

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 04C 7403
)	
Plaintiff,)	Judge Filip
)	
v.)	
)	
WILLIAM J. BENSON,)	
)	
Defendant.)	
_____)	

**DEFENDANT’S MEMORANDUM RE
MAY 10, 2007 STATUS CONFERENCE**

Comes now Defendant William J. Benson (hereinafter “Benson”) who submits this Memorandum re the Status Conference set for May 10, 2007 at 11:30 a.m.:

Background Facts:

1. On April 10, 2007, the United States filed its motion for Telephonic Status Hearing (Doc. 64). The Government noted that it had filed a complaint for a permanent injunction and other equitable relief on November 16, 2004, requesting the Court bar Benson from promoting the false argument that taxpayers are not required to file income tax returns or pay federal taxes because the Sixteenth Amendment was never ratified.

2. The Government stated its concern that: 1) Benson may return to promoting his abusive tax-fraud scheme in the absence of a preliminary injunction; 2) with the passage of time it will become much more difficult to obtain evidence to support its claim for a permanent injunction in the event its motion for summary judgment is denied; and 3) Benson is old and not in good health and the Government wants to obtain information from Benson.

3. Benson responded on April 14, 2007 with his Reply to United States' Motion for Telephonic Status Hearing, Doc. 66, and took exception to the three points raised above. He also notified the parties of his intent to exercise his right to remain silent in the event the Government sought any information from Benson since he is under criminal investigation by Special Agents of the Internal Revenue Service and is otherwise being accused of criminal conduct.

4. During the Telephonic Status Hearing that occurred on April 19, 2007, Doc. 68, the Court suggested to the Government that it should consider granting Benson immunity if it wished to obtain information from him. The Court explained that would allow it to imprison Benson if he exercised a witness's privilege not to incriminate oneself and refused to provide the information.

5. The Court continued the status hearing for May 10, 2007 at 11:30 a.m. to allow the Government time to reflect upon the Court's suggestion.

Benson's Position:

Case law of the Seventh Circuit states that "Benson and Beckman did not discover anything; they rediscovered something that Secretary Knox considered in 1913." *United States v. Thomas*, 788 F.2d. 1250, 1253 (7th Cir. 1986). This theory was continued in *United States v. Foster*, 789 F.2d 457 (7th Cir. 1986), the Seventh Circuit stating that Foster "offers no support for his claim that any wording changes were not inadvertent but rather the product of 'deliberate malfeasance.'" Id at p. 463. Thereafter, in *Miller v. United States*, 868 F.2d 236 (7th Cir. 1988), the Seventh Circuit stated it was, for them, "hard to understand why the long and unbroken line of cases . . . specifically rejecting the argument advanced in *The Law That Never Was*, have not persuaded Miller and his compatriots to seek a more effective forum for airing their attack on the

federal income tax structure.” *Id.* at p. 241.

Unable to kill Benson’s message, the United States Government first attacked the messenger in a criminal case in this very Court.¹ Benson was precluded from introducing evidence regarding the non-ratification of the Sixteenth Amendment at his trial because his argument was “objectively unreasonable,” a position unique to the Seventh Circuit.² Hence the facts, and the truth, never came before the district court nor the Seventh Circuit in his criminal case. On appeal from his conviction Benson told the Seventh Circuit he was in a position to make the showing that Thomas, Ferguson, Miller, Foster, Sitka, Stahl and the others had failed to make and demanded the case be remanded to allow him to make the showing. The Seventh Circuit refused to allow Benson to make his showing on the ground that it has already considered Benson’s arguments. *See United States v. Benson*, 941 F.2d 598, 607 (7th Cir. 1991.)

The United States Government has again attacked Benson in this so called civil case by alleging Benson is telling people, in a commercial setting, something that is false regarding the federal income tax. Benson presented evidence of facts to this Court that conclusively established that several States had intentionally modified the proposed Sixteenth Amendment during the ratification process.³ Intentional modification of a proposed constitutional amendment by a State

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1. *United States v. Benson*, Case No. 87 CR 278 (N.D.Ill. 1987).
 2. *See Cheek v. United States*, 498 U.S. 192 (1991).
 3. *See* Defendant’s Motion to Dismiss Plaintiff’s Complaint, etc., Doc. 11, March 2, 2005, pp. 8-11; Defendant’s Short Brief Explaining Evidence of Non-Ratification of 16th Amendment Not Contained in The Law That Never Was, Doc. 31, June 29, 2005; Defendant’s “The Law That Never Was” Brief, Doc. 35, August 1, 2005; Benson’s Local Rule 56.1 Statement of Material Facts, Doc. 53, December 2, 2005.

is “deliberate malfeasance.”⁴ Proof of the intentional modification of the proposed Sixteenth Amendment negates the presumption relied upon by Secretary of State Knox to reconcile the various ratification certificates he received that, on their face, showed the States acted contrary to law.⁵ Proof of the intentional modification of the proposed Sixteenth Amendment also invalidates, as patently erroneous, every decision rendered by the Seventh Circuit on the subject. If the Seventh Circuit actually examined the arguments made by Benson in *The Law That Never Was*, how could it miss the intentional modifications? If the Seventh Circuit actually examined the arguments made by Benson in *The Law That Never Was*, how could it miss that Knox relied on presumptions and did not look at the various state journals? How could the Seventh Circuit say that Benson and Beckman didn’t discover anything new?

Seditious Libel:

The facts set forth in the pleadings identified in footnote 3 conclusively establish that Benson is not making false statements as alleged, but rather the United States Government is committing a massive fraud on the American People and has for years. In another attempt to kill the messenger, the Government has couched here its case against Benson as a civil equitable action, but in reality the Government has charged Benson with criminal seditious libel. Paragraph 1 of the Complaint against Benson⁶ states he is engaging in activity subject to penalty. Paragraph 14 of the complaint alleges Benson is helping people violate the internal revenue laws. Paragraph 18 of the complaint alleges Benson is inciting non-compliance with the internal revenue laws.

4. *See* footnote 3.

5. *See* footnote 3.

6. *See* Complaint for Permanent Injunction and Other Relief, Doc. 1, November 16, 2004.

Paragraph 24 alleges Benson is interfering with the administration and enforcement of the internal revenue laws. Such conduct is proscribed by 26 U.S.C. § 7212:

Whoever ... in any ... way corruptly ... obstructs or impedes, or endeavors to obstruct or impede the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than three years or both.

26 U.S.C. § 7212.

As learned long ago in the government's case against John Peter Zenger, circa 1735, seditious libel consists of making criminal certain statements accusing those in authority of wrongdoing, and making the facts proving the truth of the statements, under the law, no defense. This case, with both the Government and the Court taking the position that the facts showing Benson's position is truthful are irrelevant, has resurrected the crime of seditious libel.

Benson on the one hand, and the Government, the District Court and the Seventh Circuit on the other hand, are operating under major paradigm shifts. Benson believes that the facts proving he is right cannot, under any legal system, much less one based on the people being supreme, be declared irrelevant. Even if one holds the belief that a judge cannot ignore case law that it now knows lacks any reasonable basis for continued applicability, in Benson's world the court acknowledges the facts, acknowledges its limitation to act, and certifies the questions and the facts to the next higher court. In Benson's world, the Government and the Court does not declare the truth to be irrelevant.

Benson's world is based upon liberty and freedom. The Government's world is based upon Inquisition and Star Chamber-like procedures. To quote Zenger's counsel, Andrew Hamilton:

It is natural, it is a privilege, I will go farther, it is a right, which all free men claim, that

they are entitled to complain when they are hurt. They have a right publicly to remonstrate against the abuses of power in the strongest terms, to put their neighbors upon their guard against the craft or open violence of men in authority, and to assert with courage the sense they have of the blessings of liberty, the value they put upon it, and their resolution at all hazards to preserve it as one of the greatest blessings heaven can bestow....

The loss of liberty, to a generous mind, is worse than death. And yet we know that there have been those in all ages who for the sake of preferment, or some imaginary honor, have freely lent a helping hand to oppress, nay to destroy, their country.... This is what every man who values freedom ought to consider. He should act by judgment and not by affection or self-interest; for where those prevail, no ties of either country or kindred are regarded; as upon the other hand, the man who loves his country prefers its liberty to all other considerations, well knowing that without liberty life is a misery....

Power may justly be compared to a great river. While kept within its due bounds it is both beautiful and useful. But when it overflows its banks, it is then too impetuous to be stemmed; it bears down all before it, and brings destruction and desolation wherever it comes. If, then, this is the nature of power, let us at least do our duty, and like wise men who value freedom use our utmost care to support liberty, the only bulwark against lawless power, which in all ages has sacrificed to its wild lust and boundless ambition the blood of the best men that ever lived....

I hope to be pardoned, Sir, for my zeal upon this occasion....While we pay all due obedience to men in authority we ought at the same time to be upon our guard against power wherever we apprehend that it may affect ourselves or our fellow subjects....

You see that I labor under the weight of many years, and am bowed down with great infirmities of body. Yet, old and weak as I am, I should think it my duty, if required, to go to the utmost part of the land where my services could be of any use in assisting to quench the flame of prosecutions upon informations, set on foot by the government to deprive a people of the right of remonstrating and complaining, too, of the arbitrary attempts of men in power....

But to conclude: The question before the Court and you, Gentlemen of the jury, is not of small or private concern. It is not the cause of one poor printer, nor of New York alone, which you are now trying. No! It may in its consequence affect every free man that lives under a British government on the main of America. It is the best cause. It is the cause of liberty. And I make no doubt but your upright conduct this day will not only entitle you to the love and esteem of your fellow citizens, but every man who prefers freedom to a life of slavery will bless and honor you as men who have baffled the attempt of tyranny, and by an impartial and uncorrupt verdict have laid a noble foundation for securing to ourselves, our posterity, and our neighbors, that to which nature and the laws of our

country have given us a right to liberty of both exposing and opposing arbitrary power (in these parts of the world at least) by speaking and writing truth.

<http://www.law.umkc.edu/faculty/projects/ftrials/zenger/zengeraccount.html>;
<http://www.law.umkc.edu/faculty/projects/ftrials/zenger/zengerrecord.html>.

It is Benson's position that so long as the Government and the Courts are of the belief that a person accused of unlawful civil and criminal conduct is precluded by law from presenting facts showing his innocence, neither the Government nor the Courts can be trusted with administering immunity protocols. Benson here is not a witness who will be exercising a privilege against self-incrimination; Benson is a defendant in a seditious libel action brought by information, and if called to testify, will exercise his absolute right to remain silent.

Wherefore, Benson rejects any and all efforts to coerce a confession from him, with or without so called immunity, through discovery or otherwise.

Dated: May 4, 2007.

/s/ Jeffrey A. Dickstein
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CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2007, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney for the Plaintiff, Robert D. Metcalfe.

/s/ Jeffrey A. Dickstein