

**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 MOTION FOR THE STAY OF EXECUTION
OF SENTENCE, THE VACATING OF HER CONVICTION, AND OTHER
RELIEF**

Pursuant to the provisions of FRCP Rules 60(b)(4) and (6), Defendant Doreen Hendrickson, being without representation and therefore proceeding *in propria persona*, respectfully MOVES the Court to vacate Mrs. Hendrickson's conviction and provide such other relief and remediation as seems proper, due to the Court's lack of jurisdiction throughout all proceedings concerning Mrs. Hendrickson as a consequence of the operation and effects of 26 U.S.C. § 7206(2), as laid out in the accompanying brief. Mrs. Hendrickson further Moves the Court, pursuant to FRCP Rule 62(b)(4) to stay the execution of the sentence it imposed on September 8, 2017 pending the full adjudication of this Motion.

Concurrence was sought from government counsel but was refused.

ISSUES

Whether Doreen Hendrickson's conviction and the questions of her compliance with the terms of supervised release do not fail in the face of Congress having made it a criminal offense to procure or attempt to procure a tax return believed by the signer to be false in any material matter.

STATEMENT OF MOST APPROPRIATE AUTHORITIES

26 U.S.C. § 7206(1) and (2) and FRCP Rules 60(b)(4) and (6) and 62(b)(4) are the most appropriate authorities controlling the issues raised herein.

**BRIEF IN SUPPORT OF DOREEN HENDRICKSON'S MOTION FOR THE
STAY OF EXECUTION OF SENTENCE, THE VACATING OF HER
CONVICTION, AND OTHER RELIEF**

ARGUMENT

1. Under the special condition which this Court recently found her to have violated, and the Department of Justice-written ruling and decree for resistance of which she was tried and convicted on a charge of "criminal contempt", Doreen Hendrickson was ordered to create so-called "amended returns" containing government-dictated content as replacements for her own freely-made returns concerning the years 2002 and 2003. The decree, as clarified by Judge Nancy Edmunds in an order on December 17, 2010, and as re-iterated by this Court in its "special condition" of supervised release, commands Mrs. Hendrickson to sign those dictated-content "amended returns" under penalties of perjury without disclaimers of any kind, for the express purpose of inducing the Internal Revenue Service to process them. See Exhibit 1.¹ Though several courts have left them undisturbed, none has ever ruled that these orders are lawful.

¹ The other order which was issued by Judge Edmunds, conjoined with the "amended return" order in the indictment under which Mrs. Hendrickson was tried, and treated by this Court over Mrs. Hendrickson's objection as a part of one single order along with the "amended return" order, commands Mrs. Hendrickson to NOT make returns based on certain beliefs. In the original order the prohibited belief is a specific one falsely ascribed to the book, *'Cracking the Code- The Fascinating Truth About Taxation In America'* (that only government workers are subject to the income tax), and in the special condition of supervised release this became "any theory contained in Cracking the Code". In either case the manifest object (or

2. It has recently come to Mrs. Hendrickson's attention that under the provisions of 26 U.S.C. § 7206- Fraud and false statements, Congress has *expressly criminalized* the seeking, issuance, and enforcement of exactly the so-called "amended return" order that Mrs. Hendrickson is found to have disobeyed in a violation of her supervised release and which was the basis for her trial and conviction in the first place. (It is worth noting in the same breath that there is NO law under which any American can *ever* be required to create or submit amended tax returns-- not even when she *would* believe what is said on them, and not even when outside "expert" opinion has expressed a conclusion to a filer that her original returns were materially incorrect. See Exhibit 2, an excerpt of a 2008 analysis of this subject by Calvin Johnson, Andrews & Kurth Centennial Professor of Law, Univ. of Texas, Austin, School of Law and T. Keith Fogg, Villanova Univ. School of Law).

3. 26 U.S.C. § 7206- Fraud and false statements, subparagraph (2) reads as follows:

Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether

obvious effect) is to compel Mrs. Hendrickson to file returns saying what the government wishes to see upon them, rather than what she really believes to be true, since anything the government sees on her returns that it doesn't like would be deemed to be of the prohibited variety. Thus, the second order involved in Mrs. Hendrickson's contempt conviction also orders her to make false returns.

or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document...shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

26 U.S.C. § 7206(2) Aid or assistance²

The definition of "false" used in the text of the statute is derived from the preceding subparagraph of the statute:

Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter;...

26 U.S.C. § 7206(1) Declaration under penalties of perjury

4. Mrs. Hendrickson has endlessly sworn under penalties of perjury and attested and shown in every other way possible that she does not believe what she is told to say by this order, and that, in fact, she believes that what she is told to say on these so-called "amended returns" *is false*. See, for example, the affidavits and sworn statements attached as Exhibit 3. Mrs. Hendrickson's beliefs have always been known to representatives of the United States and to every court to have had

² It is to be noted that the subtitle "Aid or assistance" conveys no meaning or mitigation of the nature of the offense described. Under the express terms of the statute, the wrongful act criminalized therein can be committed even without the knowledge or consent of the preparer or presenter of the false returns, thereby nullifying what might otherwise be imagined about the offense from the use of the label "Aid or assistance". Further, the text of the statute disjoins "aids or assists" from "procures, counsels or advises", making these two separate categories of offending behavior; and the origin of this statutory provision, § 1114(c) of the Revenue Act of 1926, contains no such subtitle.

the matter before it, again as shown by Exhibit 3. At the same time, the United States has had many opportunities-- and, in fact, circumstances in which it was under a duty, or at least powerfully incentivized-- to produce any evidence whatsoever available for the proposition that Mrs. Hendrickson believes what she is ordered to say. It has produced none whatsoever.

5. The view of those seeking, issuing or enforcing the preparation or presentation of the returns contemplated by 7206(2) as to the correctness or incorrectness of the compelled returns is immaterial to the criminality of the act. The seeking, issuance or enforcement is a crime *if the signer believes* any material thing on the return(s) at issue to be false. The signer's belief is the *sole* metric, and seeking, issuing or enforcing an order to create return(s) the signer does not believe true as to every material matter is the willful commission of the crime.

6. As shown, under the express terms of 26 U.S.C. § 7206(2) any effort to procure or to counsel or advise the preparation or presentation of a return which contains or is verified by a written declaration that it is made under the penalties of perjury, and *which the signer does not believe to be true and correct as to every material matter*, whether or not with the consent of the signer, is a felony. It is thus an expressly criminal act for a court to order the creation and submission of the so-called "amended returns" at issue in Mrs. Hendrickson's case, completely independently of the manner in which such efforts to procure the preparation or

presentation of the false returns violate Mrs. Hendrickson's rights or command her to commit a crime. Likewise, it is a felony for the United States or its representatives to seek to have these so-called "amended returns" prepared and presented.

7. An order which is itself expressly illegal to seek or issue is manifestly one for which the issuing court can have no jurisdiction, and the same is true for the enforcing court. Seeking to have Judge Edmunds order the creation of false returns, seeking the enforcement of those orders by charging and having Mrs. Hendrickson held to trial, and seeking to again enforce the false-returns order by a proceeding over the alleged violation of a condition of supervised release are each and all felonies under federal law. Thus, the Department of Justice attorneys who sought each of these things failed to confer jurisdiction on either Judge Edmunds' court or this Court. Department of Justice attorneys-- even when nominally acting in the name of the United States-- cannot confer jurisdiction on any court as an effect of their attempt to commit a crime or co-opt a court into the commission of a crime.

8. This Court has been without jurisdiction to order Mrs. Hendrickson to create and/or submit the false returns commanded under the special condition of supervised release included in her initial sentence, and has been without

jurisdiction to try and to sentence Mrs. Hendrickson *ab initio*, just as Judge Edmunds was without jurisdiction to issue her decree in 2007.

9. Courts are duty-bound to vacate judgments issued without jurisdiction:

“[A] court must vacate any judgment entered in excess of its jurisdiction.”

Jordon v. Gilligan, 500 F.2d 701 (6th CA, 1974);

“If the trial court was without subject matter jurisdiction of defendant's case, his conviction and sentence would be void *ab initio*.”

State v. Swiger, 125 Ohio.App.3d 456, (1998);

“[A void judgment is one that] has been procured by extrinsic or collateral fraud, or entered by a Court that did not have jurisdiction over subject matter or the parties.”

Rook v. Rook, 353 S.E. 2d 756 (Va. 1987);

“[D]enying a motion to vacate a void judgment is a *per se* abuse of discretion.”

Burrell v. Henderson, et al., 434 F.3d 826, 831 (6th CA 2006);

10. There is no time limit or other impediment to raising the jurisdictional issue and invoking the Court's obligations as Mrs. Hendrickson does now:

“[S]ubject-matter jurisdiction, because it involves a court’s power to hear a case, can never be forfeited or waived. Consequently, defects in subject-matter jurisdiction require correction regardless of whether the error was raised in district court.”

United States v. Cotton, 535 U.S. 625, 630 (2002).

“A "void" judgment, as we all know, grounds no rights, forms no defense to actions taken thereunder, and is vulnerable to any manner of collateral attack (thus here, by habeas corpus). No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not *res judicata*, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen old wounds and once

more probe its depths. And it is then as though trial and adjudication had never been.”

Fritts v. Krugh, Supreme Court of Michigan, 92 N.W.2d 604, 354 Mich. 97 (1958).

Further, FRCP Rules 60(b)(4) and (6) expressly provide that there is no time limit upon the raising of jurisdictional challenges such as this one.

11. A stay of execution of the sentence imposed by the Court on September 8, 2017 on its finding that Mrs. Hendrickson had violated a condition of supervised release, which this Motion challenges as having been imposed without jurisdiction and under circumstances of conviction which are also herein challenged as being void for want of jurisdiction, is allowed under FRCP Rule 62(b)(4).

WHEREFORE, Mrs. Hendrickson respectfully MOVES the Court to vacate her conviction and grant such other relief and remediation to Mrs. Hendrickson as seems proper under the circumstances, and to stay execution of its sentence imposed on September 8, 2017 pending the full adjudication of this Motion.

Respectfully submitted this 10th day of October, 2017,

Doreen M. Hendrickson, *in propria persona*

Attached: Exhibit 1
Exhibit 2
Exhibit 3