

Update ON Bunk Three - #6

“A Partial Update About Dr. Hovind’s Case”

See www.penaltyprotestor.org for more information concerning this case.”

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Here is the Hovind's story from my perspective

By Lindsey - 16 Year Veteran Student of IRS Criminal Cases and First Hand Observer of This Case

My name is Lindsey Springer and I have been asked to explain the case of U.S. v. Kent and Jo Hovind. This case was commenced as a Federal Grand Jury Indictment out of the United States District for the Northern District of Florida sitting in a needful building in Pensacola.

Dr. Hovind is well known as an evangelist who has chosen to give all his time on earth to arguing against evolution. He began this mission in 1988. In approximately 1995, his argument began to resinate with many in the "so called" Christian community. There became a great demand by Christian churches to obtain his views on audio and video tape for the sole purpose of broadcasting those views in respected churches and "so called" Christian Schools around the Country. The greater demand for the information caused him to draw from God to provide human beings committed to the cause of Jesus Christ, as Hovind viewed that cause.

Hovind, in realizing God answered his prayers, was blessed with many persons who were willing to take up their cross and follow the cause of Christ as Hovind explained it. Hovind's explanation of the cause of Christ is unmistakably his right under the First Amendment regardless of anyone else's view. This right is commonly known as freedom of religion.

Hovind began traveling all over the world. At all times he viewed what was happening, as his cause of Christ, was taking a strong hold on the Christian Community. At all times his home base was located in Pensacola Florida where he also built a theme park depicting his cause of Christ known as Dinosaur Adventure Land.

In one central location, Hovind lived, preached, and conducted his mission regarding the creation of man.

Hovind believed that being committed to his religious expression immunized him

from certain Government interference as explained in the First Amendment. For those of you not aware of this Amendment and what it says, it reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Hovind believes that the phrase "or prohibiting the free exercise thereof" means Congress shall make no law respecting the free exercise of an established religion. Where Hovind and the United States Government squared off is what the meaning of "make no law" actually means. For most in the Christian Community the issue is where does the line "make no law" start and stop with respect to the free exercise of religion.

Beginning in early 1990s, the Internal Revenue Service (hereinafter referred to as "IRS") decided that because Hovind had not received any W-2 or 1099s and because he was paying his electric bill with something, he had to have made some money somewhere. Prior to the passage of the Revenue and Restructuring Act of 1998, the IRS used a procedure called the Bureau of Labor Statistics (hereinafter referred to as "BS Taxes"). This is now prohibited pursuant to 26 U.S.C. § 7491(b)(shifted burden to Secretary to prove). The IRS decided to use the BS Tax procedure on Hovind. Because he had not earned any income that was taxable by the Internal Revenue Code specifically, Hovind decided that he would stand up to the Government because obviously, imposition of the BS Taxes was "making a law" that was attempting to prohibit the free exercise of his religion. There was an exchange of letters for some time between the IRS and Hovind.

One day in 1996, the IRS, civil and criminal Agents, showed up at Kent Hovind's home with what is called a "jeopardy" levy. Under the law, jeopardy levy is only allowed to be used when the IRS is attempting to prove what someone owes in some sort of litigation and there is an articulated real threat that during that litigation time, if the IRS does not take possession of property worth the taxes thought owed, and the targeted taxpayer is thought to be dissipating his assets, the IRS takes the property and then the targeted taxpayer must fight to get it back.

The IRS was required to follow all laws governing jeopardy levies to which none were followed. There was no 10 day notice as required by Section 6331(a) as required under section 6331(d)(3). Under section 7429 the IRS was forbidden from making any "assessment" until after the expiration of 30 days from a "notice and demand for payment" was made to Hovind. No notice or demand was ever given and no 30 days was ever activated or expired because of no notice or demand being given. Because no notice and demand as required under section 7429 was given and because no notice under section 6331(a) was given, the procedure imposed by law was not afforded to Hovind. For instance, section

7429(a)(2) affords a "Request for review" to the Secretary. Of course, the term "Secretary" is defined as the same person who showed up and took the cars. Then there is the "judicial review" of that determination by the Secretary. This would have occurred within 90 days under section 7429(d). None of these procedures were complied with by the IRS and had Hovind demanded the IRS comply with these procedures, no doubt the claim made to secure such compliance with these laws would have wound up being alleged as to further "impede" the "due administration of the IRS."

The IRS took all cars sitting in the driveway on one morning in Early 1996. No notice of the levy and no explanation as to why the IRS thought these cars in Kent and Jo Hovind's name were in some sort of danger of being dissipated. Kent Hovind was out of town and when he returned home, a friend of his paid the IRS the \$12,000.00 or so and obtained the cars back.

He heard nothing more from the IRS for several years. Beginning in 2002, the IRS decided to begin a criminal investigation to determine what possible tax laws Hovind was violating while exercising his freedom of religion. At this point his message is world wide.

The IRS assigned an highly trained Military interrogation officer named "Special Agent" Scott Schneider to begin this criminal investigation. Agent Schneider issued IRS civil investigation summons to conduct his criminal investigation. This appeared wrong to Hovind so he decided to exercise his right and ask the United States District Court in Pensacola Florida whether that was a proper usage of the power to issue summons. The Court said it was and that was the end of Hovind's questions.

Agent Schneider's investigation was off and on. The Military kept sending him over to Iraq to hunt down Saddam Hussein's money. At trial Agent Schneider referred to himself as a "specialist" in the area of hunting down money. He also said when "Washington called, he had to go."

When Schneider would arrive back to America, he would jump back on the Kent Hovind criminal investigation. He testified that he would wait till Hovind put his trash out on the curb and then he would go dig through it to find any clues as to what was going on inside the "Hovind compound", as Interrogation Officer Schneider called it.

Finally, in April, 2004, Agent Schneider decided he had enough from the trash can to convince a U.S. Magistrate Judge that he should be allowed to do a raid and search of the CSE ministry property. On April 14, 2004, armed with a search warrant, the siege was on.

Beginning at dawn, over 30 armed agents of the IRS, FBI, ATF, Postal Inspectors, County Sheriffs and others, executed their search warrant. During the

raid over \$42,000.00 was found in cash in various places throughout the numerous buildings on the ministry properties. Agent Schneider decided to seize that currency and placed it in a safe in his office. Numerous other injustices occurred that day.

The next day, Hovind went to the bank where ministry money he controlled was on deposit, and he withdrew most all of it to replenish the ministry money taken a day earlier by the Agents during the raid.

Hovind requested the return of the ministry money taken during the raid but the IRS refused. Two months go by and on June 2, 2004, the IRS made up another jeopardy levy and then Agent Schneider took the money out of his control and turned it over to civil IRS Agents to satisfy part of the civil claims the IRS made up on (the same day) June 2, 2004. Yes, that is right. The IRS made up the tax claim on June 2, 2004 and then seized the money from itself on the same day. All this to avoid having to give back to Creation Science Evangelism the ministry money the IRS took on April 14, 2004, during the raid.

When Hovind heard about this you can imagine he was frustrated. He again was looking at the first amendment and the words "shall make no law" and "shall proceed with due process" and then looking at what the IRS was doing and something simply was not right.

Hovind sought council and commenced action to get the ministry money back by filing a complaint with Treasury Inspector General "TIGTA" claiming how the IRS had stolen ministry money that was originally taken pursuant to the raid on April 14, 2004 and had not followed their own laws and procedures.

More than two years later, On July 11, 2006, a secret Federal Grand Jury which had been convened issued a 58 Count indictment against Kent and Jo Hovind. The Judge then issued a warrant for their arrest. Rather than simply call the Hovinds and ask that they report in to the authorities based on the warrant as is frequently done in these types of cases, the IRS decided to make another "high profile raid" on the ministry.

Kent was getting ready for staff devotions when the IRS Agents swarmed onto the property and arrested him. Jo was awakened by four armed agents surrounding her bed. She was handcuffed in her nightgown and not allowed to get dressed, go to the bathroom, or put on a robe, even though she was asking for these simple courtesies, and forced to go to the Federal Building.

The charges are grouped in three batches. The first 12 were against Kent Hovind claiming that he violated Internal Revenue Code section 7202 12 times by not "withholding certain taxes" from the persons helping him with his mission.

The Second batch involved 45 different charges of causing ("evading") Am South

Bank to not file a Currency Transaction Report (hereinafter referred to as "CTR") when Jo Hovind would withdraw less than \$10,000.00 by writing one single check on one single day at one single bank out of one account over which she had signatory authority. The government alleged that this was in violation of Title 31, §§ 5324, 5313(a) and certain treasury regulations that attempt to make it a crime to withdraw **"more than"** \$ 10,000.00 in any one day with the purpose of evading the bank's reporting requirements to the IRS..

The last charge involved Agent Schneider and others claiming that when Kent Hovind asked questions to the Court such as: "Was it right to use civil summons to do a criminal investigation?" or "Was it right to take ministry money during a raid and then make up a tax liability and then use that money towards satisfying said liability without any due process?" and other of these types of questions. Then the Agents claimed Hovind violated Internal Revenue Code provision 7212(a) which makes it a crime to impede the IRS by threats of bodily harm. There was no threat of bodily harm. When asked about this at trial, Agent Schneider said he felt threatened when Kent requested on a radio show on April 15, 2004, the day after the raid, for listeners to pray God would deal with all those who were coming against the cause of Christ.

The Supreme Court said in BRYAN v. U.S., 524 U.S. 184, at 194 (1998) "In certain cases involving willful violations of the tax laws, we have concluded that the jury must find that the defendant was aware of the specific provision of the tax code that he was charged with violating. See, e.g., CHEEK v. U.S., 498 U.S. 192, 201 (1991) In Cheek, the Supreme Court said "The general rule that ignorance of the law or a mistake of law is no defense to criminal prosecution is deeply rooted in the American legal system....(citations omitted). Based on the notion that the law is definite and knowable, the common law presumed that every person knew the law. This common law rule has been applied by the Court in numerous cases construing criminal statutes." Cheek at 199

The Supreme Court went on to explain that "The proliferation of statutes and regulations has sometimes made it difficult for the average citizen to know and comprehend the extent of the duties and obligations imposed by the tax laws. Congress has accordingly softened the impact of the common law presumption by making specific intent to violate the law an element of certain federal criminal tax offenses. Thus, the Court almost 16 years ago interpreted the statutory term 'willfully' as used in the federal criminal tax statutes as carving out an exception to the traditional rule. This special treatment of criminal tax offenses is largely due to the complexity of the tax laws." Cheek at 200

To these cases by the Supreme Court, the Government argued and the United States District Court, Honorable Casey Rodgers, decided, did not apply to the case against Kent Hovind. Can you imagine a Federal Judge, governed by the decisions of the Supreme Court, deciding what the Supreme Court said does not matter? The reason why this area was so important was because the

Government did not have one shred of evidence that Hovind was "aware of" section "7202" or how the theory of the Government that violated that section was made known to Hovind prior to the dates of the 12 charges in Counts 1 through 12 being alleged to have taken place.

When the attorney for Hovind asked the Judge what evidence was presented that could act to show Hovind was aware of section 7202 or the theory advanced by the Government that he violated section 7202, Judge Rodgers replied "he was given notice when he was served with the indictment on July 13, 2006."

As to Count 58, the theory advanced by the Government here is simply alarming. The Government sends a copy of a civil summons to Hovind which informs him he has a right to challenge the issuance of the summons in Federal Court. Hovind exercises that option to see whether it was properly issued or not and now the Government says that this perfectly legal challenge impeded them criminally in violation of section 7212(a)!

Being a wise steward, Hovind asked the Treasury Department to look into why Special Agent Schneider gave the money taken during the raid to civil IRS agents on June 2, 2004, without any due process. Agent Schneider and the Government Attorneys claimed this was impeding the IRS criminally in violation of section 7212(a).

Kent Hovind was on a radio show on April 15, 2004, the day after the raid where he asked listeners to pray for all those who were coming against him and the cause of Christ. Special Agent/Military Interrogation Specialist/IRS Criminal Investigator Agent Scott Schneider tells the jury he felt threatened by Kent Hovind's prayer!

How would anyone be aware that praying anything violates some Federal law let alone section 7212? Who made Agent Schneider listen to the radio show anyway? What happened to freedom of speech? What about asking the Court to oversee the IRS conduct? Isn't that within the first amendment right to redress the government? And what about them taking the money and giving to some made up self serving tax claims? What happened to due process?

No evidence was ever entered that Hovind was aware of section 7202 or 7212 or that Hovind was aware of the theories advanced by Assistant U.S. Attorney Michelle Heldmyer in her claims of violations of these specific code sections. During the trial when asked by Counsel for both Kent and Jo Hovind of Agent Schneider, did he ever inform Hovind that what the IRS thought he was doing violated section 7202 or 7212, Agent Schneider answered he did not ever inform him prior to their arrest.

Next comes Counts 13 through 57. These charges stem from Jo Hovind going to the Bank and withdrawing less than \$ 10,000.00 from accounts over which she

had signatory authority. The Government alleged in the indictment (and the law clearly states) that withdrawing more than \$10,000, for the purpose of evading the CTR that banks are required to file with the IRS, involving transactions of currency greater than \$10,000.00 in one business or bank day, was a crime in violation of 31 United States Code § 5324. Section 5324 references section 5313(a) which says the Secretary shall make the regulations for who is required and when the requirement is to take place with regard to currency transactions. The regulations the Government then claims supported their theory was 31 CFR 301.11

Remember ignorance of the law is an excuse when the law is not definite and knowable? Remember the "proliferations and statutes and regulations often makes it difficult" for the average citizen? Therefore, the Government must prove knowledge of the statute, regulation, theory and facts, referencing the law as a part of the bank secrecy laws, in order to prove guilt. This is a huge hurdle for the prosecutor to prove; that while Jo Hovind wrote checks to cash for the ministry for nine years she knew all the statutes, regulations, and theories of the bank secrecy laws and deliberately choose to violate those bank secrecy laws—laws written originally to track drug dealer's monies!

The bank never told Jo Hovind that even though the CTR was triggered when transactions involved more than \$10,000.00, somehow she was violating this law by withdrawing less than \$10,000.00 numerous times. The form that the bank was to fill out on amounts over \$10,000.00 is Form 4789, commonly known as the CTR form. There were many defects in the Government's theory not addressed here, one of which included violations of the Paperwork Reduction Act of 1995 in reference to this "bootleg" CTR form.

The most important error was that at all times the regulation says "more than \$10,000.00" while the Government's theory only proved "less than \$10,000.00." When the IRS Agents were asked why did they think \$9500.00 was a violation and \$7800.00 was not a violation, they responded " \$9500.00 seemed more egregious."

After the Government rested, both Kent and Jo's attorneys were confident that the Government had not proven their case, and it was their advice that putting on a defense was not needed. Therefore, the Defense rested. The Jury instructions were complete as Rule 30 of the Federal Rules of Criminal Procedure mandate. In this rule, the Court "must" decide the jury instructions prior to closing arguments.

The Government's closing argument began and ended. Counsel for Kent Hovind, Alan Richey, began his closing argument by reading to the jury the Government's proposed jury instruction that the Court concluded was the instructions the Judge would be giving to the Jury. Alan Richey thought it best to take the jury right to the place where they needed to decide the facts. During his reading of this

instruction, the Government stood up and objected. A side meeting was held with Mr. Richey (Defense Attorney), Mrs. Heldmyer (Prosecuting Attorney) and Judge Rodgers, which resulted in Prosecutor Heldmyer claiming she did not like the way Mr. Richey was reading the jury instruction. This was even though Mr. Richey was reading it verbatim! The Court overruled the objection and allowed Mr. Richey to continue his closing. After Mr. Richey concluded, but before Jo Hovind's attorney, Jerry Barringer was to do his closing, the Court dismissed the Jury and took an extended break.

The Court returned with a surprise. Judge Rodgers rewrote the jury instruction to change "more than \$10,000.00" to "less than \$10,000.00" to fit the Government's closing argument. It was double talk. This changed the indictment, rewrote the treasury regulation and changed the entire claims against Kent and Jo Hovind after the trial was concluded and with only Defense Attorney Barringer left to do closing arguments. Before the jury was brought back in to hear from Defense Attorney Barringer, Judge Rodgers asked Prosecutor Heldmyer "are these changes worth a risk of mistrial" to which Prosecutor Heldmyer responded "absolutely, your honor."

There can only be one explanation for the Government's answer. Without the changes, the jury would find the Defendants Not Guilty. And for good reason. They are not guilty of violating any laws and regulations that they were aware of. The Government ignored the Supreme Court of the United States with regard to showing Kent Hovind was aware of section 7202 or 7212(a) or the theory in which these sections were violated. The Government ignored that withdrawing less than \$10,000.00 in one day from an account over which you have signatory authority could ever act as evidence proving a violation of a regulation that says if the transaction involved "more than \$10,000.00" in one day for the purpose of evading the reporting requirements the bank has with the IRS, that a crime may have been committed.

There are two final points derived from this case. Structuring is a word defined by regulation and not by statute. The Government charged that each withdrawal was a separate structuring act. Each Count only involved one check for less than \$ 10,000.00 in one business or bank day and withdrew money from an account over which Jo Hovind had signatory authority [delete -over]. Structuring was intended to be used against drug dealers. In this case, the Government has now turned to the drug statutes to obtain forfeiture of all of the property used by Creation Science Evangelism without any claim they were dealing in drugs. Obviously, neither Creation Science Evangelism, nor the Hovinds personally were ever dealing in drugs!

I listened to Attorney David Gibbs, III, of Christian Law Association, testify and I watched him when he arrived at the trial. He walked up to Mrs. Heldmyer out in the hall and said "hey girl, how is it going" as if they had known each other for some time. They laughed and joked with each other for a minute or so. Mr. Gibbs

testified about personal income taxes and that not paying taxes was a sin. (This case was not about personal income taxes!) His testimony proved that the case against Kent and Jo Hovind was not about taxes but about religion. How could it be about taxes when the Government could not show that what the Hovinds were doing violated any law or regulation let alone that they thought they were violating some law or regulation? This case was about sending a message to people of faith. "Keep quiet or we will get ya!"

David Gibbs was asked questions about Internal Revenue Code section 501(c)(3) to which he replied that he was fully aware of this section and how it operated. He said that he gives free legal advice to over 10,000 churches nation wide. He was then asked about Internal Revenue Code section 102 which says that "gifts" are "excluded from the calculation of gross income" no matter what amount. At this question, and questions about 508 (c) (1) (a) religious organizations like Creation Science Evangelism, Gibbs suddenly seemed unknowledgeable. He "waxed eloquently" about 501(c)(3) organizations, which were not even applicable to this organization or this trial. He was very combative with Alan Richey during cross examination and at all times clearly was not testifying neutrally but only supporting the Government's case. He clearly was working to help Mrs. Heldmyer silence Kent Hovind..

Mr. Gibbs testified that he met with Hovind at his home. They spoke about religion and taxes. At no time did Mr. Gibbs ever inform Kent Hovind of section 7202, 7212 or any other relevant issue in the case in chief presented by the Government.

After watching this battle for 16 years and viewing many criminal trials, when I heard Attorney David Gibbs say not paying taxes was a sin I thought to myself "let he who is without sin cast the first stone." David Gibbs, the protector of over 10,000 churches, had hurled one large stone at the church.

I thought right then and there, isn't the motive of all churches to receive as many tax free dollars as possible? What about giving tax deductible receipts? Is that a sin? The problem in the attempt to have the U.S. Congress take over every day life of people in all 50 States of the Union, is that now that thirst for power has collided with the first amendment. If Congress can make no law prohibiting the free exercise of religion then why is the Internal Revenue Code being purely relied upon by local churches regarding their activity in receiving gifts from parishioners?

Before you judge these two servants of God, you may want to make yourself a little more aware of the facts. Proverbs 18:13 "He that answereth a matter before he hearth it, it is folly and shame unto him." I have an audio tape on my web page from a Saturday Conference Call I did on November 11, 2006 where for 90 minutes or so I explain some of the injustice suffered by the Hovinds. You can download it at www.penatlyprotestor.org. and listen to it. Sentencing will be

January 19th unless the Judge grants an acquittal or the Eleventh Circuit takes over the case on appeal. You may need this information. You may be the next innocent victim.