federal courts by consent of the parties**. See *Commodity Futures Trading Comm'n v. Schor*, 478 U.S. 833, 851, 106 S.Ct. 3245, 3251, 92 L.Ed.2d 675 (1986). **The existence of subject matter jurisdiction, moreover, is an issue that "may be raised at any time, by any party or even sua sponte by the court itself."** *Franzel v. Kerr Mfg. Co.*, 959 F.2d 628, 630 (6th Cir.1992).

Ford v. Hamilton Investments, Inc., 29 F.3d 255, 257 (6th Cir. 1994) (emphasis added); see also *Ammex, Inc. v. Cox*, 351 F.3d 697, 702 (6th Cir.2003); *Alongi v. Ford Motor Co.*, 386 F.3d 716 (6th Cir. 2004)

3. The language of Congress's general grants of subject-matter jurisdiction to the courts emphasize the lack of jurisdiction in Mrs. Hendrickson's case.

Congress has made two general grants of jurisdiction relevant to internal revenue subject-matter. One is at 26 U.S.C. 7402: "to make and issue in civil actions, writs and orders of injunction, and of *ne exeat republica*, orders appointing receivers, and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws." The other is at 28 U.S.C. 1340: "of any civil action arising under any Act of Congress providing for internal revenue." The language of both grants of jurisdiction plainly exclude jurisdiction to do what Congress has expressly prohibited and criminalized. In fact, both provisions plainly constitute express denials of jurisdiction over what is called for by *no* internal revenue law and *no* Act of Congress, and all the more so a denial of jurisdiction to do what the internal revenue laws and Acts of Congress expressly prohibit.

4. A choice by the Court to treat Mrs. Hendrickson's motion as though it were brought under § 2255 changes nothing.

Mrs. Hendrickson *did not* present her Motion as one authorized by § 2255. With all due respect, the Court's election to treat it as such is, in fact, merely an election, and Mrs. Hendrickson's election to neither withdraw nor amend her Motion is not to be taken as agreement that her motion is, or should be construed or treated as, a motion under § 2255.

Further, such a construction hinges on the proposition that Mrs. Hendrickson has been properly made a defendant, and subjected to custody, and thus to an obligation to pray for relief. In fact, none of these things are true, or, at the very least, whether they are must be adjudicated by squarely addressing the substance of Mrs. Hendrickson's Motion without any limitations imposed by construction.

Further still, while those purporting to speak for the United States make multiple citations concerning the foreclosure of certain kinds of arguments in § 2255 motions, challenges to jurisdiction-- which can never be waived-- are not among them. In fact, § 2255(a) expressly provides for jurisdictional challenges by way of such a motion, and Mrs. Hendrickson's Motion was filed within the limitations period specified at § 2255(f)(1). Thus, this issue remain fully available to Mrs. Hendrickson whether her motion is treated as one under § 2255 or not.[1]

5. Those purporting to respond in the name of the United States admit all the facts supporting Mrs. Hendrickson's Motion.

The exhibits supporting Mrs. Hendrickson's Motion fully establish the facts that the orders made to her in this case, both by Judge Nancy Edmunds in the beginning and by this Court in regard to supervised release seek to procure from her false returns in violation of 26 U.S.C. § 7206(2). Respondents make no effort

[1] Regardless of any other consideration, it is inconceivable that Congress meant for § 2255 to be used as a means of denying anyone relief from the ill effects of crimes committed by public officials in violation of the express will of Congress.

whatever to dispute these facts and thus acknowledge their truth, just as has been the case throughout all proceedings in this matter over the years.[2]

Mrs. Hendrickson's exhibits also establish, without dispute in the Response, that no law requires anyone to produce amended tax returns, whether true ones or false ones. Therefore, in no way whatever do these orders involve "requiring Hendrickson to obey the law" as this Court once said, and as is disingenuously cited in the Response. Doc. #180 at 9.

The facts supporting Mrs. Hendrickson's Motion being undisputed, Mrs. Hendrickson agrees with Respondents that a hearing is unnecessary in this matter. The questions here are questions of law, and their proper resolution is plain.

In fact, Respondents themselves inadvertently spell out that proper resolution. They make the assertion that Mrs. Hendrickson cites no cases supporting the idea that courts lack jurisdiction to commit felonies. *Id*. at 8. In fact, each citation concerning subject-matter jurisdiction supports the point. But this is irrelevant. That courts have no jurisdiction to commit crimes is self-evident.

What IS relevant, and what should guide the Court in its resolution of this matter, is the absence in the Response of any authority for the absurd proposition

[2] Respondent's suggestion (Doc #180 at 9) that the facts it fails to dispute are "inherently incredible" is risible. Government officials are certainly capable of committing crimes. Further, the facts involved are in no way "conclusions"-- they are documented events, testimony, and written statutes. These suggestions are simply efforts to distract the Court from the recognizing that Respondent is unable to dispute the facts and has failed to even attempt to do so.

that courts DO have jurisdiction to commit felonies. That unsurprising lack of such support tells the whole tale.

6. Mrs. Hendrickson's Motion to Stay is not as Respondents mistakenly suggest.

In Response fn. 1 (Doc #180 at 5) it is alleged that Mrs. Hendrickson's Motion for Stay of Execution may be moot depending on when this Court makes a ruling on her motion. However, Mrs. Hendrickson's motion calls for a stay until the final adjudication of her Motion to Vacate, which, if not granted by this Court, will proceed through the appeals process before becoming final.

CONCLUSION

The relevant facts being undisputed, the law being clear and Respondents' arguments being utterly meritless, as well as offered without standing, Mrs. Hendrickson's Motion to Vacate should be GRANTED. If it is not, the Court should STAY the execution of its sentence while the denial is being appealed.

Respectfully submitted this 2nd day of January, 2018,

_____

Doreen M. Hendrickson, *in propria persona*