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.	:	

MOTION TO MODIFY THE CONDITIONS OF SUPERVISED RELEASE

Doreen Hendrickson Moves the Court to modify the terms of Supervised Release imposed at sentencing in April of 2015 by removing the Special Condition requiring her to make amended tax returns and prohibiting her from filing returns based on theories purportedly found in *Cracking the Code*.

Imposition of the special condition is a violation of Mrs. Hendrickson's speech and due process rights secured under the First and Fifth Amendments of the United States Constitution. Further, the special condition is not a "special condition" at all, but a direct reiteration of precisely the same orders that Mrs. Hendrickson was originally accused, tried, and convicted of disobeying and for which she has been punished. To punish Mrs. Hendrickson for failure to comply with the special condition would therefore also be a separate violation of the Fifth Amendment's Double Jeopardy provision.

In addition to the foregoing, the special condition requires Mrs. Hendrickson to commit the crime of perjury as defined by both federal and Michigan law, which puts this special condition in direct and irreconcilable conflict with the statutorily-specified condition of supervised release prohibiting the commission of any crimes under federal or state law. This is a conflict in which the special condition must yield.

Further, the Court's authority to impose special, court-created conditions of supervised release is confined to those meeting certain statutory specifications found at 18 U.S.C. § 3583(d). Those specifications require that any special condition must be reasonably-related to the following factors and purposes: affording adequate deterrence to criminal conduct; protecting the public from further crimes of the defendant; and providing the defendant with needed educational or vocational training, medical care or other correctional treatment. Plainly, a condition commanding the commission of perjury is not only *not* related to these factors or purposes, but is in conflict with these factors or purposes.

Finally, the special condition is impermissibly vague. It commands Mrs. Hendrickson to not base any tax returns on "any theory contained in *Cracking the Code*" without identifying the "theories" to which it refers. Mrs. Hendrickson is left to guess at what she is being commanded to do or refrain from doing.

Under the terms of 18 U.S.C. § 3583(e)(2), the Court has the authority to

modify supervised release conditions. For all or any of the foregoing reasons, and as more fully laid out in the brief accompanying this Motion, the Court should modify the terms of Mrs. Hendrickson's Supervised Release by the removal of the special condition requiring her to create "amended tax returns" and dictating to her that she file no returns based on "any theory contained in *Cracking the Code*".

Concurrence with this Motion was sought from counsel for the United States and was refused.

Respectfully submitted,

Dated: September 14, 2016

/s/Doreen M. Hendrickson
Doreen M. Hendrickson, *in propria persona*
232 Oriole St.
Commerce Twp., MI 48382

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	:	
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BRIEF IN SUPPORT OF DOREEN HENDRICKSON'S MOTION TO MODIFY THE CONDITIONS OF SUPERVISED RELEASE

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STATEMENT OF ISSUES

A special condition of supervised release orders Doreen Hendrickson to create false and perjurious "amended tax returns" and prohibits her from creating returns "based upon" vague, unspecified "theories" purportedly found in the book *Cracking the Code*. This special condition (1) violates Mrs. Hendrickson speech, due process and double jeopardy rights; (2) orders her to commit a crime under both federal and Michigan laws; (3) is in irreconcilable conflict with statutory conditions of supervised release; (4) is in conflict with the authority for imposing

special conditions and (5) is impermissibly vague. Mrs. Hendrickson moves the Court pursuant to the authority provided at 18 U.S.C. § 3583(e)(2) to modify her supervised release conditions by the removal of the special condition.

CONTROLLING AUTHORITY

The issues addressed here are most closely controlled by the First and Fifth Amendment to the United States Constitution and 18 U.S.C. §§ 1621, 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D) and 3583(d) and (e)(2).

Argument

1. Introduction and analysis of the special condition and what it requires.

A. The nature and terms of the special condition.

As a special condition of her supervised release, the Court has ordered Mrs. Hendrickson to create "amended tax returns", as follows:

> While on supervised release, defendant is to fully cooperate with the IRS by filing all delinquent or amended returns within 60 days of the release on supervision and to timely file all future returns that come due during the term of supervised release. On these returns defendant shall not alter the jurats, add disclaimers, or otherwise make it impossible for the IRS to properly process them and they cannot be based on any theory contained in Cracking the Code.
>
> Defendant is to report all earned taxable income and claim only allowable expenses on those returns. Hendrickson is to provide all appropriate documentation in support of said returns. Upon request, defendant is to furnish the IRS with information pertaining to all assets and liabilities and defendant is to fully cooperate by paying all taxes, interest and penalties due, and otherwise comply with the tax laws of the United States.

United States v. Hendrickson, No. 13-20371 (EDMI 2013) Judgment, p. 4, SPECIAL CONDITIONS OF SUPERVISION

The otherwise inscrutable reference in this condition to "amended returns" is clarified by an earlier condition of the sentence imposed upon Mrs. Hendrickson concerning "amended tax returns", which reads, in relevant part:

> Within 30 days from entry of this judgment, Hendrickson must cooperate with the IRS and file amended tax returns for 2002 and 2003. Defendant shall not alter the jurats, add disclaimers, or otherwise make it impossible for the IRS to properly process them. The returns cannot be based on any theory contained in Cracking the Code, especially the theory that only federal, state or local government workers are liable for the payment of federal Income tax or subject to the withholding of federal income, Social Security and Medicare taxes under

> the internal revenue laws. These 2002 and 2003 amended tax returns shall include the gross income for the 2002 and 2003 taxable years, the amounts that Peter Hendrickson received from his former employer, Personnel Management Inc., during 2002 and 2003, as well as the amounts that Doreen Hendrickson received from Una Dworkin during 2002 and 2003.

United States v. Hendrickson, No. 13-20371 (EDMI 2013) Judgment, p. 2, IMPRISONMENT

By the terms of this special condition, then, Mrs. Hendrickson must make "amended returns" replacing her freely-made original returns concerning 2002 and 2003. These "amended returns" must be signed by Mrs. Hendrickson under penalties of perjury with an uncompromised and un-clarified declaration that upon them is nothing she does not personally know and believe to be true and correct. Mrs. Hendrickson is prohibited from basing the content of any return on the notion that only government employees are subject to the income tax.

The condition requires Mrs. Hendrickson to declare on the amended returns, under oath, that it is her knowledge and belief that amounts of money received by herself and her husband in exchange for specific activities-- Mr. Hendrickson's work as a manager for the company Personnel Management, Inc., and her own as a tutor subcontracting for Una Dworkin-- constitute "income" of the variety taxable without apportionment under federal income tax laws, or are a consequence of activities which are taxable under those laws (i.e., "wages" as defined at 26 U.S.C. §§ 3121(a) and 3401(a), and gains, profit or income from a "trade or business" as defined at 26 U.S.C. § 7701(a)(26)). In every respect the special condition of

supervised release is a precise reiteration of the orders that Mrs. Hendrickson was originally accused, tried, and convicted of disobeying and for which she has already been punished.

B. The special condition requires Mrs. Hendrickson to make false testimony.

Mrs. Hendrickson explicitly believes that what she is commanded to say on the "amended returns" ordered by the special condition is untrue and incorrect. She has said so repeatedly and with unfailing consistency in sworn testimony over the course of 13 years (see, for example, Exhibit 1, Affidavit of Doreen Hendrickson filed with this Court in support of her June 28, 2013 Motion to Dismiss, Docket. No. 17). At no point over that entire span of years has the government, any court, or anyone else ever produced evidence, arguments or conclusions to the contrary.

Even the "findings" of Judge Nancy Edmunds made while issuing the orders re-iterated by the special condition do not contradict Mrs. Hendrickson's disbelief in what she is being told she must say. To begin with, "findings" regarding the sincerity of what Mrs. Hendrickson said on returns already made in no way can support the proposition that Mrs. Hendrickson believes some alternative thing she is being told to say, even if the "findings" were soundly based on any kind of evidence. But in fact, Judge Edmunds never met Mrs. Hendrickson or saw her in person, or ever examined her or anyone else on this or any other question before making these "findings" (see Exhibit 2, Testimony of Robert Metcalfe).

Further, Judge Edmunds' "findings" regarding Mrs. Hendrickson's returns were based on her "finding" that the book *Cracking the Code- The Fascinating Truth About Taxation In America* makes the frivolous argument that only federal, state and local government workers are subject to the income tax. But this "finding" was made without Judge Edmunds ever having read the book, and therefore being incapable of knowing its contents (see Exhibit 3, Statement by Stand-by Counsel Andrew Wise regarding Judge Edmunds' declaration to him as to this fact). Nor had Judge Edmunds even so much as examined a witness concerning the content of the book (see Exhibit 2).

In fact, the evidence plainly shows that Mrs. Hendrickson's returns are not based on this falsely-ascribed notion. Mrs. Hendrickson's filings include reports of her having received taxable "income", which they plainly could not if she believed only government workers were subject to the tax. See Exhibit 4, trial testimony of Robert Metcalfe regarding the reporting of taxable income on Mrs. Hendrickson's returns and the fact that she is not and was not a government employee.[1] These facts plainly controvert Judge Edmunds' "findings", the charge made against Mrs. Hendrickson, and the government's persistent misrepresentations of both the content of *Cracking the Code* and the basis of Mrs. Hendrickson's filings.

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[1] In addition to these unambiguously contradicting facts in the record, over the course of two trials the government failed to produce a speck of witness testimony or evidence of any other kind that Mrs. Hendrickson had based her filings on this notion (Trial Transcripts, entire).

Nor did a single witness in two trials testify that Mrs. Hendrickson's declarations on her returns were false in any respect whatever. The government produced no evidence whatever supporting any allegation of falseness. Throughout two trials, the government offered no evidence supporting the proposition that Mrs. Hendrickson believes what she has been ordered to say she does. Trial Transcripts, entire.

Even Mrs. Hendrickson's indictment and conviction do not support the proposition that she disbelieves what she said on her original returns, or believes what she is being told to say. The indictment alleged that Mrs. Hendrickson filed a return based on the notion that only federal, state and local government workers are subject to the income tax, and failed to file "amended returns" saying on them what Judge Edmunds told her to say. Neither of these charges concern any question of what Mrs. Hendrickson believes or doesn't believe.

In sum, there is not a scintilla of support for the notion that Mrs. Hendrickson believes what the special condition of supervised release orders her to swear that she believes. On the contrary, *all the evidence*-- including Mrs. Hendrickson's staunch and unwavering attestations and resolve even at the cost of the great personal harm that has been visited upon her for not abandoning her rights to control her own expressions-- establishes that she is being ordered to falsely swear to a belief in what she *does not* believe.

2. The condition violates Mrs. Hendrickson's speech rights secured under the First Amendment and her due process and double jeopardy rights secured under the Fifth Amendment.

A. The condition violates Mrs. Hendrickson speech rights secured by the First Amendment.

The special condition of Mrs. Hendrickson's supervised release commands her not merely to make returns or provide testimony. Rather, the special condition commands Mrs. Hendrickson, on pain of imprisonment, to (1) make Court-dictated expressions which merely parrot allegations of third-parties who have never been examined by the Court and which therefore cannot even be known by the Court to be sincere, much less credible or accurate; (2) present those expressions as though they are her own; and (3) declare under oath that she believes these dictated expressions to be true. Thus, the special condition of supervised release seeks to take control of the content of Doreen Hendrickson's speech.

The First Amendment to the United States Constitution prohibits abridgment of speech rights, and the United States Supreme Court, time and again, has squarely held that dictating the content of speech is such an abridgment. See for instance, the court's recent declaration in *Agency for Int'l Development v. Alliance for Open Society Int'l, Inc.*, 133 S. Ct. 2321 (2013):

> "It is, however, a basic First Amendment principle that "**freedom of speech prohibits the government from telling people what they must say**." (citations omitted). "**At the heart of the First Amendment lies the principle that each person should decide for himself or herself the ideas and beliefs deserving of expression, consideration, and adherence.**"

(citations omitted) ("**The government may not . . . compel the endorsement of ideas that it approves.**").

...

"[W]e cannot improve upon what Justice Jackson wrote for the Court 70 years ago: "If there is any fixed star in our constitutional constellation, it is that **no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.**" *Barnette*, 319 U. S., at 642."

Agency for Int'l Development v. Alliance for Open Society Int'l, Inc., 133 S. Ct. 2321 (2013) (Emphasis added.)

The Supreme Court's jurisprudence is concisely applied to a case similar to Mrs. Hendrickson's by DC District Court Judge Richard Leon in a recent ruling subsequently upheld by the DC Circuit. Addressing and finding unconstitutional a statute dictating speech on commercial product packaging, Judge Leon parses out the unlawfulness of the statute's command:

A fundamental tenant [sic] of constitutional jurisprudence is that the First Amendment protects "both the right to speak freely and the right to refrain from speaking at all." *Wooley v. Maynard*, 430 U.S. 705 at 714 (1977). And when speaking, a speaker "has the autonomy to choose the content of his own message." *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Boston, Inc.*, 515 U.S. 557, 573-74 (1995). And, in fact, "the choice to speak includes within it the choice of what not to say." *Pac. Gas & Elec. Co. v. Pub. Utils. Comm'n of Cal.*, 475 U.S. 1, 16 (1986) (plurality opinion). Thus, where a statute "'mandates speech that a speaker would not otherwise make,' that statute 'necessarily alters the content of the speech.'" *Entertainment Software Ass 'n v. Blagojevich*, 469 F.3d 641, 651 (7th Cir. 2006) (quoting *Riley v. Nat'l Fed'n of the Blind of N.C, Inc.*, 487 U.S. 781, 795 (1988)). As the Supreme Court itself has noted, this type of compelled speech is "presumptively unconstitutional." *Rosenberger v. Rector & Visitors of Univ. of Va.*,515 U.S. 819, 830 (1995).

Reynolds, et. al. v. USFDA, No. 1:11-cv-01482, District of Columbia District Court, (2011), affirmed DC Circuit, No. 11-5332 (2012)

Clearly, orders of a court dictating the content of speech at the government's request are just as unconstitutional as the statutory commands addressed here by the Hon. Judge Leon. In fact, orders directed at a natural person and dictating sworn testimonial statements are far more egregiously unconstitutional than the dictation of commercial package labeling which the D.C. District Court determined, in this ruling, to be unlawful.

> What's more, the harm flowing from a First Amendment violation is per se irreparable. See, e.g., *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.") (citing *N. Y. Times Co. v. United States*, 403 U.S. 713 (1971))

Ibid.

The Sixth Circuit takes the same position:

> "[E]ven minimal infringement upon First Amendment values constitutes **irreparable injury**..."

Newsom v. Norris, 888 F.2d 371 (6th Cir. 1989) (citing to *Elrod v. Burns*, 427 U.S. 347 (1976)) (emphasis added)

In a direct appeal expressly challenging the Constitutionality of the original iteration of the Court's special condition of supervised release, as issued to Mrs. Hendrickson by Judge Nancy Edmunds in 2007 (*United States v. Hendrickson,* No. 07-1510 (6th Cir. 2008)), the appellate court refused to find the orders Constitutional. Instead, the court avoided the question entirely, with the words "First Amendment" and "Constitution" never making even a single appearance in

its decision.

Eight years later, the appellate court tacitly admitted having not found the orders Constitutional in its earlier decision, even though it had denied that appeal. When presented with the same challenge to the Constitutionality of the orders in Mrs. Hendrickson's appeal of her conviction for criminal contempt of court in *United States v. Hendrickson,* No. 15-1446 (6th Cir. 2016), the court was unable to declare the issue settled by its earlier decision, and did not do so.

Nor did the court *then* find the orders Constitutional in the latter, 2016 decision. Instead the Court of Appeals court invoked the "collateral bar doctrine" as a rationale for *again* declining to address the question at all. The court begins its response to the more recent Constitutional challenge with, "As a threshold matter, the collateral bar rule prevents Hendrickson from challenging the constitutionality of the underlying order in the course of her criminal contempt proceeding." (Op. p. 4.) It ends that response with a re-iteration of its intention to make no ruling on the question: "Under these circumstances, the collateral bar rule applies, and the constitutionality of the underlying order is not at issue in this case." (Op. p. 6).

As shown, the Sixth Circuit has refused to find the commands of the Court's special condition of supervised release to be Constitutional on two separate occasions. Plainly the Court of Appeals recognizes the orders to be unconstitutional, in harmony with its own prior rulings on such matters and those

of the Supreme Court, all as cited above.

To summarize, then, the special condition of supervised release commanding the creation of amended returns and dictating and controlling the content of Mrs. Hendrickson's returns generally *is* a violation of Mrs. Hendrickson's rights secured by the First Amendment. The imposition of the special condition is therefore unlawful, and the Court should remove it.

B. The special condition violates Mrs. Hendrickson's due process rights secured by the Fifth Amendment to the United States Constitution.

As articulated very plainly by both the United States Supreme Court and the Sixth Circuit Court of Appeals, the Fifth Amendment guarantees to all persons "due process of law" in any legal proceeding in which life, liberty or property are at stake. "Due process" requires that a party in any legal contest is given a meaningful opportunity to be heard "at a meaningful time and in a meaningful manner." *Armstrong v. Manzo*, 380 U.S. 545 (1965); *accord, Flaim v. Med. Coll. of Ohio*, 418 F.3d 629 (6th Cir. 2005) (“Notice and an opportunity to be heard remain the most basic requirements of due process.”)

“Opportunity to be heard” means an opportunity to be heard saying what *the speaking party* wants said, not what the government wants said, and especially when the government is the opposing party in the legal contest, or a financial beneficiary of the outcome of that contest. Plainly, commands ordering Mrs. Hendrickson to create tax returns in which she declares, under

oath, and using expressions dictated by the government, that she believes her earnings to be taxable by the government-- in contradiction, repudiation and replacement of her own freely-made sworn declarations on the same subjects-- or telling her what she can and cannot say on her returns is a total evisceration of Mrs. Hendrickson's due process rights.

The filing of tax returns and related instruments is a legal contest. Allegations of the conduct of taxable activities made on "information returns" such as W-2s and 1099s are relied upon by the government as a basis for asserting someone's lax liabilities, as is plainly demonstrated by Mrs. Hendrickson's case, in which the government is attempting to force her to endorse the allegations made on W-2s by Personnel Management, Inc. and on 1099s by Una Dworkin. The target of those assertions is afforded, by law and by self-evident right, due opportunity to contest or dispute the allegations, to make her own declaration as to what, if any, taxable activities were engaged in and any resultant liability, and to make claims for the return of property improperly or erroneously withheld or paid-in against the possibility of liabilities. These things are all done by way of what is said on her tax returns. 26 U.S.C. § 6201(a)(1); 26 U.S.C. § 6401(b)(1) & (c); 26 U.S.C. § 6402(a); 26 C.F.R. § 301.6402-3. The exercise of control over that target's tax return expressions is therefore a plain violation of her due process rights.

Under the express terms of the Fifth Amendment, the imposition of the special condition of supervised release is unlawful. The Court should remove it.

C. To punish Mrs. Hendrickson for failure to comply with the special condition would violate the Double Jeopardy provision of the Fifth Amendment.

Mrs. Hendrickson's refusal to produce the "amended returns" commanded of her by the special condition of supervised release would be the same refusal for which she has already been punished with a fully-served sentence of 18 months of incarceration. To punish her for failing to comply with the special condition would therefore be to punish her a second time for the same act of offense. This would be a violation of the Double Jeopardy provision of the Fifth Amendment, as the Supreme Court has held in the most unequivocal terms:

> It was established at an early date that the Fifth Amendment was designed to prevent an accused from running the risk of "double punishment." *United States v. Ewell*, 383 U. S. 116, 383 U. S. 124. When Madison introduced to the First Congress his draft of what became the Double Jeopardy Clause, it read:
>
> > "No person shall be subject, except in cases of impeachment, *to more than one punishment* or one trial for the same offence. . . ."
>
> (Emphasis supplied.) 1 Annals of Cong. 434.
>
> The phrasing of that proposal was changed at the behest of those who feared that the reference to but "one trial" might prevent a convicted man from obtaining a new trial on writ of error. Id. at 753. But that change was not intended to alter the ban against double punishment. Sigler, A History of Double Jeopardy, 7 Am.J.Legal Hist. 283, 304-306 (1963).
>
> > "By forbidding that no person shall 'be subject for the same offense to be twice put in jeopardy of life or limb,' [the safeguard of the Fifth Amendment against double punishment] guarded against the repetition of

history by . . . punishing [a man] for an offense when he had already suffered the punishment for it."

Roberts v. United States, 320 U. S. 264, 320 U. S. 276 (Frankfurter, J., dissenting).FN[2/2] ("Our minds rebel against permitting the same sovereignty to punish an accused twice for the same offense." *Francis v. Resweber*, 329 U. S. 459, 329 U. S. 462 (opinion by Reed, J.). See also *Williams v. Oklahoma*, 358 U. S. 576, 358 U. S. 584-586.)

...

"Why is it that, having once been tried and found guilty, he can never be tried again for that offence? Manifestly it is not the danger or jeopardy of being a second time found guilty. It is the punishment that would legally follow the second conviction which is the real danger guarded against by the Constitution. But if, after judgment has been rendered on the conviction and the sentence of that judgment executed on the criminal, he can be again sentenced on that conviction to another and different punishment, or to endure the same punishment a second time, is the constitutional restriction of any value? . . ."

"The argument seems to us irresistible, and we do not doubt that the Constitution was designed as much to prevent the criminal from being twice punished for the same offence as from being twice tried for it."

Ex parte Lange, supra, at 85 U. S. 173.

North Carolina v. Pearce, 395 U.S. 711, at 718,719 (1969), concurring opinion of Justices Douglas and Marshall, at 729-730, 736-737

It makes no difference that the special condition is a re-iteration by a different court of the refused orders, or that Mrs. Hendrickson's refusal to make the amended returns would be extended to another day. Mrs. Hendrickson's refusal to make the amended returns is a continuous and ongoing single act. The indictment by which Mrs. Hendrickson was charged specifies the commission of the charged offense of "failing to file with the IRS Amended U.S. Individual Income Tax Returns for 2002 and 2003" as spanning "June, 2007 - Present" (May 14, 2013). In

trial the government prosecutors extended the span of accused continuous commission of the same alleged offense to whatever day on which they were pounding the podium (Trial Transcripts, entire, but see, for instance Trial Trans. Vol. V, July 25, 2014, p. 56: "[T]he Defendant was in contempt in 2007 and she remains in contempt in 2008 and 2009 and all the way through today in 2014.").

The Supreme Court holds that a continuous act is a single act of offense, which cannot be punished twice. See, for instance, the ruling in *Brown v. Ohio*, 432 U.S. 161 at 169-170 (1977), regarding two charges against a car-thief who spent 9 days in the stolen car, and was charged once for the offense as committed on one of the days, and a second time for the same offense on another of the days on the theory that this constituted a sufficient distinction to evade double jeopardy:

> The Double Jeopardy Clause is not such a fragile guarantee that prosecutors can avoid its limitations by the simple expedient of dividing a single crime into a series of temporal or spatial units. *Cf. Braverman v. United States*, 317 U. S. 49, 317 U. S. 52 (1942). ... Accordingly, the specification of different dates in the two charges on which Brown was convicted cannot alter the fact that he was placed twice in jeopardy for the same offense in violation of the Fifth and Fourteenth Amendments.

Brown v. Ohio, 432 U.S. 161 at 169-170 (1977).

See also *United States v. Universal C.I.T. Credit Corp*, 344 U.S. 218 (1952); *United States v. Kissel*, 218 U. S. 601, (1910); *Ex parte Snow*, 120 U. S. 274 (1887) ("It is to prevent such an application of penal laws that the rule has obtained

that a continuing offense of the character of the one in this case can be committed but once, for the purposes of indictment or prosecution.")

Mrs. Hendrickson's refusal to create amended returns in response to the special condition of supervised release is the same refusal for which she has already been punished, and to punish her for it would be a prohibited double punishment for the same act of offense.

Plainly, the imposition of a special condition, punishment for violation of which would itself be a violation of the Constitution, is improper. The Court should remove it.

3. The special condition commands Mrs. Hendrickson to commit the crime of perjury and is in irreconcilable conflict with the statutorily-specified condition of supervised release which prohibits the commission of any crime.

A. The special condition commands Mrs. Hendrickson to commit the crime of perjury.

The "amended return" condition commands Mrs. Hendrickson to subscribe as true, under penalty of perjury as permitted under 28 U.S.C. § 1746, material matters which she does not believe to be true. Compliance with the condition would therefore constitute the crime of perjury as defined at 18 U.S.C. § 1621(2).[2]

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[2] 18 U.S.C. § 1621 Perjury generally

Whoever-

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

Because creating "amended" federal returns would oblige Mrs. Hendrickson to create "amended" Michigan returns, upon which she would also be compelled to subscribe to material matters which she does not believe true, the condition also commands Mrs. Hendrickson to commit perjury under the laws of Michigan at MCL 750.423.[3] Since Mrs. Hendrickson would technically be choosing to make these false sworn statements (since she could choose to go back to prison or suffer whatever other sanction might be imposed upon her for her refusal, instead) she would be making the false statements "willfully", and thus committing the crimes.

Further, the special condition itself prohibits Mrs. Hendrickson from disclaiming the deliberateness of her making the false statements under oath and thereby shielding herself in any way from the charge of "willfulness". The language of the condition expressly declares: "On these returns defendant shall not alter the jurats, add disclaimers, or otherwise make it impossible for the IRS to properly process them..."[4]

---

is guilty of perjury...

[3] 750.423 Perjury; penalty; "record" and "signed" defined.

(1) Any person authorized by a statute of this state to take an oath, or any person of whom an oath is required by law, who willfully swears falsely in regard to any matter or thing respecting which the oath is authorized or required is guilty of perjury, a felony punishable by imprisonment for not more than 15 years.

[4] A signed jurat alone completely destroys any defense against "willfulness". The jurat reads: "Under penalties of perjury, I declare that I have examined this return

Whether Mrs. Hendrickson would ever be prosecuted for the perjuries is immaterial-- the creation of sworn documents containing expressions Mrs. Hendrickson does not believe to be true constitutes the crimes under the plain terms of both federal and state law, respectively (and independently). To comply with this condition would be to commit the crimes.

B. The special condition is in irreconcilable conflict with the statutorily-specified condition of supervised release which prohibits the commission of any crimes.

The special condition commands Mrs. Hendrickson to commit the crime of perjury as defined at 18 U.S.C. § 1621 and under the Michigan Penal Code at MCL 750.423. But under the condition of supervised release imposed by statute at 18 U.S.C. § 3583(d), Mrs. Hendrickson is prohibited from committing any crime:

> "The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision..."

18 U.S.C. § 3583(d)

Plainly, the special condition is in irreconcilable conflict with Congressional specifications to which it must yield. The special condition is impossible to comply with and is also manifestly improper-- indeed, manifestly invalid-- under the explicit terms of the law. The Court should remove it.

---

and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete."

4. The special condition fails to conform to the specifications by which such additional conditions are authorized under the law.

The Court's authority to impose special, court-created conditions of supervised release is subject to statutory limitations, as specified at 18 U.S.C. § 3583(d). The law only authorizes a special condition which:

> (1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), **and** (a)(2)(D);
>
> (2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and
>
> (3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)

18 U.S.C. § 3583(d) (emphasis added)

Because the conjunctive "and" is used in the statute, rather than the disjunctive "or", a special condition must be reasonably related to *all* the factors set forth in 3553(a)(1), (a)(2)(B), (a)(2)(C) and (a)(2)(D). The factors and purposes set forth in section 3553, subsections (a)(2)(B), (a)(2)(C) and (a)(2)(D) are as follows:

> (a)(2)(B) to afford adequate deterrence to criminal conduct;
>
> (a)(2)(C) to protect the public from further crimes of the defendant; and
>
> (a)(2)(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner

The special condition added by the Court to Mrs. Hendrickson's term of supervised release (1) is not reasonably related to these factors; (2) involves a deprivation of liberty that is patently unreasonable and unnecessary for these purposes; and (3) is inconsistent with Sentencing Commission policy.

The special condition commands Mrs. Hendrickson to commit the crime of perjury as defined at 18 U.S.C. § 1621 and under the Michigan Penal Code at MCL 750.423. Plainly this condition is not "related to the factors set forth in section (a)(2)(B), (a)(2)(C), and (a)(2)(D)" except insofar as it is in direct conflict with 3553(a)(2)(B) and (a)(2)(C). Requiring that Mrs. Hendrickson commit crimes does not and cannot "afford adequate deterrence to criminal conduct" (§ 3553(a)(2)(B)) or "protect the public from further crimes of the defendant" (§ 3553(a)(2)(C)). Instead it compels criminal conduct and subjects the public to further crimes.

Without question, the special condition involves a far greater deprivation of liberty than is reasonably necessary for the "purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D)." Requiring Mrs. Hendrickson to create tax returns containing content dictated by others which she does not believe to be true is a deprivation of her speech and due process rights. These deprivations involve the deprivation of Mrs. Hendrickson's Constitutionally-secured freedom from double jeopardy. Thus, the special condition involves a deprivation of liberty of profound significance, and one in no way necessary to the purposes of affording deterrence to criminal conduct; protecting the public from further crimes; and providing Mrs. Hendrickson with needed educational or vocational training, medical care or other correctional treatment.

Instead, this profound deprivation of liberty by way of a command that Mrs.

Hendrickson commit perjury and compromise her speech and due process rights *violates* each of the purposes set forth in sections 3553(a)(2)(B) and (a)(2)(C), and even (a)(2)(D).[5] For these reasons. the special condition not only fails to conform with the prescriptions by which special conditions are authorized, but is, instead, in direct conflict with those prescriptions. The special condition is therefore unauthorized and should be removed.

5. The special condition is impermissibly vague.

The special condition of supervised release imposed by the Court commands Mrs. Hendrickson to not base any tax returns on "any theory contained in Cracking the Code". But the special condition fails to identify what Mrs. Hendrickson is to understand such "theories" to be.

The only "theory" the Court has ever described as being in *Cracking the Code*-- the theory that only government workers are subject to the income tax, or to withholding-- is not, in fact, in the book. This plainly erroneous theory was falsely and erroneously "found" to be in it by someone who had never even read the book. See Exhibit 3. It is also a "theory" upon which Mrs. Hendrickson has never based any filing, as the record comprehensively, and without competing evidence of any

[5] The special condition forces Mrs. Hendrickson to choose between her rights and her physical liberty, a choice our entire structure of legitimate government is expressly designed to shield every American from ever having to face. The stress imposed on her by this unnatural dilemma is doing greater damage to her physical and mental health than anything else she has ever faced in her life.

kind, makes clear. See Exhibits 1 and 4.

In the absence of clarification, the command that Mrs. Hendrickson not base any tax returns on "any theory contained in Cracking the Code" is impossible to comply with, even without regard to any of the issues with the special condition presented in the preceding sections of this brief. Further, vague conditions of supervised release are inherently invalid for that reason alone:

> "Judges imposing supervised release conditions, no less than legislatures passing statutes, must obey the prohibition against vague laws embedded in the Fifth Amendment's Due Process Clause."

United States v. Shultz, 733 F.3d 616 (6th Cir. 2013)

Also see *United States v. Siegel,* 753 F.3d 705 (7th Cir. 2014); *United States v. Thompson*, 777 F.3d 368 (7th Cir. 2015).

The special condition is impermissibly vague and cannot be complied with, as written. The Court should remove it.

Conclusion

As shown above,

- the special condition requiring the creation of "amended returns" violates Mrs. Hendrickson's speech, due process and double jeopardy rights;
- the special condition requires Mrs. Hendrickson to commit crimes under both federal and state laws;
- the special condition is in direct conflict with the statutorily-required

conditions of supervised release prohibiting the commission of any crimes;

- the special condition is not in conformity with the statutory specifications under which such "special conditions" are authorized; and
- the special condition is impermissibly vague and impossible to comply with.

In light of the foregoing, and the Court's authority to modify the conditions of supervised release under the terms of 18 U.S.C. § 3583(e)(2), Mrs. Hendrickson respectfully moves the Court to modify the terms of her supervised release by the removal of the special condition requiring her to create "amended tax returns" and dictating to her that she file no returns based on "any theory contained in Cracking the Code".

Respectfully submitted,

Dated: September 14, 2016

/s/Doreen M. Hendrickson
Doreen M. Hendrickson, *in propria persona*
232 Oriole St.
Commerce Twp., MI 48382

EXHIBIT 1

Affidavit of Doreen Hendrickson filed with this Court in support of her June 28, 2013 Motion to Dismiss, Docket. No. 17

AFFIDAVIT OF DOREEN HENDRICKSON

1. I affirm these matters to be true of my personal knowledge and, if called to do so, could and would competently testify thereto.

2. I do not believe that *"only federal, state or local government workers are liable for the payment of federal income tax or subject to the withholding of federal income, social security and Medicare taxes from their wages under the internal revenue laws"*.

3. I have never based the content I provided on any tax-related instrument or the conclusions reflected therein on the notion that *"only federal, state or local government workers are liable for the payment of federal income tax or subject to the withholding of federal income, social security and Medicare taxes from their wages under the internal revenue laws.*

4. The content to which I attested as being what I know and believe to be true, complete and correct on the tax-related documents I freely signed concerning 2002, 2003 and 2008, and the conclusions reflected therein, are informed by my awareness that the United States Constitution prohibits the imposition of federal capitations and other direct taxes other than by the mechanism of apportionment at Article 1, Section 2, Clause 3 and Article 1, Section 9, Clause 4.

5. That content and those conclusions are further informed by my awareness that the United States Supreme Court and other authorities have repeatedly and consistently declared that the rules laid down in Article 1, Section 2, Clause 3 and Article 1, Section 9, Clause 4 are unaffected, unrevoked and un-repealed by the 16th Amendment to the US Constitution or any other, as in the following instances:

> *"We are of opinion, however, that the confusion is not inherent, but rather arises from the [erroneous assumption] that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes." [an error which is obvious, since it would cause] "...one provision of the Constitution [to] destroy another; that is, [it] would result in bringing the provisions of the Amendment [supposedly] exempting a direct tax from apportionment into irreconcilable conflict with the general requirement that all direct taxes be apportioned."*
> Brushaber v. Union Pacific RR Co. , 240 U.S. 1 (1916)
>
> *"[T]he amendment made it possible to bring investment income within the scope of the general income-tax law, but did not change the character of the tax. It is still fundamentally an excise or*
> *"*
> ıry Department legislative draftsman F. Morse Hubbard summarizing the ruling for ·ess in testimony in 1943 (House Congressional Record, March 27, 1943, p. 2580);

DEFENDANT'S EXHIBIT
CASE NO. 13-cr20371
EXHIBIT NO. 1

"The Amendment, the [Supreme] court said [in its unanimous ruling in Brushaber v. Union Pacific RR Co., 240 U.S. 1 (1916)], judged by the purpose for which it was passed, does not treat income taxes as direct taxes but simply removed the ground which led to their being considered as such in the Pollock case, namely, the source of the income. Therefore, they are again to be classified in the class of indirect taxes to which they by nature belong."
Cornell Law Quarterly, 1 Cornell L. Q. 298 (1915-16);

"The Supreme Court, in a decision written by Chief Justice White, first noted that the Sixteenth Amendment did not authorize any new type of tax, nor did it repeal or revoke the tax clauses of Article I of the Constitution, quoted above. Direct taxes were, notwithstanding the advent of the Sixteenth Amendment, still subject to the rule of apportionment..."
Legislative Attorney of the American Law Division of the Library of Congress Howard M. Zaritsky in his 1979 Report No. 80-19A, entitled 'Some Constitutional Questions Regarding the Federal Income Tax Laws'.

"The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects..."
Peck v. Lowe, 247 U.S. 165 (1918);

"[T]he settled doctrine is that the Sixteenth Amendment confers no power upon Congress to define and tax as income without apportionment something which theretofore could not have been properly regarded as income."
Taft v. Bowers, 278 US 470, 481 (1929).

"[T]he sole purpose of the Sixteenth Amendment was to remove the apportionment requirement for whichever incomes were otherwise taxable. 45 Cong. Rec. 2245-2246 (1910); id. at 2539; see also Brushaber v. Union Pacific R. Co., 240 U. S. 1, 240 U. S. 17-18 (1916)"
So. Carolina v. Baker, 485 U.S. 505 (1988).

6. That content and those conclusions are further informed by my awareness that Constitutional "capitations", which remain imposable only by the mechanism of apportionment, have been acknowledged by the United States Supreme Court to be what Adam Smith described as such in his 1776 treatise, 'An Inquiry into the Nature and Causes of the Wealth of Nations':

"..[Secretary of the Treasury] Albert Gallatin, in his Sketch of the Finances of the United States, published in November, 1796, said: 'The most generally received opinion, however, is that, by direct taxes in the constitution, those are meant which are raised on the capital or revenue of the people;...'

...

"He then quotes from Smith's Wealth of Nations, and continues: 'The remarkable coincidence of the clause of the constitution with this passage in using the word 'capitation' as a generic expression, including the different species of direct taxes-- an acceptation of the word peculiar, it is believed, to Dr. Smith-- leaves little doubt that the framers of the one had the other in view at the time, and that they, as well as he, by direct taxes, meant those paid directly from the falling immediately on the revenue;...'"
Pollock v. Farmer's Loan & Trust, 157 U.S. 429 (1895).

7. That content and those conclusions are further informed by my awareness that Adam Smith's definition of capitations includes, among other things:

> *"The taxes which, it is intended, should fall indifferently upon every different species of revenue, are capitation taxes,"... "Capitation taxes, if it is attempted to proportion them to the fortune or revenue of each contributor, become altogether arbitrary. The state of a man's fortune varies from day to day, and without an inquisition more intolerable than any tax, and renewed at least once every year, can only be guessed at."..."Capitation taxes, so far as they are levied upon the lower ranks of people, are direct taxes upon the wages of labour, and are attended with all the inconveniences of such taxes."..." In the capitation which has been levied in France without any interruption since the beginning of the present century, the highest orders of people are rated according to their rank by an invariable tariff; the lower orders of people, according to what is supposed to be their fortune, by an assessment which varies from year to year."*
> Adam Smith, 'An Inquiry into the Nature and Causes of the Wealth of Nations', Book V, Ch. II, Art. IV (1776)

8. That content and those conclusions are further informed by my awareness that Adam Smith used the common word 'wages' in his work, not the custom-defined term of the same spelling found in the modern revenue laws, thus declaring that among other things, a tax upon common pay-for-labor is a capitation; and also that Smith includes elsewhere in his definition of "capitations" a version imposed under the label "poll taxes," described as taxes assessed as (or on) a portion of an individual's annual gains.

9. That content and those conclusions are further informed by my awareness that Bouvier's Law Dictionary, 6th Ed. (1856), the official law dictionary of Congress in the middle of the 19th century when the income tax was first enacted, and which, in harmony and concert with Adam Smith's definitions, illuminates Congressional intentions as to what their newly-enacted unapportioned "income tax" of 1862 is, and can be, and isn't, and cannot be, contains the following definition:

> *"CAPITATION, A poll tax; an imposition which is yearly laid on each person according to his estate and ability."*

10. The content to which I attested as being what I know and believe to be true, complete and correct on the tax-related documents I freely signed concerning 2002, 2003 and 2008, and the conclusions reflected therein, are informed by my belief that in light of the foregoing, however much it may have been carefully crafted to appear otherwise, the unapportioned income tax cannot and does not fall on:

- "all that comes in";
- "every different species of revenue";
- "the fortune or revenue of each contributor";
- "the [common-meaning] wages of labour";
- "what is supposed to be one's fortune [per] an assessment which varies from year to year"; or
- "[an assessed percentage] of [one's] annual gains;

and it is therefore axiomatic that what qualifies as "income" subject to the tax must be only a specialized and distinguished subclass of gains.

11. That content and those conclusions are further informed by my awareness that the United States Supreme Court and other authorities, including Congress and the United States Department of Treasury, have repeatedly and consistently declared the "income tax" to be an excise tax, as in the following:

> *"I hereby certify that the following is a true and faithful statement of the gains, profits, or income of _____ _____, of the _____ of _____, in the county of _____, and State of _____, whether derived from any kind of property, rents, interest, dividends, salary, or from any profession, trade, employment, or vocation, or from any other source whatever, from the 1st day of January to the 31st day of December, 1862, both days inclusive,* ***and subject to an income tax under the excise laws of the United States:"***
> (from the first income tax return form) (emphasis added);
>
> *"The income tax is, therefore, not a tax on income* [earnings] *as such.* ***It is an excise tax with respect to certain activities and privileges*** *which is measured by reference to the income which they produce. "*
> F. Morse Hubbard, Treasury Department legislative draftsman. House Congressional Record, March 27, 1943, page 2580 (emphasis added);
>
> *"...in Springer v. U. S., 102 U.S. 586 , it was held that* ***a tax upon gains, profits, and income was an excise or duty****, and not a direct tax, within the meaning of the constitution, and that its imposition was not, therefore, unconstitutional."*
> Pollock v. Farmer's Loan & Trust, 158 U.S. 601, 1895 (emphasis added);
>
> *"...****taxation on income was in its nature an excise*** *entitled to be enforced as such,"*
> Brushaber v. Union Pacific RR. Co., 240 U.S. 1 (1916), quoting and reiterating language used in its ruling in Pollock v. Farmer's Loan and Trust (emphasis added).
>
> *"So the* [16th] *amendment made it possible to bring investment income within the scope of the general income-tax law, but did not change the character of the tax.* ***It is still fundamentally an excise or duty with respect to the privilege of carrying on any activity or owning any property which produces income.****"*
> F. Morse Hubbard, Treasury Department legislative draftsman. House Congressional Record, March 27, 1943, page 2580 (emphasis added).

12. That content and those conclusions are further informed by my awareness that the United States Supreme Court and other authorities have consistently and repeatedly declared "excise taxes" to be taxes on the exercise of privileges, as in the following:

> *"...the requirement to pay [excise] taxes involves the exercise of privilege."*
> Flint v. Stone Tracy Co., 220 U.S. 107 (1911);
>
> *"The terms 'excise tax' and 'privilege tax' are synonymous. The two are often used interchangeably."*
> American Airways v. Wallace, 57 F.2d 877, 880 (Dist. Ct., M.D. Tenn., 1932);

"The 'Government' is an abstraction, and its possession of property largely constructive. Actual possession and custody of Government property nearly always are in someone who is not himself the Government but acts in its behalf and for its purposes. He may be an officer, an agent, or a contractor. His personal advantages from the relationship by way of salary, profit, or beneficial personal use of the property may be taxed..."
United States v. County of Allegheny, 322 US 174 (1944).

"The income tax... ...is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax; it is the basis for determining the amount of tax."
Former Treasury Department legislative draftsman F. Morse Hubbard in testimony before Congress in 1943

*"The obligation to pay an excise is based upon the voluntary action of the person taxed in performing the act, enjoying the privilege or engaging in the occupation which is the subject of the excise, and the element of absolute and unavoidable demand is lacking. * * * The term "excise tax" is synonymous with "privilege tax" and the two are used interchangeably. Whether a tax is characterized in the statute imposing it as a privilege tax or an excise tax is merely a choice of synonymous words, for an excise tax is a privilege tax."*
71 Am. Jur.2d Sec. 24, pp. 319-320

13. That content and those conclusions are further informed by my awareness that "privilege" is defined as:

"PRIVILEGE: A particular benefit or advantage enjoyed by a person, company, or class beyond the common advantages of others citizens. An exceptional or extraordinary power of exemption. A particular right, advantage, exemption, power, franchise, or immunity held by a person or class, not generally possessed by others."
Black's Law Dictionary, 6th edition;

PRIVILEGE. A right peculiar to an individual or body. Ripley v Knight, 123 Mass 519. An advantage held by way of license, franchise, grant, or permission, not possessed by others. Special enjoyment of a good, or exemption from an evil or burden. Wisener v Burrell, 28 Okla 546, 118 P 999. An immunity existing under the law. For tax purposes, any occupation or business which the legislature may declare to be a privilege and tax as such. Seven Springs Water Co. v Kennedy, 156 Tenn 1, 299 SW 792 56 ALR 496. (Civil law.) A tacit hypothecation of a thing without any transfer of the possession of it or of the right to possession. The Glide, 167 US 606, 42 L Ed 296, 17 S Ct 930.
Ballentine's Law Dictionary, 3rd Edition

PRIVILEGE, rights. This word, taken its active sense, is a particular law, or a particular disposition of the law, which grants certain special prerogatives to some persons, contrary to common right. In its passive sense, it is the same prerogative granted by the same particular law.
Bouvier's Law Dictionary, 6th Ed. (1856).

13. The content to which I attested as being what I know and believe to be true, complete and correct on the tax-related documents I freely signed concerning 2002, 2003 and 2008, and the conclusions reflected therein, are informed by my belief that my economic activities are not extraordinary, not of any special

character, and not distinguished or distinguishable in any way as being within the power of the state to make subject to a charge for the enjoyment thereof, and that in light of the foregoing evidence and authorities nothing I have earned and nothing I have done can properly and honestly be reported on forms intended for the reporting of taxable things other than as I have so reported.

I swear that the foregoing is true and correct to the best of my knowledge.

Executed on June 27, 2013.

Doreen M. Hendrickson

Subscribed and sworn to or

affirmed before me this date: 6/27/2013

[seal] My Commission Expires: 07/23/2017

Annette M Rhodes

ANNETTE M RHODES
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
My Commission Expires: July 23, 2017
Acting in the County of OAKLAND

EXHIBIT 2

Trial testimony of Robert Metcalfe concerning the fact that no hearings or examinations of any kind were conducted by Judge Nancy Edmunds prior to her issuance of orders to Doreen Hendrickson.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 13-20371

-vs-

DOREEN HENDRICKSON, **Detroit, Michigan**

Defendant. **July 23, 2014**

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TRANSCRIPT OF TRIAL - VOLUME THREE

BEFORE THE HONORABLE VICTORIA A. ROBERTS

UNITED STATES DISTRICT COURT JUDGE, and a Jury.

APPEARANCES:

For the Government:	**Melissa Siskind, Esq.**
	Jeffrey McLellan, Esq.
For the Defendant:	**Doreen Hendrickson, Pro Per**
Standby Counsel:	**Andrew Wise, Esq.**

Proceedings taken by mechanical stenography, transcript produced by computer-aided transcription

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sworn to a belief in what you asked Judge Edmunds to order me to swear that I believe?

MS. SISKIND: Objection, Your Honor, vague and --

THE COURT: Sustained.

Q. (By Ms. Hendrickson continuing) I'll try to clarify it a little bit. You had requested that I file what you would term corrected returns or correct according to your belief, but has anyone in the Government ever sworn to that same belief over their signature regarding my earnings?

MS. SISKIND: Objection, Your Honor. Same objection.

THE COURT: I don't get your question. You want him to ask about whether anyone ever in history in Government has ever done -- he can't answer that question. Ask another question.

MRS. HENDRICKSON: I just said to your knowledge. Okay.

Q. I think you admitted yesterday that there was no trial before these Orders were issued, is that correct?

A. Yes.

Q. Was there a hearing before these Orders were issued?

A. You mean like --

Q. Just --

A. Like here?

Q. Yes, in court.

A. No.

Q. Do you recall that my husband and I requested a hearing?

A. I don't remember.

Q. Was there ever a single appearance in person by anyone before Judge

Edmunds prior to these Orders being issued?

A. No.

Q. Is there a reason that you didn't mention in your Complaint when you asked for summary judgment that you didn't have a formal IRS examination report supporting your allegations? Is there a reason that you didn't mention that to Judge Edmunds; that Terry Grant's was not a formal examination, but it was something that she came up with, just kind of came up with? It's just a yes or no. Is there a reason why you didn't mention in your Complaint that there was no formal examination?

A. We did mention in her Declaration that there had not been a -- or at least what she had done did not constitute a formal examination.

Q. Thank you. And is there a reason why you didn't mention to Judge Edmunds that that wasn't a formal examination?

A. We did.

Q. You told Judge Edmunds that it wasn't a formal examination? Just curious. I mean somewhere?

A. The Declaration of Terry Grant -- let me find it. In order to answer your question I have to refer to the --

Q. I have it here.

A. -- Declaration of Terry.

Q. Do you want to see it? I have my copy. It might be easier for you to look at this.

A. I have it here. What we said in paragraph six of the Declaration of Terry Grant who was a Tax Examining Technician for the Frivolous Return Program at the IRS's Ogden Compliance Services Campus in Ogden, Utah. In paragraph six of her Declaration, she stated that attached to her Declaration was an IRS Form 4549

EXHIBIT 3

Statement of Stand-by Counsel Andrew Wise regarding Judge Nancy Edmunds' admission of having never read *Cracking the Code- The Fascinating Truth About Taxation In America*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff, Cr. No. 13-20371

v.

DOREEN HENDRICKSON, Hon. Victoria Roberts

Defendant.

_____/

SECOND STATEMENT OF ANDREW WISE

I was appointed as standby counsel in the above matter. In assisting Mrs. Hendrickson with the preparation of her defense, I spoke with U.S. District Judge Nancy Edmunds concerning events surrounding Mrs. Hendrickson's civil case, 2:06-cv-11753, over which Judge Edmunds presided. During our conversation Judge Edmunds acknowledged that she had not read Cracking the Code, a book written by Peter Hendrickson and referenced by Judge Edmunds in her Order with which Mrs. Hendrickson was alleged to be in contempt of in this matter.

Andrew N. Wise

Dated: March 22, 2016

EXHIBIT 4

Trial testimony of Robert Metcalfe admitting that Doreen Hendrickson's 2002 and 2003 tax returns report income, and that she was not a government employee when making and signing those returns.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 13-20371

-vs-

DOREEN HENDRICKSON, **Detroit, Michigan**

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Q. (By Ms. Hendrickson continuing) Mr. Metcalfe, will you please read the highlighted portions of this?

A. This is the exhibit you just showed me?

Q. Yes. It's our tax return for 2002.

THE COURT: It's in the book as One.

MRS. HENDRICKSON: As Number One.

THE WITNESS: I'm sorry?

Q. (By Ms. Hendrickson continuing) Just read the highlighted portions please.

A. Income and it looks like an entry of $20.

Q. Okay, and this one please. This is the 2003 income tax return for us. It's your Number Four I believe.

A. It says income and it looks like $2.70 and then below that there's an entry of $283.44 and the total appears to be $286.14.

Q. Thank you. Thank you. According to your assertion about what is claimed in *Cracking the Code* which you say I relied on when I filed -- when filing my returns that only Federal, State, local and Government workers are subject to the tax, was I a Government worker in 2002/2003, Mr. Metcalfe, when I reported on my tax returns filled out and filed in accordance with what is in the book?

MS. SISKIND: Objection, Your Honor. Lack of foundation to what he knows about her employment.

THE COURT: If you can answer it, Mr. Metcalfe.

THE WITNESS: I don't know where you were employed.

Q. (By Ms. Hendrickson continuing) You said earlier I was employed with Una Dworkin or I worked for Una Dworkin as a tutor?

A. I think that's correct. Are you talking about 2002?

Q. And 2003.
A. I know that you reported -- well, I take that back. I know there was a Form 1099 that reported receiving on your return no income from Una Dworkin.
Q. That's true, and was I a Federal worker at that time then if I was working for Una Dworkin?
A. To the best of my knowledge I don't think you were a Federal worker in 2002 or 2003.
Q. Okay. So if I was not a Government worker and I reported income on my tax returns, how can I be said to have filed my returns based on the notion that only Government workers are subject to the tax?
A. I don't think I understand your question.
Q. I was not a Government worker and yet I showed income on my returns. So how could I -- how could I be said to have filed my returns based on the idea that only Federal workers are subject to the tax if I wasn't a Federal worker and yet I showed income on my returns?
A. The allegations that we made in the Complaint concern Mr. Hendrickson's theories as set forth in the book *Cracking the Code*. Now I don't know what you personally believed or thought.
Q. Well, that's true, but you said that the book says only Federal, State and local Government workers are subject to the tax, and if I wasn't a Federal worker yet I reported income.
A. Well --
Q. That's not logical.
THE COURT: What's your question?
Q. Well, I asked if I wasn't a Government worker, how can I be said to have filed