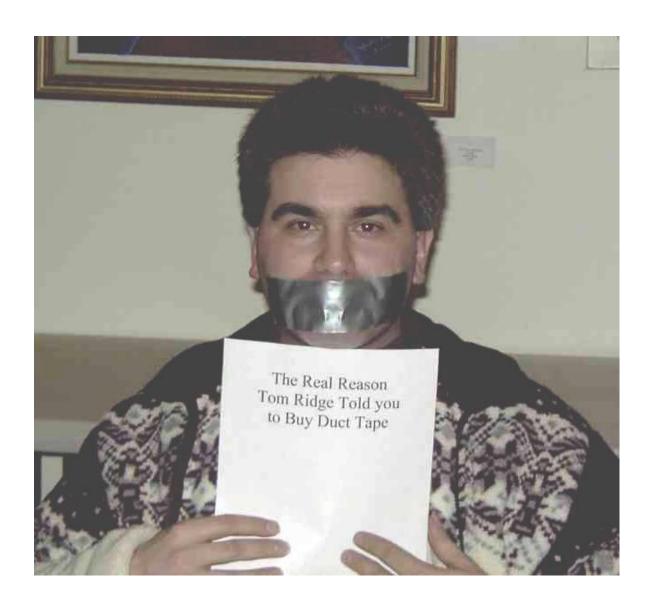
IRS, Taxes, Federal Tax, Due Process Rights.

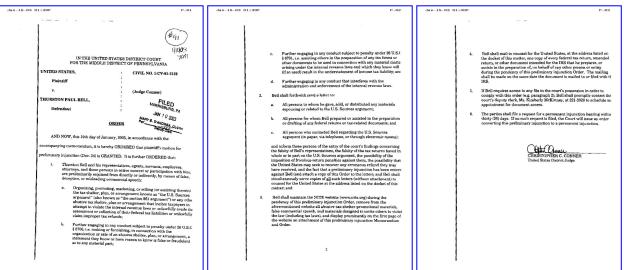




When even one American - - who has done nothing wrong is forced by fear to shut his mind and close his mouth, then all Americans are in peril. Harry Truman

ENJOINED

Judge Conner's ORDER Please click on the images to enlarge.



Court's Memorandum Supporting Preliminary Injunction

<u>Mr Bell's Memorandum In support of Motion</u> <u>to Stay Preliminary Injunction Click here and see</u> <u>how there is no evidence in the case and convoluted,</u> conflicting and inconsistent the reasoning of the court is.

> To Contact or send support and donations PMB 181 1150 Carlisle Street Hanover PA 17331

USA v. Bell: 11/04/2002 HEARING LINKS

COURT TRANSCRIPT (<u>HTML</u> or <u>MS Word</u> or <u>PDF File</u> please distribute widely) - <u>Transcript Receipt</u> (makes all copies evidence) DOJ Admission of Intimidation

An encouraging email to Thurston

MR. BELL GETS THE LAST WORD (please distribute widely)

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	I FOR	N THE UNIT	'ED STATES D LE DISTRICT (ISTRICT COURT OF PENNSYLVAN	#GI 1/10/03 7017
UNITED ST	TATES.				
				CIVIL NO. 1:CV	-01-2159
Plain	tiff		;		
			:		
v.			•	(Judge Conner)	
THURSTON	PAUL	BELL.	:	-	
1		,	:	HARRIS	LED
Defen	idant		:		LED
AND	NOW the	s 10th day of	ORDER	MARY E. D'ANL	O 2003
	NOW, th	s toth day of	January, 2003, i	in accordance with	the
				ED that plaintiffs	
				is further ORDERE	
	are preli	ninarily enjoi	ersons in active	s, agents, servants, concert or particip tly or indirectly, by speech:	
	arg ab att	sument" (also usive tax shel empt to viola	han, or arrange known as "the ter, plan or arra te the internal r ollection of thei	ing, or selling (or a ement known as "th section 861 argum angement that incit evenue laws or un r federal tax liabilit	ne U.S. Sources ent") or any other tes taxpayers to
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enalty under 26 U.S.(
of any tax forms or
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which they know will
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- Further engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws.
- Bell shall forthwith send a letter to:
 - All persons to whom he gave, sold, or distributed any materials espousing or related to the U.S. Sources argument;
 - All persons for whom Bell prepared or assisted in the preparation or drafting of any federal returns or tax-related documents; and
 - All persons who contacted Bell regarding the U.S. Sources argument (in paper, via telephone, or through electronic means);

and inform those persons of the entry of the court's findings concerning the falsity of Bell's representations, the falsity of the tax returns based in whole or in part on the U.S. Sources argument, the possibility of the imposition of frivolous-return penalties against them, the possibility that the United States may seek to recover any erroneous refund they may have received, and the fact that a preliminary injunction has been entere against Bell (and attach a copy of this Order to the letter); and Bell shall simultaneously serve copies of <u>all</u> such letters (without attachment) to counsel for the United States at the address listed on the docket of this matter; and

3. Bell shall maintain the NITE website (www.nite.org) during the pendency of this preliminary injunction Order, remove from the aforementioned website all abusive-tax-shelter-promotional materials, false commercial speech, and materials designed to incite others to violat the law (including tax laws), and display prominently on the first page of the website an attachment of this preliminary injunction Memorandum and Order. http://www.nite.org/general_images/niteoder0002.jpg

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- 4. Bell shall mail to counsel for the United States, at the address listed on the docket of this matter, one copy of every federal tax return, amended return, or other document intended for the IRS that he prepares, or assists in the preparation of, on behalf of any other person or entity during the pendency of this preliminary injunction Order. The mailing shall be made on the same date the document is mailed to or filed with th IRS.
- If Bell requires access to any file in the court's possession in order to comply with this order (e.g. paragraph 2), Bell shall promptly contact the court's deputy clerk, Ms. Kimberly McKinney, at 221-3920 to schedule an appointment for document access.
- 6. The parties shall file a request for a permanent injunction hearing withir thirty (30) days. If no such request is filed, the Court will issue an order converting this preliminary injunction to a permanent injunction.

CHRISTOPHER C. CONNER United States District Judge

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IN THE UNITED STATES DISTRICT COURT 1 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA HARRISBURG DIVISION 2 : CASE NO. UNITED STATES OF AMERICA, 3 : 1:01-CV-2159 Plaintiff 4 : vs. : Harrisburg, PA 5 : (Judge Conner) THURSTON PAUL BELL, individually : 6 and d/b/a/ NATIONAL INSTITUTE : 4 November 2002 FOR TAXPAYER EDUCATION, 7 Defendants : 9:30 a.m. 8 9 TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING 10 BEFORE THE HONORABLE CHRISTOPHER CONNER UNITED STATES DISTRICT JUDGE 11 APPEARANCES: 12 For the United States: 13 Evan J. Davis, Esquire 14 Donald N. Dowie, Esquire U.S. Department of Justice 15 Tax Division, Central Trial Section Washington, D.C. 20530 16 202-514-0079 17 18 For the Defendant: Thurston Paul Bell (appearing pro se) 19 118 Carlisle Street, Suite 201 Hanover, PA 17331 20 717-637-7797 21 Court Reporter: 22 Wesley J. Armstrong, RPR 23 228 Walnut Street, Room 804 Harrisburg, PA 17108 24 443-418-7154 25

PROCEEDINGS 1 THE COURT: Thank you. Please be seated. 2 We're here today on the government's motion for 3 preliminary injunction against Thurston Paul Bell, 4 case number 1-CV-01259. It's the government's 5 Would counsel identify themselves for the 6 motion. record? 7 MR. DAVIS: Excuse me. Certainly, Your Honor. 8 My name is Evan Davis. I'm government counsel. 9 This is Don Dowie, who also is going to counsel. 10 Actually in the front row is another attorney who 11 just joined our office named Michael Raum, and down 12 here is Chris Roginsky, who's an IRS employee. 13 THE COURT: Good morning. 14 MR. ROGINSKY: Good morning, Your Honor. 15 THE COURT: You may be seated, and Mr. Bell, 16 you're representing yourself, is that correct? 17 MR. BELL: Yes, Your Honor. 18 THE COURT: Okay. Because you're going to I 19 assume be testifying at some point during this 20 proceeding, I'm going to swear you in now so that 21 you're under oath, okay? 22 MR. BELL: Certainly. 23 THE COURT: Please rise and give the oath, 24 25 Ms. McKinney.

(Mr. Thurston Paul Bell was sworn by the
courtroom deputy.)
THE COURT: Okay. The government may proceed.
MR. DAVIS: Thank you, Your Honor. Your Honor,
the defendant Thurston Bell needs to be stopped now
before he causes further damage to his clients or
the United States Treasury. Bell is selling an
abusive tax scheme, defrauding his clients, and
bilking the U.S. Treasury. Bell helped clients file
tax returns based on his frivolous U.S. sources
argument, which fraudulently claims that all
domestic income is tax free.
Bell claims that his clients have received
refunds in excess of a million dollars based on this
frivolous scheme. Bell also recruits so-called
senior fellows to spread his gospel throughout the
country and recruit more clients. Bell's clients
are relying on him and his fellows to provide sound
tax advice, but Bell, who has no tax accounting or
legal training, claims to be the only one who really
understands the tax code.
Nothing can be further from the truth. The
argument is a consistent loser, the U.S. sources
argument. All taxpayers who have raised it have
lost, most have been penalized, and most courts have

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1	deemed it to be a frivolous argument. Three former
2	clients or associates have been summarily enjoined
3	for promoting the same argument, but Bell still
4	continues.
5	Bell's activities have resulted in harm to the
6	government. Clients use Bell's arguments to evade
7	their taxes and to delay the IRS process. The
8	government will eventually catch up with these
9	clients and subject them to possible civil and
10	criminal penalties. Audits and investigations will
11	continue, and the government has filed three
12	erroneous refund suits against Bell's clients or
13	former clients, but some erroneous refunds still
14	slip through.
15	In the meantime Bell is enriched by charging
16	his clients, and the government is left holding the
17	bag. What does the government need to show for its
18	preliminary injunction? Under Internal Revenue Code
19	Section 7408 the government must show that Bell's
20	conduct violates one of the two penalty sections,
21	6700 or 6701, and that an injunction is appropriate
22	to prevent the recurrence of that penalty conduct.
23	The government's preliminary injunction motion
24	and exhibits shows that Bell has violated Section
2 5	6700. Bell has organized and sold the tax plan or

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1	arrangement. He has made material statements about
2	the excludability of income from taxation. He's
3	told people that unless their income is on a defined
4	narrow limit that is essentially just foreign
5	income, their income is tax tree free. Further,
6	Bell knew or had reason to know that his argument
7	was false or fraudulent. He knows of the cases
8	ruling against this U.S. sources, or also known as
9	the 861 argument, but he still continues.
10	The government's motion also showed that Bell
11	is violating Section 6701. Bell prepared and
12	assisted others to prepare documents, tax returns,
13	and letters that he knew or had reason to know would
14	be sent to the IRS, and Bell also knew that those
15	documents would result in an understatement of
16	income excuse me, of tax liability for his
17	clients.
18	Further, Bell essentially has admitted that he
19	won't stop absent a court order. So we've shown
20	that the injunction is appropriate to prevent the
21	recurrence. Further, the court can enjoin Bell
22	under Section 7402 of the Internal Revenue Code if
23	an injunction is necessary or appropriate to the
24	enforcement of Internal Revenue law. This
2 5	essentially is a catch-all statute that allows the

court fully specifically to focus on conduct that is 1 not subject to penalty under Section 6700 or 6701, 2 but is still essentially gumming up the IRS works in 3 the case of Thurston Bell. If his activities are 4 encroaching or hindering the IRS's activities, then 5 an injunction can be entered if it's necessary or 6 appropriate. 7 Looking now at Bell's arguments, as you've seen 8 in his preliminary injunction response brief, first 9 he tries to explain his U.S. sources argument, which 10 at first he tries to distinguish between the 861 11 argument, and for all intents and purposes they're 12 the same argument. The reason that we talk about 13 the 861 argument is if you look at the Tax Court 14 cases that have discussed situations in which 15 taxpayers have said Section 861 of the code or 16 regulations under Section 861 exempts my income 17 from taxation, that's generically the 861 argument. 18 Bell uses the same Section 861 in the code. Нe 19 uses the same regulations and he reaches the same 20 frivolous result that unless your income is on this 21 narrow list of sources, then it is not taxable. So 22 the government has demonstrated first that this U.S. 23 sources 861 argument is frivolous, but two of Bell's 24 arguments likely or could give the court pause. 25

First is that the proposed injunction violates his 1 1st Amendment rights, and second, that Bell is 2 simply advocating for his clients to due process 3 rights. 4 Looking at the 1st Amendment, the 1st Amendment 5 is always a concern when you're looking at Sections 6 7402 and 7408 injunctions, because the sections by 7 their terms sweep broadly and could draw in 8 protected speech if an injunction is issued under 9 them without carefully looking at the 1st Amendment 10 implications of them, and you see in the cases that 11 the government has cited in its briefs that the 12 courts really are mindful of the 1st Amendment when 13 they enter the injunctions. 14 However, the sections are constitutional 15 and the injunctions that they've entered are 16 constitutional because they focus on banning false 17 commercial speech, courses of illegal conduct, and 18 incitement to imminent lawless action, and that's 19 precisely what the government has asked for in its 20 preliminary injunction. 21 Bell is charging for faulty tax advice. Bell's 22 website contains faulty tax advice, and he charges 23 people to go into the members area of that cite. 24 That's false commercial speech unprotected by the 25

1st Amendment. Further, Bell is helping clients to 1 evade their taxes by assisting them in filling out 2 forms and letters that contain his frivolous U.S. 3 sources argument. That's a course of illegal 4 conduct, and he's inviting his clients to commit 5 tax evasion. 6 The website also contains protected speech, 7 and likely Bell is talking to his clients about 8 protected speech. On his website he rails against 9 the government, the court system. There's nothing 10 wrong with doing that. The 1st Amendment protects 11 that. The government is not trying to shut down 12 Bell's website. The government is asking the court 13 to simply enter an injunction that stops his false 14 commercial speech, stops incitement to imminent 15 lawless action, and stops his course of illegal 16 conduct, helping others to evade their taxes. 17 Looking at the --18 THE COURT: Excuse me, are you also, are you 19 asking though to shut down the members only area 20 of the website? 21 MR. DAVIS: Only to the extent the members only 22 section has false commercial speech and in theory 23 could incite or as part of the course of the illegal 24 conduct, so that the same standard would apply to 2.5

Bell's actions and discussions with his clients as 1 to the website. 2 Bell's second major argument involves due 3 process, and when you hear the term due process you 4 think well, there's nothing wrong with bringing a 5 due process argument, but Bell essentially says the 6 Goldberg vs. Kelly and a number of other cases 7 require that his clients be allowed to cross-examine 8 witnesses at the audit stage, which is the first 9 stage of the process, and the reason that he wants 10 to cross-examine witnesses, he wants to bring 11 employers in, he wants to bring his clients' 1.2 employers in and say, "My client's income is not 13 from a source outside the United States. It's not 14 from a source listed in Regulation 1.861." 15 He wants to argue the merits of, or lack 16 thereof of the U.S. sources argument with employers. 17 Number one, it's a waste of time, but number two, 18 due process does not require what Bell is saying. 19 Due process requires that before serious adverse 20 harm occurs administratively that the person have an 21 opportunity to cross-examine and confront witness, 22 and that process is allowed to taxpayers 23 specifically in the situation of income taxes by 24 going to Tax Court. 25

1	Before the assessment has become final they
2	have an opportunity to appeal the Tax Court,
3	cross-examine anyone that they want, bring their
4	legal arguments to a neutral court. So the due
5	process that is required by Goldberg and the other
6	cases that Mr. Bell cites is in the system. Bell
7	essentially is making up what he thinks due process
8	should be without regard to what the cases say.
9	In summary, Bell denies very few of the
10	government's allegation. If you look at his
11	arguments in the response brief, he doesn't talk
12	about "I didn't do work for Ray Berglund, I didn't
13	work with Hal Hearn." He admits to owning and
14	writing the contents on the website. He also admits
15	to encouraging and assisting others to file tax
16	returns and other documents with the IRS based on
17	this frivolous U.S. sources argument.
18	He also admits to pushing this due process
19	argument, all in support of his U.S. sources
20	argument. So the analysis of whether to enjoin
21	him is really reduced to one question: Is the U.S.
22	sources argument correct? Do the tax code and
23	regulations say that domestic income is tax free?
24	Of course not. Bell's argument is nonsense.
25	The tax court knows it, the 8th Circuit knows it in

the Madge case, federal courts in Tampa and Atlanta 1 who have enjoined Bell's former associates know it, 2 and despite his protestations to the contrary, Bell 3 knows it. Bell needs to be enjoined immediately 4 before he convinces one more taxpayer to evade their 5 taxes and before he draws more money and resources 6 from the government. 7 Complaining about taxes is one thing, but 8 charging people for bad tax advice and convincing 9 them to stop paying taxes is a whole different 10 ballgame. Bell needs to be stopped now, and we 11 ask to court to enter the proposed preliminary 12 injunction. Thank you, Your Honor. Do you have any 13 questions? 14 THE COURT: Not at this time. Do you intend to 15 present any witnesses today? 16 MR. DAVIS: No, but we brought Chris Roginsky 17 from the IRS essentially. If the court has any 18 concerns, we can certainly present Mr. Roginsky. 19 Otherwise we would leave him as a possible rebuttal 20 witness, but other than that we would like to rest 21 on the deposition attachments, the exhibits, the 22 declarations, etc., attached to our preliminary 23 injunction motion, and just to remind the court, we 24 submitted a short memorandum and additional, an 25

1	additional exhibit I believe on Thursday or Friday
2	which included essentially excerpts from a
3	deposition of a gentleman by the name of David
4	Eichner. Do you know if the court received that?
5	THE COURT: I have not looked at that. I have
6	not seen that. Do you have an extra copy?
7	MR. DAVIS: We can get our copy, but we can
8	certainly pass this up if the court do we
9	actually have the
10	MR. DOWIE: I believe we also have the brief.
11	THE COURT: When was that filed?
12	MR. DAVIS: It was filed at the latest on
13	Friday, but I thought it was actually filed on
14	Thursday.
15	MR. DOWIE: We have the brief here, Your Honor,
16	but perhaps when we take a break we could obtain the
17	brief.
18	THE COURT: Why don't we do that. What does
19	this new document consist of?
20	MR. DAVIS: Actually Mr. Dowie took the
21	deposition, if you don't mind I'd
22	THE COURT: Mr. Bell has a copy. Is that your
23	extra copy?
24	MR. BELL: That's mind.
2 5	THE COURT: I don't want you to give up your

	13
1	copy. Thank you for the offer.
2	MR. DAVIS: Mr. Dowie took the deposition. I
3	think he'd be the best person to answer
4	MR. DOWIE: Yes, Your Honor, just to give a
5	brief background of the supplemental brief and
6	transcript from the deposition of David Eichner
7	which we supplied, we filed the brief just to give
8	the court a brief road map as to the additional
9	evidence we believe this deposition transcript
10	affords the court as a basis for entering the
11	preliminary injunction, and I'll go ahead and just
12	summarize that here if the court will indulge.
13	THE COURT: Sure.
14	MR. DOWIE: David Eichner up until a few months
15	ago was the putative general counsel and legislative
16	liaison for NITE. Mr. Bell here hired Mr. Eichner
17	back in early 2001 I believe to serve in this role
18	as the now, I should say initially even though he
19	was labeled the NITE general counsel, Mr. Eichner
20	had a juris doctor degree from Rutgers University,
21	but he did not at that time have a license to
22	practice law, and as I understand it did not receive
23	a license until approximately one month ago from the
24	state of Arizona.
2 5	Nonetheless, Mr. Bell hired him and marketed

him as the general counsel for NITE. Mr. Eichner assisted Mr. Bell in marketing the abusive sections 861 scheme. He met with NITE clients, and perhaps most importantly assisted in drafting numerous drafts which were filed in federal and state courts asserting among other things the frivolous section 861 or U.S. sources argument.

Now, he did these things at Mr. Bell's 8 direction, and he was paid for them by Mr. Bell. 9 He earned approximately I believe in a year and a 10 half about \$15,000 for assisting Bell clients. 11 Some of his more, or one of his more notorious clients 12 1.3 was Thomas Madge, whom the Tax Court fined \$25,000 for asserting the frivolous U.S. sources of the 14 Section 861 argument and whom then at Mr. Bell's 15 direction then filed a frivolous brief with the 8th 16 17 Circuit appealing that Tax Court decision, and of course the 8th Circuit affirmed the Tax Court. 18

19 Still not satisfied, Mr. Eichner assisted 20 Mr. Madge at Mr. Bell's direction to draft the 21 petition for certiorari to the United States Supreme 22 Court, again asserting the frivolous U.S. sources 23 argument, and in the process taking Mr. Madge's 24 money for these purported services. Of course the 25 Supreme Court denied certiorari. Among other things

1	Mr. Eichner also admitted to advising NITE clients
2	as to filing what are known as zero tax returns.
3	That's essentially a return that states that a
4	taxpayer has not earned any taxable income despite
5	the fact that the taxpayer may have earned a
6	substantial amount of money working within the
7	United States during a given tax year.
8	Even more importantly, he testified that he had
9	on multiple occasions seen and heard over, as I
10	understand it over the telephone Mr. Bell making or
11	providing the same advice to taxpayers, telling them
12	they could file a zero tax returns, or zero returns
13	as they're called, regardless of the fact that they
14	may have earned substantial amounts of money working
15	within the United States during a given tax year.
16	Finally, Mr. Eichner has provided a significant
17	amount of testimony they gave Mr. Bell, or that
18	shows that Mr. Bell knows and has reason to know
19	that his arguments are frivolous. For example,
20	Mr. Eichner made it clear that he and Mr. Bell had
21	drafted an extensive discussion of the Tax Court
22	case known as Aiello versus Commissioner. That's
23	A-I-E-L-L-O. I believe that's cited in our briefs.
24	THE COURT: I'm familiar with that case.
25	MR. DOWIE: Yes, sir. I know the court has of

1	course read the materials. We note that that case
2	found its Section 861 argument to be frivolous, and
3	Mr. Bell is obviously aware of the case. Mr. Bell
4	is aware of publications from the Internal Revenue
5	Service stating that the U.S. sources argument is
6	unlawful, and I believe there's some other things,
7	but that I think and I hope provides the court with
8	a brief sketch of what the additional information
9	from Mr. Eichner's deposition will offer with
10	respect to this matter. If the court has any
11	questions?
12	THE COURT: We'll take a look at the materials
13	that you have submitted. I'll read them and review
14	them carefully before we issue a decision.
15	Mr. Bell, you have the opportunity if you would like
16	to file a response to this brief in light of the
17	fact that it is, it was filed only late last week,
18	I'll give you that opportunity.
19	MR. BELL: Thank you.
20	THE COURT: Anything further?
21	MR. DAVIS: Unless the court has questions, no,
22	Your Honor.
23	THE COURT: I don't have any questions at this
24	time. I'd like to hear from Mr. Bell.
2 5	MR. BELL: Thank you, Your Honor. This is my

	17
1	first time on this side of the bench, so please
2	excuse me if I breach any protocols or
3	THE COURT: You can speak freely from where you
4	stand.
5	MR. BELL: This case arises under a singular
6	issue. The entire thing stands or falls on false
7	speech. Whether it's commercial or not, I, the
8	defendant, don't care. If I'm saying something that
9	is false and it is harming people, I certainly want
10	it stopped, and I believe that I well demonstrated
11	that to the United States government in my Exhibits
12	B, C, and E that were attached to my affidavit of
13	facts in this case, but the speech has to be
14	narrowly confined to that which is under Section
15	6700(a)(2)(A) of 26 CFR.
16	That fact is reaffirmed by, the I believe the
17	5th Circuit excuse me, the 8th Circuit, in the
18	case of United States versus White. I have that
19	case with me today if the court would like to see
20	it.
21	THE COURT: Is it cited in your materials?
22	MR. BELL: No, no. That would probably be
23	something that I would submit in the future, but I
24	have that with me today.
2 5	THE COURT: Why don't you gave me the citation.

	18
1	Do you have the citation?
2	MR. BELL: It is United States versus White, 769
3	F.2d 511, 1985.
4	MR. DAVIS: If I may, Your Honor, the government
5	did cite U.S. vs. White at some point. I think I
6	can tell, because I have my cases here, so it's in
7	our briefs.
8	MR. BELL: The specific page citation is page
9	515.
10	THE COURT: Okay.
11	MR. BELL: And if it pleases the court I would
12	like to read it that, it's stated that the false or
13	fraudulent representations about "the allowibility
14	of any deduction or credit, the excludability of any
15	income, or the securing of any other tax benefit,"
16	26 USC, Section 6700(a)(2)(A). I don't deal with
17	credits and deductions, because credits and
18	deductions can only be claimed when one indeed has
19	gross income and makes a claim. So the only issue
20	is exempt income.
21	In this case the government bears the burden of
22	proof under Section 6700(a)(3) excuse me,
23	6703(a). So the issue has to be false speech in
24	regards to what is exempt income. The government
2 5	has to carry that burden of proof. I think it was

1	in Cowen versus United States, which was also cited
2	by the government, which I have copies of for the
3	court should it require it. On page 1148, the only
4	thing really required by the intent of the Congress
5	and the enactment of this statute is false speech,
6	and that's where I draw my position of commercial or
7	noncommercial, I need to tell the truth, because
8	what is false is false and hurts people, and what is
9	true needs to come to light, and that's why I
10	continue to press this, but falsehood is the main
11	criteria.
12	At that I want to touch on Section 7402(a),
13	where Counselor Davis claims that 7402(a) is a catch
14	all statute that would allow this court to issue an
15	injunction against even free speech or poor speech
16	that isn't covered under 6700 or 6701 or anything in
17	the other parts of Section 7400 section. I have no
18	knowledge of the plaintiff presenting any evidence
19	that the Congress intended for Section 7402(a) to
20	function in any capacity for the courts to use it as
21	a catch all against any speech or to regulate 1st
22	Amendment as a catch all, but the government
23	obviously has the authority to issue the injunction.
24	The court obviously has the authority to issue an
2 5	injunction, but only pursuant to criteria of four

1	factors.
2	I found four in particular which have been
3	quite profound in Detroit Free Press versus Ashcroft
4	decided by the 6th Circuit on August 26th of 2002,
5	and the government has to prevail on its merits. It
6	has to show that my speech has already been
7	determined to be false, such as in White on page
8	515, that the false speech determined in that case
9	was pursuant to the reality of judicial decisions
10	that oppose that specific speech.
11	Well, the government has the burden of proof to
12	show that Mr. Bell's speech, his specific speech, is
13	frivolous. All of the cases that Mr. Bell has
14	examined that the government has presented, not a
15	single one addresses the regulations asserted by
16	Mr. Bell, the defendant. Not a single case
17	addresses 1.861-8(a)(4), 1.861-8(t)(d)(2)(ii)(A).
18	That's 1.861-8, paren, small "d," paren, Arabic 2,
19	paren, small Roman numeral, paren, cap "A." This is
20	a matter of law. This is why Mr. Bell continues to
21	speak. It's a matter of 1st Amendment, and it is a
22	fact that according to the United States Tax Court
23	in Chevron versus Commissioner of Internal Revenue,
24	which I have copies for the court should it require
2 5	them, has stated that the regulations have not been

1 altered for over 80 years and have the effect of law. 2 1.861-8 to be exact is the section, and 3 according to the Commerce Clearinghouse publication 4 of it, it's on page 4266, is that specific citation. 5 On page 4265 is the citation of the case called 6 United States versus Corell, U.S. Supreme Court 7 case, that says long established regulations are 8 held to have the effect of law. 9 Herein lies the controversy. In February of 10 11 2001 I wrote a letter to IRS Commissioner Charles Rossoti. I asked him publicly to show me exactly 12 where it is that I am not understanding the law and 13 misrepresenting it, that I am not interested in 14 hurting anybody, neither the government, nor the 15 people, that I wanted the law specifically 16 addressed. 17 18 It has taken this case for me to understand the total magnitude of that which I have done and 19 started and what the 1st Amendment is, and I have 20 begun my greatest understanding with a case called 21 2.2 Speiser versus Randall in 1958, United States 23 Supreme Court. I have copies of that case as well for the court should it want it. Specifically on 24 page 521, and this was a case regarding a state 25

1	imposing a, technically imposing a penalty on free
2	speech, and in Speiser on page 521 the high court
3	stated that "the validity of restraint depends upon
4	careful analysis of the circumstance."
5	In light of the government having to bear the
6	burden of proof under Section 6703(a), the
7	government should be required by this court to
8	specifically address 1.861-8(a)(4) and
9	1.861-8(t)(d)(2)(ii)(A). The significance of
10	8(t)(d)(2)(ii)(A) is that the tax court has
11	continued to issue statements that there is nothing
12	within the regulations that says anything about
13	income being exempt, but 8(t)(d)(2)(ii)(A) is
14	clearly the section of regulation that defines
15	exempt income in relationship to the U.S. sources
16	argument.
17	The United States government, the plaintiff,
18	has asserted that Section 861 has nothing to do with
19	Section 61. In my briefs you will see that I have
20	shown that they do, that the tax court has twice
21	touched upon it and applied 861 statute to Section
22	61 determinations. Therefore the regulations, also
2 3	being law, need to be applied.
24	I have taken great risk to bring this to the
25	attention of the government, who instead of coming
L	

1	to meet with me and talk with me has decided that
2	they would rather crush the 1st Amendment and ask
3	you for help to do so. The government in their
4	brief, as you will see in my response brief, will
5	say that, has said that Section 861 has to do with
6	foreign earned income because of a title within the
7	publication of the code to which I have responded
8	with Section 7806(b), which I have a copy
9	highlighted for all parties here today which says
10	that, "No inference, implication, or presumption of
11	legislative construction shall be drawn or made by
12	reason of the location or grouping of any particular
13	section of provision or portion of this title, nor
14	shall any table of contents, cross reference, or
15	similar outline or analysis or descriptive matter
16	relating to contents of the title be given any legal
17	effect."
18	THE COURT: Okay, Mr. Bell, I don't mean to
19	interrupt you, but if you could talk a little more
20	slowly so our court reporter can get down everything
21	that you're saying.
22	MR. BELL: Okay, but I have that for the court.
23	If the court would like a copy I will give it to you
24	for your analysis.
2 5	THE COURT: Okay.

1	MR. BELL: That case basically is saying to my
2	understanding as a layman who is bound to the law,
3	because ignorance of the law is no excuse, is that
4	the words in the law mean what they say, not titles
5	or groupings or headings, that the law needs to be
6	read for what it is. The government in its motion
7	for preliminary injunction I think submitted about
8	six different arguments. I think if I recall
9	correctly, three of them actually cancelled each
10	other out, and three of them were just completely
11	unreasonable in light of the words in the law and
12	what it says.
13	If the government really believed that I, the
14	defendant, am causing damage to it, it would have
15	been nice if the government came and accepted my
16	three invitations to sit down and show me where it
17	is that I am wrong instead of doing this action, but
18	I understand if it feels that it needs to follow
19	certain procedures and even take this matter to the
20	court, but the requirement that it offer a specific
21	analysis of this argument, although Speiser was
22	1958, has been reaffirmed by the district court in
23	this state, Eastern District of Pennsylvania, in
24	American Library Association versus United States.
2 5	I believe that's been cited in some of my

	25
1	briefs, but not the one regarding this matter, but
2	the American Library Association, Incorporated
3	versus U.S. was 201 F.sub 2d 401, Eastern District
4	of Pennsylvania, 2002. Page 479 seems to be the
5	bulwark of protection of speech when in the
6	government seeks to enjoin it or to suppress it.
7	In one case it's quoting from the Bantam
8	Books case, "The separation of legitimate from
9	illegitimate speech call for sensitive tools. The
10	1st Amendment demands the precision of a scalpel,
11	not the sledge hammer." I have offered an argument,
12	Section 861 regulations. There's approximately,
13	there's over 55 pages of regulations between Section
14	1.861-1 to Section 1.861-8. I state, I argue
15	sections of law on the 17th page of that group of
16	law, of that mass of law, and on the 55th page of
17	that body of law.
18	I do not believe as a citizen that I should
19	sit back and say nothing when the Tax Court attacks
20	something with a broad brush and doesn't address it,
21	that it's my political, moral obligation and duty to
22	press a matter of law that could bring hope to those
23	who are suffering under government oppression, and
24	truly oppression, Your Honor, truly oppression,
2 5	because we did have hearings on matters of

1	government oppression in the IRS in 1997 which gave
2	us the Revenue Reform and Restructuring Act.
3	I understand, I understand what the government
4	believes that they have here. I understand why they
5	are here today, because they have decided that
6	because my speech merely appears to be similar to
7	prior unprotected speech, that they have a duty by
8	order, request, referral, whatever, referral is the
9	proper word, of the IRS counsel in Philadelphia to
10	seek to enjoin me, but the decision of Ashcroft
11	versus Free Speech Coalition, 122 Supreme Court
12	Reporter 1389, and on April 16th, 2002 nonetheless,
13	on page 1404 of the Supreme Court Reporter of
14	West's, let me find that page very quickly, the
15	Supreme Court was gracious to our 1st Amendment
16	rights. In these troubled times it said, "Protected
17	speech does not become unprotected merely because it
18	resembles the latter."
19	For that reason I've offered my time, my
20	efforts to the people of this country and to the
21	government to sit down and show me specifically
22	where it is that my speech is incorrect, because the
23	line is finely drawn. The law and the regulations,
24	the regulations are law, and it's kind of vast, and
25	I didn't do a word count on that to find out how

	21
1	many words are in there, but one ruling that touches
2	on the statute doesn't touch the regulations.
3	Six rulings that rule on the statute and
4	don't touch on the regulations do not touch the
5	regulations, which are still law, and I am bound to
6	from my understanding, from my understanding, and
7	that a judge saying that there is nothing within
8	this regulation that provides exemption I find
9	highly questionable in light of a definition of
10	exempt income at 1.861-8(t)(d)(2)(ii)(A).
11	I offer to this court the case of Detroit Free
12	Press versus Ashcroft, 6th Circuit, I have multiple
13	citations from pages 685, 686, 693, 704, 705, and
14	711. It covers the four factors for preliminary
15	injunction according to the 6th Circuit, which may
16	not apply here, but they seem reasonable to me. The
17	1st Amendment as stated on page 686, "The 1st
18	Amendment prohibits the government from suppressing
19	embarrassing information." I think this is
2 0	embarrassing to them, but I'm more than happy to
21	work it out quietly.
22	693, "The government must account for their
23	choices." I wrote an e-mail to Mr. Davis, and it's
24	somewhere in the mass of this case, probably in one
2 5	of the motions that Judge Yvette Kane denied, I

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1	asked Mr. Davis shortly before New Year's of this
2	year to please show me now where it is that my
3	speech is false so that we can avoid this expense
4	and this effort, because I will confess to this
5	court that I have dealt with the issue of taxes for
б	eight and a half years on the edge of what would be
7	seen as legal, working with people who were being
8	hurt and seeing them taken advantage of by
9	charlatans and liars and con men, and God forbid
10	that I become one of those.
11	I want away from this. I want it addressed. I
12	do not need this in my life. For who in their right
13	mind would think that they can make an existence, a
14	meaningful, have a meaningful life by confronting
15	the IRS and the Justice Department? It's only out
16	of duty and obligation that I'm here.
17	On page 704 the 6th Circuit said in Detroit
18	Free Press, it reaffirms, they reaffirmed free
19	discussion of government affairs that the 1st
20	Amendment is key to that. 705, that the
21	government's selectivity of what information the
22	public sees is a powerful tool for deception. The
23	6th Circuit acknowledged that it's possible that our
24	government could deceive us. In almost any capacity
2 5	that's possible, that the 1st Amendment is the
i	

1	bulwark against that. That is why I'm here.
2	711 was the most profound statement of our
3	times of what our nation faces under the onslaught
4	of terrorism that seeks to undermine the fabric of
5	society and collapse our civilization, that the 6th
6	Circuit stood up and said, "We're not going to do
7	the job of the terrorists and destroy that which
8	they seek to do by force with our gavel," and that's
9	at 711, their last paragraph, I will not bore the
10	court by reading it, but it is truly exciting, but
11	ultimately it states that democracy operates on
12	faith, that government officials are forthcoming and
13	honest.
14	I pray this court sees that I have attempted to
15	be forthcoming and honest. I have only stepped into
16	the arena of attempting to help people to understand
17	the administrative process of the IRS, because in
18	order to bring forth the arguments of 1.861-8(a)(4)
19	and 1.861-8(t)(d)(2)(ii)(A), the administrative
20	process must be exhausted. Mr. Davis in the
21	deposition of Mr. Larken Rose, which is not part of
22	the court record but I have a complete copy here,
23	asked Mr. Rose, who is a significant person in this
24	matter, which I hope to get to in a moment.
25	THE COURT: Would you like to make it part of

the record, Mr. Bell? 1 2 MR. BELL: I would like to, but I don't have a copy for the court today. 3 THE COURT: You can submit it in your response 4 to the government's recent submission if you would 5 6 like. 7 MR. BELL: Thank you for the wonderful suggestion, Your Honor. He asked Mr. Rose, he 8 9 said, "Well, if you filed your claim for refund with this argument, why haven't you sued?" Well, in 10 response to Mr. Davis's question, we have worked 1112 very hard, I have worked very hard for five years now to completely understand the administrative 13 14 process, exhausted, turned over every stone, turned over every point of fact and step, and we have 15 reached the point that the government merely calls 16 17 everything frivolous, throws the people aside, and that the only thing left to do now, yes, Mr. Davis, 18 19 is we will litigate. 20 I have no other choice. I have to carry this 21 forward, because the Supreme Court is the final interpreter of the law, and no one is addressing 22 23 861-8(a)(4) and 8(t)(d)(2)(ii)(A). I would like to 24 go back to the government's brief. Ultimately it 25 seems that the government, both the agents and the

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1	DOJ want to stand on, stand on the term that the
2	idea that the 16th Amendment says that income taxes
3	are imposed on whatever source.
4	Well, the case called Dennis versus United
5	States, which gosh, I have a hard time reading
6	the citations of these things, but it's heavily
7	cited in other items, and I would obviously submit
8	something about it in the future, but it was ruled
9	in 1950 and I have a copy for the court should it
10	need it, and for plaintiff. On page 508 it said,
11	"A phrase only has meaning when associated with
12	considerations which gave birth to the
13	nomenclature."
14	I would have to say that that principle applies
15	to my speech, that the specifics of my speech have
16	to be analyzed for what they are, as well as what
17	the government says when they say whatever source,
18	or even when they say all inclusive, which is cited
19	in Glenshaw Glass, the Glenshaw Glass case from
20	1955, that it's fascinating to read that to find out
21	the term all inclusive actually is not the words of
22	the United States Supreme Court but are actually
23	dicta, citations from the U.S. Congress, but
24	whatever source has already been decided and stated
2 5	in Evans versus Gore in 1920 as basically saying
1	

1	that whatever source does not mean whatever source,
2	and Justice Stone in his citation, in his opinion on
3	page 607 of Wright versus U.S., 1938, states that
4	whatever source does not mean whatever source, and
5	he cites Evans vs. Gore and that very famous case
6	regarding the taxation of federal judges, which I
7	know of course has been overturned on principle, on
8	principle of the judges having to pay the taxes that
9	the people have to pay.
10	To date I have yet to see a single case, Tax
11	Court, U.S. District Court, Court of Claims, circuit
12	Court, United States Supreme Court, that addresses
13	the regulations that NITE argues. NITE continues
14	and persists in this effort for the purposes of
15	redress of grievance, of hearing of the issue. If
16	the court rules on something regarding Section 861
17	statute, that is not hitting the mark, and that is
18	what our assertion is and that is what the assertion
19	of many American citizens is.
20	We want this matter specifically addressed. If
21	we're going to be bound by the regulations, then we
22	want the regulations fully applied. The court
23	addressing the statute is not sufficient. We want a
24	ruling on the regulations as was given Chevron in
2 5	Chevron versus Commissioner. We want a ruling on

	33
1	this definition of exempt income.
2	For my final point on this opening statement
3	that I can I don't think I can make a final point
4	because I want to look at the notes quickly as to
5	what Mr. Davis's opening statements were, but in
6	Enochs versus Williams Packaging, the United States
7	Supreme Court, 1961, it was stated that "The
8	government's chance of ultimately prevailing on an
9	injunction issue is determined by the information
10	available at the time of suit."
11	Since there's no address of
12	1.861-8(t)(d)(2)(ii)(A) or 1.861-8(a)(4), I
13	don't see any that they can prevail. They have
14	not addressed the defendant's argument to prove
15	frivolity. If there was frivolity, then the
16	argument, if it was actually addressed perhaps
17	someone could say that I was defrauding or bilking,
18	defrauding and bilking the government or the people,
19	then it would be arguable. As for Mr. Davis's naked
20	assertion that I claim to be the only one who
21	understands the code, I don't think so.
22	SPECTATOR: That's right.
23	MR. BELL: There is at least one other person
24	I know who understands the code. There are many
25	people that as I understand it, and that's Mr. Rose.

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1	This is his video tape that he made. I'd like to
2	enter it as evidence if possible, Your Honor.
3	THE COURT: Is there any objection, Mr. Davis?
4	MR. DAVIS: For what purpose?
5	THE COURT: It's a fair question, Mr. Bell. For
6	what purpose?
7	MR. BELL: He claims number one that I'm the
8	only person who understands the code, the Internal
9	Revenue Code. Mr. Rose spent untold hours putting
10	together an 88-minute video tape on the statutory
11	history of Section 861 and its regulations all the
12	way back to 1921. It's a presentation showing you
13	only the law, right out of the book. It's rather I
14	dry, and it says what it, it's right there for what
15	it says.
16	THE COURT: And do you have any kind of
17	connection or relation with Mr. Rose?
18	MR. BELL: Mr. Rose was at one time a member of
19	NITE. He joined for reasons I don't know precisely,
20	but he saw my website, he was probably rather
21	concerned like the plaintiff is that my speech was
22	false and frivolous and basically crazy, and he set
23	out to prove that I was wrong, and he came back
24	showing that I'm right.
2 5	THE COURT: Mr. Davis? Any objection?

1	MR. DAVIS: Your Honor, it's not relevant to
2	number 1 of
3	(Verbal comments from spectator gallery.)
4	THE COURT: Now, hang on. I'm only going to
5	hear arguments from counsel, and I will clear this
6	courtroom if I hear any arguments from the gallery.
7	Is that understood? Okay. Proceed.
8	MR. DAVIS: If he's trying to tie it to my
9	statement that Mr. Bell is the only one, he claims
10	he's the only one that understands it, that's
11	certainly not relevant to what the government has
12	to show and what Mr. Bell has to show. Mr. Bell is
13	trying to introduce this essentially as Larken
14	Rose's testimony. He's trying to get in Mr. Rose as
15	some expert in the law.
16	If he's saying that all it says is what's in
17	the regulations, then the court doesn't need someone
18	else to walk it through regulations of the law. If
19	it's something else, then it's expert testimony,
20	Mr. Rose has an associate's degree in I think it was
21	arts and sciences. He's not a lawyer, he's not an
22	expert in the law, and it's simply an effort to
23	introduce his testimony as an expert, and I think it
24	should be disallowed.
25	THE COURT: Could it be relevant to the issue of

1	what NITE does, what kind of an organization it is
2	in terms of the
3	MR. BELL: I believe, Your Honor, that it's
4	relevant in respect to showing that I have not
5	misrepresented the existence of the law nor the
6	presentment of the law and the assertion of it by
7	the NITE members, and I would also like to say that
8	I was up until 3:00 in the morning reading the rules
9	of the evidence, and in examining Rule 702 and the
10	notes regarding it, it doesn't show that for someone
11	to even be an expert that they have to be a
12	professional, that experience is also admissible.
13	Mr. Rose spent, I have no idea, at his deposition he
14	says at least 500 hours researching the law and
15	researching all of the law on this section of the
16	law.
17	THE COURT: I'm going to allow the video tape
18	to be submitted, and I'll give it the weight it
19	deserves under the circumstances after I have had
20	an opportunity to review it, and without reviewing
21	it I think I should take it in and take it into
22	consideration. We would like to have that I believe
23	marked as an exhibit, we'll mark it Defendant's
24	Exhibit Number 1.
2 5	MR. DAVIS: Just so the court doesn't worry

1 about copies, the government already has a copy of 2 that. THE COURT: Oh, you do? 3 MR. DAVIS: Yes. It was actually one of the 4 exhibits to the Larken Rose deposition. Mr. Bell 5 is going to submit that deposition transcription, 6 he would have submitted that. 7 (Defendant's Exhibit 1 marked for evidence.) 8 MR. BELL: The government claims that 9 individuals have used this argument to file 10 erroneous refunds. There is a point of my Exhibit P 11 12 in support of my affidavit of facts in response to the complaint, Your Honor. Exhibit P is a 13 transcript of the case of the United States of 14 America Versus Gene Webb before the Honorable Judge 15 16 Anne Conway. For background, Mr. Webb came to me going before a judge who had just put his mother in 17 18 prison for filing a zero return, and that he was going to be imprisoned should he not file a return 19 for sake of compliance with his probation agreement, 2.0 or parole, I'm not sure which one. 21 After discussing the matter with me he 22 determined that he wanted to make contentions of 23 factual nature using the Form 4852 and the Form 8275 24 25 making this argument. It was presented to the

	20
1	court, to the IRS, via certified mail as presented
2	to the court. My Exhibit O shows the United States
3	attorney objecting to its submission of this type of
4	return. The Exhibit P shows that in May of 2000
5	U.S. Attorney Gold saying, "He now filed his `98 and
6	`99 returns as I understand it, there would have
7	been refunds due. However, due to his previous tax
8	problems the IRS used those refunds to apply to some
9	old debts."
10	That's on lines 16 through 19, Your Honor. It
11	appears very clear by the evidence of the admission
12	of the United States Department of Justice that
13	Mr. Webb's return, which used the argument of NITE,
14	using the forms of the government, was accepted and
15	a refund was due, and in the end the document speaks
16	for itself.
17	Judge Anne Conway released Mr. Webb from the
18	court. He has not had to have to return. It was
19	acceptable argument. That, Your Honor, that event
20	alone was seminal in my eight years of efforts. It
21	was clear to me at that moment that I needed to pay
22	attention to what happened in that court as very
23	profound, and I went to some fact research and found
24	the case of the United States versus Sullivan, which
2 5	I believe is 1927, which helped me communicate to

NITE members that it is time to stop fighting the 1 government about the requirement to file returns, 2 that the U.S. Supreme Court was clear: If the З government believes you're required to file a 4 return, file the return, but it also says that 5 you're not precluded from making your arguments on б the face of the return in light of the existence of 7 the Form 4852 and 8275 as used by Mr. Webb in his 8 case where a judge well familiar with the law has no 9 problems putting people in jail, and a Justice 10 Department attorney who was well familiar with it 11 and originally objected it as frivolous, and the 12 IRS, all three, saying basically in paraphrase, Your 13 Honor, return received, refund due, send him home, 14 convinced me that it was time to tell the people who 15 have been fighting the government about whether or 16 not to file to stop the agony of willful failure to 17 18 file cases, engage the government in their process, with their forms in good faith, and settle the 19 2.0 issues. It is claimed that I'm enriched by this effort. 21 Probably only in my service to my fellow man. 22 23 Money? No. It's shoestring, Your Honor. It's month to month. This isn't -- this is not something 24 that the American people want to do. They don't 25

	-20
1	want to come before you and take your time. They
2	don't want to go into IRS audits. They are afraid,
3	and they're all sitting back waiting to see what you
4	do to me and to the 1st Amendment. The government
5	says I know of cases. I've already given my point,
6	none of the cases address the law that I argue,
7	specifically with the specificity of a scalpel as
8	ALA stated in Speiser says that the line is finely
9	drawn. The only thing that can address it is
10	something precise.
11	It is stated that I used the same regulations
12	as others have in prior cases. I find no evidence
13	of that in the case of Aiello versus Commissioner,
14	Solomon versus Commissioner, you name the case. If
15	the case can be shown to me, I am a reasonable man.
16	I have watched for years as a gentleman by the name
17	of Bill Benson has travelled the company saying the
18	16th Amendment was never properly ratified.
19	I went to the law library, I looked into West's
20	4th Digest on the income tax, I found the case of
21	U.S. versus House. It was only a district court,
22	but its reasoning and logic as to why his argument
23	against the 16th Amendment was invalid was so purely
24	reasonable that I acknowledge without question that
2 5	that gentleman is wrong in his argument.

-1	
1	I am willing to reasonably resolve this. I am
2	willing to be reasonable if the government will
3	specifically address the argument. Mr. Dowie in
4	December said that will come out in court. Well, in
5	light of Enochs versus Williams Packaging, that
6	which shows my speech to be false needs to be in
7	existence in and public knowledge prior to the
8	filing of suit, or least at that moment. I haven't
9	seen it.
10	THE COURT: Mr. Bell, do you have any additional
11	arguments at this time?
12	MR. BELL: I'm trying to go through my notes
13	quickly. The government specifically cites the
14	Madge case. Again it didn't address the argument.
15	The government claims they needed to shut me up in
16	order to stop another person from believing this
17	allegedly false argument. Your Honor, I don't
18	believe that quieting me is going to shut down this
19	argument. There have been 20,000 I believe of those
20	video tapes produced. If the government fails to
21	specifically address and resolve this matter, it's
22	only going to hurt the image and the people's faith
23	in their government, as mine has been hurt because
24	of this suit.
2 5	THE COURT: 20,000 video tapes of what?

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1	MR. BELL: Of that video tape, Exhibit 1.
2	THE COURT: Oh, okay.
3	MR. BELL: And they're being distributed. I
4	have nothing to do with that by the way. I believe
5	that Justice Brandice was very, very wise in his
6	understanding of the 1st Amendment in Whitney versus
7	California where he said when there's no clear
8	impending danger of evil, that the solution in a
9	situation of free speech is not to forcibly stop the
10	speech, but to have more speech. I believe, Your
11	Honor, that the government being given this
12	injunction at this time without specifically
13	addressing the argument will not, it may win this
14	battle, Your Honor, but it's only going to heat up
15	even worse, and I am not going to be able to help
16	anybody understand how to address the situation, how
17	to resolve the situation in the future if I am
18	muzzled.
19	As for Mr. Dowie's statements about the
20	deposition of Mr. Eichner where he made assertions
21	about me having knowledge of case law, again nothing
22	is addressed in the regulations specific, the two
23	that I have repeated to the point that I do not want
24	to harass the ears of the court any further with
25	them.

THE COURT: And Mr. Bell, I've already granted 1 you allowance to respond to those arguments in 2 writing. 3 MR. BELL: Yes, sir. 4 THE COURT: And I will take them into 5 consideration. 6 MR. BELL: And as for the claim that Mr. Bell 7 made advice to people to file zero returns, for his 8 sake he is not here to raise objections. I have 9 looked at this, and you will see in my response what 10 I do with this, that Mr. Dowie twists word so 11 heavily, as in his example on his Exhibit 11, on his 12 document he claims that this Exhibit 11 shows that 13 an attorney "had found no case, rule, or regulation 14 under IRC Section 861 which could be used to modify 15 section 61's definition of gross income," and then 16 he brings in his own inflection into this, his own 17 interpretation. He says, "In other words, the 18 letter informed the addressee that there was no 19 legal justification for the NITE U.S. sources 20 scheme." 21 Well, first of all, Your Honor, the letter 2.2 doesn't mention NITE, and second of all this exhibit 23 states "I must report," this is Exhibit 11 of that, 24 25 which you will get a copy of from Mr. Davis, "I must

1	report that in the course of this research I found
2	no case law, rule, or regulation addressing the
3	argument" It is a case of first impression, Your
4	Honor, and a case of first impression, it has not
5	been ruled upon. It has not been addressed by the
6	courts. It has not been addressed by Mr. Dowie, who
7	was asked nicely to be forthcoming and honest so
8	that we could expedite this matter, save the time of
9	the court, save me the stress and anguish that has
10	gone along with facing the most powerful government
11	in the world, that would save more people from
12	arguments with the IRS and the pain and suffering
13	that they endured. I want it ended. I want the
14	issues addressed. I've sought to do it nicely. I
15	thank you for entertaining my presentation.
16	THE COURT: I have a couple of questions for
17	you. You've seen the government's argument with
18	respect to the commercial nature of your speech?
19	MR. BELL: Yes, Your Honor.
20	THE COURT: Do you agree that you are providing
21	through the NITE website advice and that your speech
22	should be considered commercial speech?
23	MR. BELL: No, Your Honor. I believe it's
24	purely political in every form. I have met
2 5	with people who have seen others who are out there

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1	who will attempt to charge them \$40,000 just to
2	retain them in association. I have seen other
3	organizations that will charge \$600 for such, and
4	they will not even help the person understand what
5	the procedures are with the IRS, with the courts,
6	what their rights are, or even begin to crack open a
7	law book.
8	Your Honor, this is political, because taxes
9	are of a political nature, and we probably have the
10	most vital political nature second to free speech
11	within itself. That is the only reason why I can
12	see, Your Honor, that Mr. Davis, Mr. Dowie, Mr. Raum
13	would even dare to be here and to take the tax law
14	and push it up against the 1st Amendment and see
15	which one cracks first.
16	THE COURT: For that political speech are you
17	receiving any form of remuneration or any form of
18	funds flowing from members of NITE, whether it's in
19	the form of donations or in some other form?
20	MR. BELL: That would, the point is that, and
21	I'm not, I was not prepared to speak of that in
22	particular, because all I'm concerned about is
23	falsehood. For if anything I'm saying is false,
24	that is sufficient to get my full cooperation, Your
25	Honor. The point about receipt of remuneration was

addressed in the U.S. Supreme Court case I believe, 1 and it might be in my, I do believe I mentioned it 2 in my opposition brief. It said that remuneration, 3 Your Honor, if remuneration were the sole criteria 4 or even used as a criteria opens the door for even 5 the newspapers to be regulated. б THE COURT: But I'm asking you, and I'm asking 7 you directly, do you receive any form of donation or 8 remuneration or any kind of compensation whatsoever? 9 MR. BELL: As a newspaper does and as any 1.0 political party and political movement, Your Honor, 11 ves. That's according to this court decision that I 12 read. I see why the court determined that receipt 13 of money cannot be that determination. It has to be 14 the value of the speech. It has to be the nature of 15 what's going on. I'm not selling the pharmaceutical 16 drug, I'm not selling cars, I'm not selling a 17 commodity item. I'm discussing law, political 18 action, legal action, and rights. I'm not selling 19 these things. In fact, most of everything I do I 20 21 give away. THE COURT: The government contends that the 22 injunction is necessary to halt additional advice 23 being given to more people that they claim is 24 erroneous, clearly erroneous. What is your 25

	- /
1	intention if I do not issue an injunction with
2	respect to the use of the NITE website?
з	MR. BELL: Presently the members hall has been
4	taken down because of lack of staffing and the
5	ability to keep that information up to date.
6	Presently the members get information from me
7	directly, Your Honor. They send me a note, they
8	communique, and I provide them what they need
9	according to what I know.
10	THE COURT: What kinds of things and I assume
11	that that's what you would like to continue to do?
12	MR. BELL: Yes.
13	THE COURT: And what kinds of information do you
14	provide them?
15	MR. BELL: Administrative procedure, information
16	about their rights.
17	THE COURT: Including their rights under the
18	Internal Revenue Code?
19	MR. BELL: Specifically that, through the
20	administrative process. I didn't get to address
21	Mr. Davis's comment about the tax court being the
22	venue for confronting and cross-examining adverse
23	witnesses. It's my understanding, Your Honor, in
24	the Tax Court the burden of proof has already been
2 5	well placed on the individual and the government

doesn't have to call its witnesses for the person to 1 be able to confront and cross-examine. So my 2 logical conclusion was press the issue in the 3 examinations process and let's find out what the 4 reasonable answer is, why they can't bring the 5 witnesses forward in examination and expedite these 6 7 matters. That was the determination in my mind as to 8 what to do with examinations, and I saw they clearly 9 had the authority under Section 7602 to summons the 10 witnesses against the individual, and with cases 11 such as Goldberg versus Kelly and Green versus 12 McElroy, and I think it's Olden versus Kentucky, and 13 many other case, the 6th Amendment is the key as 14 getting to the truth. 15 If the examinations process isn't about getting 16 to the truth of the matter, then I just don't even 17 want to say what kind of process it is, Your Honor. 18 It's just, it's too scary. I don't want to 19 prejudice the court with any type of emotional 20 outburst. The 6th Amendment in regards to people's 21 means to defend themselves against an agency with 22 such power, the ability to get to the truth, to know 23 the truth. That's what this is about, just to get 24 to the bottom of it. 25

1	The only way to get to the bottom of it,
2	Your Honor, is to take the matter through the
3	administrative process, exhaust it as the courts
4	require, and then step into the courts with a claim
5	for which relief can be granted. This court here is
6	being asked by the plaintiff to say that this
7	decision, this argument is already known to be
8	frivolous.
9	This court's authority within this regulation
10	of free speech, 6700, 6701, is limited, that it
11	cannot now put the cart before the horse and say,
12	"Well, we've now considered the argument, and now
13	we're going to address it and now it's frivolous, so
14	all your prior speech, Mr. Bell, is sanctionable."
15	No, that's not the function of this court from
16	everything that I have read. It has to already be
17	established and the burden of proof upon the
18	plaintiff to present that.
19	THE COURT: I understand. You've presented that
20	argument and you've cited the Enoch case. Do you
21	have anything further you'd like to add?
22	MR. BELL: I have nothing further, Your Honor.
23	I could present witnesses, but the admission of the
24	video tape is overwhelming. I could bring in
2 5	witnesses about the inconsistencies seen by the IRS,

but I don't want to detract this court's attention 1 and valuable time from the clear, simple issue about 2 those two sections of regulation. Do the people 3 have the right to press those regulations forward in Δ the administrative process to bring it to the 5 judiciaries attention? Do the people have the right б to group together, to band together so that they 7 don't continue to make the same mistakes as the tax 8 freedom fighters have repeated year after year for 9 three decades. I have sought to bring forth reason 1.0 and prudence and respect to this issue. I have 11 tried to avoid this day. 12 THE COURT: Anything further? 13 MR. BELL: Thank you. 14 THE COURT: Thank you for your presentation and 15 your demeanor, Mr. Bell, which was excellent. Does 16 the government have any response? 17 MR. DAVIS: Yes, Your Honor. Just a couple of 18 short points. First, the government is not saying 19 that this argument is frivolous because the Tax 20 Court has ruled on it and because courts have 21 enjoined three other people for promoting the same 22 argument. That's further evidence of why Mr. Bell 23 should stop and should know and does know that what 24 25 he's doing is wrong.

1	The argument is frivolous because it's
2	frivolous. If you look at the regulation, it says
3	in no that he's relying on, in no uncertain terms
4	it says that this regulation is only applicable to a
5	certain defined group of other sections of the
6	Internal Revenue Code, calling them operative
7	sections. There is no reasonable way of reading
8	that regulation any other way, and yet Mr. Bell and
9	Mr. Rose and whoever else he would like to submit to
10	the court as one of his friends will try to argue
11	the other way, but it's frivolous because it's
12	frivolous. The tax court decisions are helpful to
13	the court, but they also really show that Bell
14	should know and knows that his argument is
15	frivolous.
16	Next, he also talked about this case of Ms.
17	Webb, or Mr. Webb. If he submitted the, that
18	taxpayer's tax returns, the court will be able to
19	evaluate whether in fact that was number one even
20	accepted by the IRS, because I can write on my
21	return that I'm not liable for any taxes because I'm
22	left-handed, and if indeed I didn't earn any money
23	that year, then the IRS will accept the return.
24	The issue is not simply whether he made the
25	argument, but also whether the individual actually

earned enough money, and then the second issue is 1 did the IRS make a mistake or not. Obviously the 2 IRS has shown in this case that it does make 3 mistakes. It issued a \$475,000 refund to one of Δ Mr. Bell's clients after this case was ongoing. 5 That shows number one the IRS makes mistakes, but it 6 also shows why the injunction was needed. 7 His answer to the court's, one of the court's 8 last questions about the website and what he's 9 presently doing shows that the website, although is 10 one of the things that the government wants to 11 address, his actions are part and parcel of his tax 12 scheme. He is telling people on a daily or hourly 13 or weekly basis, whatever it is, that "You don't 14 have to pay your taxes, and I will show you how to 15 use my arguments to avoid taxes." 16

So if it's on the website or not, if he shuts 17 the website down, he will still, as he said he will 18 still give one on one advice to his clients. He's 19 essentially practicing law without a license, and 20 his clients are getting what they pay for. He's not 21 an attorney, he has no legal training, and he's 22 misinterpreting the law, misinterpreting the 23 regulations, and steering his clients wrong, and 24 they're the ones -- I mean other than the 25

government, which obviously is losing revenue, they 1 are the ones who suffer, and they don't, a lot of 2 them don't even know it. They'd still stand him 3 until he ends, which is why he needs to know through 4 the court's order that it is not okay what he's been 5 doing. 6 Finally, Bell says that he would have stopped 7 if someone addressed his argument. Well, the IRS 8 has addressed his argument on four or five occasions 9 with public pronouncements, and every time Bell and 10 Mr. Rose and other people in this movement 11 deconstruct what the IRS has said and said we don't 12 agree, you didn't exactly do this right or you don't 13 do that right, they will never be satisfied with any 14 explanation that this court gives or that the 15 government gives. They will continue to do it 16 unless they're told they can't make this argument 17 anymore. They can't get paid for it and they can't 18 incite others to evade their taxes by use of this. 19 Thank you very much, Your Honor. 20 THE COURT: Thank you. Mr. Bell, in closing 21 would you like to address any of the arguments that 22 have been raised by the government? 23 MR. BELL: Yes, sir. The government claims that 24 the argument is frivolous because it's frivolous. 25

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1	The regulations state they are only applicable to
2	the named operative sections. I ask the court to
3	take careful judicial notice of 1.861-8(a)(4) which
4	states that the, that there are other sections and
5	other operative sections that apply and residual
6	groupings and a lot of confusing talk, but in
7	particular it states that some income from sources
8	is exempt and falls within the definition of exempt
9	income at 1.861-8(t)(d)(2)(ii)(A).
10	Mr. Davis, the plaintiff, excuse me, has not
11	shown anything that addresses the specifics of that
12	section of law to show the defendant how it is that
13	1.861-8(a)(4), does not mean what he is reading it
14	to say, and that the definition of exempt income
15	doesn't apply to that. To date I haven't seen
16	anything, so I believe that the government has
17	failed to carry its burden of proof.
18	It's an interesting point that the government
19	raises that there needs to be proof that Mr. Webb's
20	return was accepted. I think that matter is res
21	judicata before Judge Anne Conway, that the U.S.
22	Attorney's Office agreed with what the IRS
23	determined. They knew well that Mr. Webb, he had
24	already been in prison before. They knew well of
2 5	his mother. They knew well of his boss. His mother

1	and his boss were in prison at the moment that he
2	submitted those returns by the order of that judge.
3	The government knew well what it was that he
4	submitted. I just thank God that what happened did
5	happen. Now, if the government now is complaining
6	that they're getting all these returns, well, Your
7	Honor, the prior five years of my life before the
8	Webb decision I had been seeing all kinds of people
9	listening to others running about the country saying
10	don't file returns. The Webb case showed me
11	something to show to the people to say file your
12	returns, engage the government properly, stop
13	suffering and hurting yourselves. We will resolve
14	this over time.
15	Now the government claims and protracts this
16	argument to say that my actions are a tax scheme.
17	Well, in light of the breadth of Section 6700, Your
18	Honor, I'm not going to argue that the Congress
19	enacted a law to stop false, frivolous, fallacious,
20	and fraudulent speech about the Internal Revenue
21	Code, but in enacting such a law the courts have
22	made it clear that it is always been the precepts of
23	the 1st Amendment that require the government to
24	specifically address the speech and address that
2 5	fine line between protected and unprotected speech

1	and not use a sledge hammer and not merely cast
2	speech into one category because it looks like it
3	is, and as far as his assertion of practice of law,
4	I have no knowledge that that is an issue before
5	this court, that it is material to this issue, and
6	that it is an issue that's within the jurisdiction
7	of this court at all.
8	I have sought to create a private organization
9	of individuals and operate to assist them in a pro
10	se capacity as a friend, as a person who has watched
11	far too many people get hurt by the false arguments
12	and charlatans in this country, and to get to the
13	only issue I see left to bring up to the government
14	and end this 30-year conflict. The government has
15	also said that they had issued numerous public
16	pronouncements.
17	Well, they wouldn't respond to my letter to
18	Charles Rossoti, the first one, the second one, nor
19	the third one. I believe I did a responsible, a
20	politically responsible act. I committed one by
21	responding in writing with specificity to the
22	government's public pronouncements that they try
23	to construe to address my specific speech, because
24	the government has not come forth with authorities
2 5	and specific authorities and address as required in

	57
1	Speiser, they claim that I and others will not, will
2	never be satisfied.
3	Not true. How do they know what I believe,
4	Your Honor? How do they know what my actions are?
5	How do they know what I think? I just have clearly
6	told you what it is that I need done. They failed
7	to do it. They were supposed to do it from the
8	beginning. The case seems to be clear. They failed
9	to carry the burden of proof. Therefore, this case
10	must be dismissed post haste, because I'm under a
11	lot of stress.
12	They say that I will continue to incite others
13	to evade. As I said, for 30 years I've watched
14	people tell others not to file returns. If not
15	filing returns, seems to be a pretty clear effort of
16	an action to evade. I have no longer sought for
17	people to do that. I have never sought for them to
18	do that, but I have tried to educate them on U.S.
19	versus Sullivan to engage their government in the
20	process provided using the Form 4852 which clearly
21	states that it is used to point out when a W-2 is
22	incorrect.
23	THE COURT: And how have you used Form 4852 and
24	U.S. versus Sullivan?
2 5	MR. BELL: Well, U.S. versus Sullivan says that

if the government requires you to file a return you 1 have to file a return, and what I have sought to do 2 was help people bring forth their contentions of 3 factual nature against the claim, the naked claim of 4 the employers that they earned something that's 5 includable within gross income, because the form 6 says in its instructions as shown in Exhibit 3, my 7 Exhibit Number 3 in this case, that -- I'd better 8 read it to you. 9 THE COURT: I have it. 10 MR. BELL: Okay, "if you receive an incorrect 11 W-2." Well, looking at the logical rules of 12 evidence, the only way -- if the IRS isn't going to 13 listen to what someone says when they step into a 14 meeting, but they've created a form, it's the 15 individual's responsibility to know about the form, 16 implement the form, and implement the process 17 properly and respectfully, and that's what the 4852 18 is about. The 8270 --19 THE COURT: Give me an example of how you would 20 use U.S. versus Sullivan and Form 4852. 21 MR. BELL: Well, the U.S. versus Sullivan is 22 just a point of understanding to help the individual 23 to understand that if you are facing a W-2 and a 24 1099 filed against you, don't try to hide, because 25

1	it's in the computer and it will come up one day
2	and you will have to face this. So consider when
3	the IRS tells you to file, that we don't have a
4	return, CP Form 515, 518, that the government is
5	asking you to file a return, and Sullivan certainly
6	applies in such a case.
7	THE COURT: Okay. Then tell me how you would
8	use, give me an example of how you would use Form
9	4852. Is it specifically to identify an incorrect
10	form W-2?
1 1	MR. Bell: Or 1099, sir, Your Honor.
12	THE COURT: Or 1099? And how would you give
13	me an example of how you would identify an erroneous
14	W - 2 .
15	MR. BELL: Well, it would be addressed, the
16	address that, the name of the person, their social
17	security number, their address, the year, the
18	employer's name and address and EIN if known, and
19	the person would make their contentions of factual
20	nature on the spaces provided in this form, which
21	would be where they would put in the amounts, and if
22	they believe they had no gross income and they had
23	nothing includable in gross income, including wages
24	as defined by law, then they would state zero in
2 5	contention of fact.

THE COURT: Okay, and have the arguments that
you've been raising in your briefs and that you're
raising here today, is that what you would use to
assert that the W-2 is incorrect and identify zero
for the wages earned?
MR. BELL: That's the only way I see that could
be used, Your Honor.
THE COURT: So your answer is yes?
MR. BELL: I have offered it to other people
that this is what I see. It is up to them what they
want to do. I never fill in any forms for anybody,
and I tell them this is what I see. This is what I
understand. If you're going to make an argument,
you've got to use their forms and processes.
THE COURT: So whether you fill out the form or
somebody else fills out the form, this is the manner
in which you describe how the form could be used?
MR. BELL: I understand this is the manner, if I
were give an specific example, I understand that was
the manner that was implemented by Mr. Gene Webb.
THE COURT: Pursuant to your advice?
MR. BELL: I don't want to play with the word
advice. I can't venture there without sitting down
and looking at it.
THE COURT: Well, pursuant to the information

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1	that you provide, you anticipate that people will
2	take action with respect to Form 4852 if they agree
3	with your interpretation of the
4	MR. BELL: If they agree.
5	THE COURT: Let me finish, if they agree
6	with your interpretation of 861 or regulations
7	promulgated thereunder and your interpretation of
8	the instructions as they appear on Form 4852.
9	MR. BELL: Yes, sir.
10	THE COURT: Thank you.
11	MR. BELL: And also Form 8275, which is quite
12	significant. As I believe my response to the motion
13	for preliminary injunction addressed the 8275 in
14	that I believe in the regulations at 1.6662-4 state
15	that the use of the 8275 absolves the filer from a
16	claim of the government of understatement of the
17	liability. I am trying to exhibit to the government
18	and to this court that my effort has been to take
19	this information and bring it to the attention of
20	the people so that they can bring it to the
21	attention of the government through the proper
22	process, not to rail, shake their fists, or waste
23	time.
24	THE COURT: Mr. Bell, how much time would you
2 5	like to respond to the government's most recent

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submissions to the court? 1 MR. BELL: Thirty days would be nice. 2 THE COURT: I can't give you thirty days. 3 MR. BELL: Then I guess the rules would have to 4 be fifteen. 5 THE COURT: I'll give you fifteen days from your б receipt, which would have been Friday? 7 MR. BELL: Friday, yes, Your Honor. 8 THE COURT: So it will be due Monday, November, 9 help me with the date of the month, I think the 10 18th? 11 COURTROOM DEPUTY: Yes. 12 THE COURT: 19th? 13 COURTROOM DEPUTY: 18th. 14 15 MR. BELL: 18th. THE COURT: Anything further, gentlemen, on 16 either side? 17 MR. DAVIS: Nothing further, Your Honor. 18 THE COURT: Mr. Bell, anything further? 19 MR. BELL: Not at this time. 20 THE COURT: Okay. We'll take a good hard look 21 at your written submissions after November 18th when 22 they are due, and we will close these proceedings 23 with respect to the motion for preliminary 24 injunction. I would like counsel and Mr. Bell to 25

stay for a second with respect to other pending 1 matters. I have a motion to strike a supplemental 2 document that was filed by Mr. Bell, and I have I 3 think a motion to compel, but was that ruled upon by 4 Judge Kane? 5 MR. DOWIE: No, Your Honor. 6 THE COURT: Okay, so you have a pending 7 outstanding motion to compel, and Mr. Bell, you 8 have a pending outstanding motion to strike? 9 MR. DAVIS: Your Honor, I thought the motion to 10 strike had been ruled on, but which motion to 11 strike? I know at the very least one has been ruled 12 on. I don't know if he did more than one. May I 13 take a look at the docket? 14 THE COURT: Okay. Mr. Bell, has your motion to 15 strike been ruled upon? 16 MR. BELL: I believe so, but I cannot affirm 17 that at this time. 18 THE COURT: All right. We'll take a look to see 19 if there's an order outstanding on that, and your 20 motion to compel has not been ruled on? 21 MR. DOWIE: That is correct, Your Honor. 22 MR. BELL: I believe the motion, Your Honor, the 23 motion to compel was possibly pending in the review 24 of the documents. 25

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1	THE COURT: That's pending the in camera review,
2	yes. Any other pending motions that you need to
3	bring to the court's attention?
4	MR. DAVIS: None for the government, Your Honor.
5	THE COURT: Mr. Bell?
6	MR. BELL: No, Your Honor.
7	THE COURT: Okay. Very good. The record is
8	closed. We'll await Mr. Bell's submissions, and I
9	would like to close the record with Mr. Bell's
10	submissions to bring these proceedings to its
11	logical conclusion so that I can rule. I'm not
12	going to allow the government to respond to
13	Mr. Bell's reply. We have too many briefs as it
14	is, and so that will be the last document that I'll
15	review before ruling on your motion.
16	MR. DAVIS: Understood.
17	THE COURT: Okay? Thank you. We are adjourned.
18	(Thereupon, at 11:11 a.m. the proceedings were
19	adjourned.)
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	65	
1	INDEX	
2	Preliminary Injunction Hearing	
3	USA vs. Thurston Paul Bell	
4	1:01-CV-2159	
5	4 November 2002	
6		
7	Argument:	Page:
8	Mr. Davis	3
9		
10	Response:	
11	Mr. Bell	16
12		
13	Rebuttal	
14	Mr. Davis	50
15		
16	Surrebuttal	
17	Mr. Bell	5 3
18		
19		
20		
21	Exhibits: Description	Page:
22	Defendant's 1 Video tape by Lanken Rose	36
23		
24		
2 5		

IN THE UNITED STATES DISTRICT COURT 1 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA HARRISBURG DIVISION 2 UNITED STATES OF AMERICA, : CASE NO. 3 : 1:01-CV-2159 Plaintiff 4 : vs. : Harrisburg, PA 5 : (Judge Conner) THURSTON PAUL BELL, individually : 6 and d/b/a/ NATIONAL INSTITUTE . . : 4 November 2002 FOR TAXPAYER EDUCATION, 7 Defendants : 9:30 a.m. 8 9 TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING 10 BEFORE THE HONORABLE CHRISTOPHER CONNER UNITED STATES DISTRICT JUDGE 11 APPEARANCES: 12 For the United States: 13 Evan J. Davis, Esquire 14 Donald N. Dowie, Esquire U.S. Department of Justice 15 Tax Division, Central Trial Section Washington, D.C. 20530 16 202-514-0079 17 For the Defendant: 18 Thurston Paul Bell (appearing pro se) 19 118 Carlisle Street, Suite 201 Hanover, PA 17331 20 717-637-7797 21 22 Court Reporter:

Wesley J. Armstrong, RPR

228 Walnut Street, Room 804

http://www.nite.org/USvBell/11-4injunctiontranscript.html (1 of 74) [4/10/2003 4:41:32 AM]

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24 25 228 Walnut Street, Room 804 Harrisburg, PA 17108 443-418-7154

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PROCEEDINGS 1 THE COURT: Thank you. Please be seated. 2 We're here today on the government's motion for 3 preliminary injunction against Thurston Paul Bell, 4 case number 1-CV-01259. It's the government's 5 motion. Would counsel identify themselves for the 6 7 record? MR. DAVIS: Excuse me. Certainly, Your Honor. 8 My name is Evan Davis. I'm government counsel. 9 This is Don Dowie, who also is going to counsel. 10 Actually in the front row is another attorney who 11 just joined our office named Michael Raum, and down 12 here is Chris Roginsky, who's an IRS employee. 13 14 THE COURT: Good morning. MR. ROGINSKY: Good morning, Your Honor. 15 THE COURT: You may be seated, and Mr. Bell, 16 you're representing yourself, is that correct? 17 MR. BELL: Yes, Your Honor. 18 THE COURT: Okay. Because you're going to I 19 assume be testifying at some point during this 20

http://www.nite.org/USvBell/11-4injunctiontranscript.html (2 of 74) [4/10/2003 4:41:32 AM]

0	assume be testifying at some point during this
1	proceeding, I'm going to swear you in now so that
2	you're under oath, okay?
3	MR. BELL: Certainly.
4	THE COURT: Please rise and give the oath,
5	Ms. McKinney.

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1	(Mr.	Thurston	Paul Bell	was sworn	by the
2	courtroom	n deputy.)			
3	THE	COURT: Oka	y. The go	vernment m	ay proceed.
4	MR.	DAVIS: Tha	ank you, Yo	our Honor.	Your Honor,
5	the defer	idant Thurs	ton Bell r	needs to be	stopped now
б	before he	e causes fu	arther dama	age to his	clients or
7	the Unite	ed States 7	freasury.	Bell is se	lling an
8	abusive t	tax scheme,	defraudin	ng his clie	nts, and
9	bilking H	the U.S. Tr	ceasury. H	Bell helped	clients file
10	tax retu	rns based o	on his friv	volous U.S.	sources
11	argument,	, which fra	audulently	claims tha	t all
12	domestic	income is	tax free.		
13	Bel	l claims th	hat his cl:	ients have	received
14	refunds	in excess (of a millio	on dollars	based on this
15	frivolou	s scheme.	Bell also	recruits s	o-called
16	senior f	ellows to :	spread his	gospel thr	oughout the
1 7 http://www.r		and recruit Inctiontranscript.html (3			's clients

17	country and recruit more clients. Bell's clients
18	are relying on him and his fellows to provide sound
19	tax advice, but Bell, who has no tax accounting or
20	legal training, claims to be the only one who really
21	understands the tax code.
22	Nothing can be further from the truth. The
23	argument is a consistent loser, the U.S. sources
24	argument. All taxpayers who have raised it have
2 5	lost, most have been penalized, and most courts have

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1	deemed it to be a frivolous argument. Three former
2	clients or associates have been summarily enjoined
3	for promoting the same argument, but Bell still
4	continues.
5	Bell's activities have resulted in harm to the
6	government. Clients use Bell's arguments to evade
7	their taxes and to delay the IRS process. The
8	government will eventually catch up with these
9	clients and subject them to possible civil and
10	criminal penalties. Audits and investigations will
11	continue, and the government has filed three
12	erroneous refund suits against Bell's clients or
13	former clients, but some erroneous refunds still

http://www.nite.org/USvBell/11-4injunctiontranscript.html (4 of 74) [4/10/2003 4:41:32 AM]

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14	slip through.	
15	In the meantime Bell is enriched by charging	
16	his clients, and the government is left holding th	1e
17	bag. What does the government need to show for it	s
18	preliminary injunction? Under Internal Revenue Co	d
19	Section 7408 the government must show that Bell's	
20	conduct violates one of the two penalty sections,	
21	6700 or 6701, and that an injunction is appropriat	:e
22	to prevent the recurrence of that penalty conduct.	
23	The government's preliminary injunction motio	'n
24	and exhibits shows that Bell has violated Section	
25	6700. Bell has organized and sold the tax plan or	C

	5
1	arrangement. He has made material statements about
2	the excludability of income from taxation. He's
3	told people that unless their income is on a defined
4	narrow limit that is essentially just foreign
5	income, their income is tax tree free. Further,
6	Bell knew or had reason to know that his argument
7	was false or fraudulent. He knows of the cases
в	ruling against this U.S. sources, or also known as
9	the 861 argument, but he still continues.
10	The government's motion also showed that Bell

http://www.nite.org/USvBell/11-4injunctiontranscript.html (5 of 74) [4/10/2003 4:41:32 AM]

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10	The government's motion area showed that bear
11	is violating Section 6701. Bell prepared and
12	assisted others to prepare documents, tax returns,
13	and letters that he knew or had reason to know would
14	be sent to the IRS, and Bell also knew that those
15	documents would result in an understatement of
16	income excuse me, of tax liability for his
17	clients.
18	Further, Bell essentially has admitted that he
19	won't stop absent a court order. So we've shown
20	that the injunction is appropriate to prevent the
21	recurrence. Further, the court can enjoin Bell
22	under Section 7402 of the Internal Revenue Code if
23	an injunction is necessary or appropriate to the
24	enforcement of Internal Revenue law. This
25	essentially is a catch-all statute that allows the

1	court fully specifically to focus on conduct that is
2	not subject to penalty under Section 6700 or 6701,
3	but is still essentially gumming up the IRS works in
4	the case of Thurston Bell. If his activities are
5	encroaching or hindering the IRS's activities, then
5	an injunction can be entered if it's necessary or
7	appropriate.

http://www.nite.org/USvBell/11-4injunctiontranscript.html (6 of 74) [4/10/2003 4:41:32 AM]

up.// •• •• ••		
7	appropriate.	
8	Looking now at Bell's arguments, as you've see	n
9	in his preliminary injunction response brief, first	1
10	he tries to explain his U.S. sources argument, whic	h
11	at first he tries to distinguish between the 861	
12	argument, and for all intents and purposes they're	
13	the same argument. The reason that we talk about	
14	the 861 argument is if you look at the Tax Court	
15	cases that have discussed situations in which	
16	taxpayers have said Section 861 of the code or	
17	regulations under Section 861 exempts my income	
18	from taxation, that's generically the 861 argument.	1990
19	Bell uses the same Section 861 in the code.	łe
20	uses the same regulations and he reaches the same	
21	frivolous result that unless your income is on this	-
22	narrow list of sources, then it is not taxable. So	
23	the government has demonstrated first that this U.S	5.
24	sources 861 argument is frivolous, but two of Bell'	s
2 5	arguments likely or could give the court pause.	

1	First is that the proposed injunction violates his
2	1st Amendment rights, and second, that Bell is
	simply advocating for his clients to due process

4	rights.
5	Looking at the 1st Amendment, the 1st Amendment
6	is always a concern when you're looking at Sections
7	7402 and 7408 injunctions, because the sections by
8	their terms sweep broadly and could draw in
9	protected speech if an injunction is issued under
10	them without carefully looking at the 1st Amendment
11	implications of them, and you see in the cases that
12	the government has cited in its briefs that the
13	courts really are mindful of the 1st Amendment when
14	they enter the injunctions.
15	However, the sections are constitutional
16	and the injunctions that they've entered are
17	constitutional because they focus on banning false
18	commercial speech, courses of illegal conduct, and
19	incitement to imminent lawless action, and that's
20	precisely what the government has asked for in its
21	preliminary injunction.
2 2	Bell is charging for faulty tax advice. Bell's
23	website contains faulty tax advice, and he charges
24	people to go into the members area of that cite.
2 5	That's false commercial speech unprotected by the

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http://www.nite.org/USvBell/11-4injunctiontranscript.html (8 of 74) [4/10/2003 4:41:32 AM]

1	lst Amendment. Further, Bell is helping clients to
2	evade their taxes by assisting them in filling out
3	forms and letters that contain his frivolous U.S.
4	sources argument. That's a course of illegal
5	conduct, and he's inviting his clients to commit
6	tax evasion.
7	The website also contains protected speech,
в	and likely Bell is talking to his clients about
9	protected speech. On his website he rails against
10	the government, the court system. There's nothing
11	wrong with doing that. The 1st Amendment protects
12	that. The government is not trying to shut down
13	Bell's website. The government is asking the court
14	to simply enter an injunction that stops his false
15	commercial speech, stops incitement to imminent
16	lawless action, and stops his course of illegal
17	conduct, helping others to evade their taxes.
18	Looking at the
19	THE COURT: Excuse me, are you also, are you
2 0	asking though to shut down the members only area
21	of the website?
22	MR. DAVIS: Only to the extent the members only
23	section has false commercial speech and in theory
2 4	could incite or as part of the course of the illegal nite.org/USvBell/11-4injunctiontranscript.html (9 of 74) [4/10/2003 4:41:32 AM]

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http://www.nite.org/USvBell/11-4injunctiontranscript.html (9 of 74) [4/10/2003 4:41:32 AM]

24	could in	cite	e or	as pa	art o	f the	course	of	the	111egai
25	conduct,	S 0	that	the	same	stan	dard wow	ld	appl	y to

1	Bell's actions and discussions with his clients as
2	to the website.
3	Bell's second major argument involves due
4	process, and when you hear the term due process you
5	think well, there's nothing wrong with bringing a
6	due process argument, but Bell essentially says the
7	Goldberg vs. Kelly and a number of other cases
8	require that his clients be allowed to cross-examin
9	witnesses at the audit stage, which is the first
10	stage of the process, and the reason that he wants
11	to cross-examine witnesses, he wants to bring
12	employers in, he wants to bring his clients'
13	employers in and say, "My client's income is not
14	from a source outside the United States. It's not
15	from a source listed in Regulation 1.861."
16	He wants to argue the merits of, or lack
17	thereof of the U.S. sources argument with employers
18	Number one, it's a waste of time, but number two,
19	due process does not require what Bell is saying.
20	Due process requires that before serious adverse
21	harm occurs administratively that the person have a nite.org/USvBell/11-4injunctiontranscript.html (10 of 74) [4/10/2003 4:41:32 AM]

21	harm occurs administratively that the person have an
22	opportunity to cross-examine and confront witness,
23	and that process is allowed to taxpayers
24	specifically in the situation of income taxes by
2 5	going to Tax Court.

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1	Before the assessment has become final they
2	have an opportunity to appeal the Tax Court,
3	cross-examine anyone that they want, bring their
4	legal arguments to a neutral court. So the due
5	process that is required by Goldberg and the other
6	cases that Mr. Bell cites is in the system. Bell
7	essentially is making up what he thinks due process
8	should be without regard to what the cases say.
9	In summary, Bell denies very few of the
10	government's allegation. If you look at his
11	arguments in the response brief, he doesn't talk
12	about "I didn't do work for Ray Berglund, I didn't
13	work with Hal Hearn." He admits to owning and
14	writing the contents on the website. He also admits
15	to encouraging and assisting others to file tax
16	returns and other documents with the IRS based on
17	this frivolous U.S. sources argument.

http://www.nite.org/USvBell/11-4injunctiontranscript.html (11 of 74) [4/10/2003 4:41:32 AM]

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8	He also admits to pushing this due process
9	argument, all in support of his U.S. sources
0	argument. So the analysis of whether to enjoin
1	him is really reduced to one question: Is the U.S.
2	sources argument correct? Do the tax code and
3	regulations say that domestic income is tax free?
4	Of course not. Bell's argument is nonsense.
5	The tax court knows it, the 8th Circuit knows it in

1	the Madge case, federal courts in Tampa and Atlanta
2	who have enjoined Bell's former associates know it,
3	and despite his protestations to the contrary, Bell
4	knows it. Bell needs to be enjoined immediately
5	before he convinces one more taxpayer to evade thei
6	taxes and before he draws more money and resources
7	from the government.
в	Complaining about taxes is one thing, but
9	charging people for bad tax advice and convincing
0	them to stop paying taxes is a whole different
1	ballgame. Bell needs to be stopped now, and we
2	ask to court to enter the proposed preliminary
3	injunction. Thank you, Your Honor. Do you have an

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http://www.nite.org/USvBell/11-4injunctiontranscript.html (12 of 74) [4/10/2003 4:41:32 AM]

questions?

14	questions?
15	THE COURT: Not at this time. Do you intend to
16	present any witnesses today?
17	MR. DAVIS: No, but we brought Chris Roginsky
18	from the IRS essentially. If the court has any
19	concerns, we can certainly present Mr. Roginsky.
20	Otherwise we would leave him as a possible rebuttal
21	witness, but other than that we would like to rest
22	on the deposition attachments, the exhibits, the
23	declarations, etc., attached to our preliminary
24	injunction motion, and just to remind the court, we
25	submitted a short memorandum and additional, an

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11	THE COURT: When was that filed?
12	MR. DAVIS: It was filed at the latest on
13	Friday, but I thought it was actually filed on
14	Thursday.
15	MR. DOWIE: We have the brief here, Your Honor,
16	but perhaps when we take a break we could obtain the
17	brief.
18	THE COURT: Why don't we do that. What does
19	this new document consist of?
20	MR. DAVIS: Actually Mr. Dowie took the
21	deposition, if you don't mind I'd
22	THE COURT: Mr. Bell has a copy. Is that your
23	extra copy?
24	MR. BELL; That's mind.
2 5	THE COURT: I don't want you to give up your

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14

him as the general counsel for NITE. 1 Mr. Eichner assisted Mr. Bell in marketing the abusive sections 2 He met with NITE clients, and perhaps 3 861 scheme. most importantly assisted in drafting numerous 4

http://www.nite.org/USvBell/11-4injunctiontranscript.html (15 of 74) [4/10/2003 4:41:32 AM]

4	nite.org/USvBell/11-4injunctiontranscript.html most importantly assisted in drafting numerous
5	drafts which were filed in federal and state courts
6	asserting among other things the frivolous section
7	861 or U.S. sources argument.
8	Now, he did these things at Mr. Bell's
9	direction, and he was paid for them by Mr. Bell.
10	He earned approximately I believe in a year and a
11	half about \$15,000 for assisting Bell clients. Som
12	of his more, or one of his more notorious clients
13	was Thomas Madge, whom the Tax Court fined \$25,000
14	for asserting the frivolous U.S. sources of the
15	Section 861 argument and whom then at Mr. Bell's
16	direction then filed a frivolous brief with the 8th
17	Circuit appealing that Tax Court decision, and of
18	course the 8th Circuit affirmed the Tax Court.
19	Still not satisfied, Mr. Eichner assisted
20	Mr. Madge at Mr. Bell's direction to draft the
21	petition for certiorari to the United States Suprem
22	Court, again asserting the frivolous U.S. sources
23	argument, and in the process taking Mr. Madge's
24	money for these purported services. Of course the
2 5	Supreme Court denied certiorari. Among other thing:

Mr. Eichner also admitted to advising NITE clients

http://www.nite.org/USvBell/11-4injunctiontranscript.html (16 of 74) [4/10/2003 4:41:32 AM]

2	as to filing what are known as zero tax returns.
з	That's essentially a return that states that a
4	taxpayer has not earned any taxable income despite
5	the fact that the taxpayer may have earned a
6	substantial amount of money working within the
7	United States during a given tax year.
8	Even more importantly, he testified that he had
9	on multiple occasions seen and heard over, as I
10	understand it over the telephone Mr. Bell making or
11	providing the same advice to taxpayers, telling them
12	they could file a zero tax returns, or zero returns
13	as they're called, regardless of the fact that they
14	may have earned substantial amounts of money working
15	within the United States during a given tax year.
16	Finally, Mr. Eichner has provided a significant
17	amount of testimony they gave Mr. Bell, or that
18	shows that Mr. Bell knows and has reason to know
19	that his arguments are frivolous. For example,
20	Mr. Eichner made it clear that he and Mr. Bell had
21	drafted an extensive discussion of the Tax Court
22	case known as Aiello versus Commissioner. That's
23	A-I-E-L-L-O. I believe that's cited in our briefs.
24	THE COURT: I'm familiar with that case.
25	MR. DOWIE: Yes, sir. I know the court has of

http://www.nite.org/USvBell/11-4injunctiontranscript.html (17 of 74) [4/10/2003 4:41:32 AM]

1	course read the materials. We note that that case
2	found its Section 861 argument to be frivolous, and
3	Mr. Bell is obviously aware of the case. Mr. Bell
4	is aware of publications from the Internal Revenue
5	Service stating that the U.S. sources argument is
6	unlawful, and I believe there's some other things,
7	but that I think and I hope provides the court with
8	a brief sketch of what the additional information
9	from Mr. Eichner's deposition will offer with
10	respect to this matter. If the court has any
11	questions?
12	THE COURT: We'll take a look at the materials
13	that you have submitted. I'll read them and review
14	them carefully before we issue a decision.
15	Mr. Bell, you have the opportunity if you would like
16	to file a response to this brief in light of the
17	fact that it is, it was filed only late last week,
18	I'll give you that opportunity.
19	MR. BELL: Thank you.
20	THE COURT: Anything further?
21	MR. DAVIS: Unless the court has questions, no,

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22	Your Honor.
	THE COURT: I don't have any questions at this
23	
24	time. I'd like to hear from Mr. Bell.
2 5	MR. BELL: Thank you, Your Honor. This is my

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That fact is reaffirmed by, the I believe the 5th Circuit -- excuse me, the 8th Circuit, in the case of United States versus White. I have that

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19	case with me today if the court would like to see
20	it.
21	THE COURT: Is it cited in your materials?
22	MR. BELL: No, no. That would probably be
23	something that I would submit in the future, but I
24	have that with me today.
2 5	THE COURT: Why don't you gave me the citation.

1	Do you have the citation?	
2	MR. BELL: It is United States versus White, 7	69
3	F.2d 511, 1985.	
4	MR. DAVIS: If I may, Your Honor, the governme	n
5	did cite U.S. vs. White at some point. I think I	
6	can tell, because I have my cases here, so it's in	
7	our briefs.	
8	MR. BELL: The specific page citation is page	
9	515.	
. 0	THE COURT: Okay.	
11	MR. BELL: And if it pleases the court I would	
12	like to read it that, it's stated that the false o	r
13	fraudulent representations about "the allowibility	1
L 4	of any deduction or credit, the excludability of a	n
15	income, or the securing of any other tax benefit," nite.org/USvBell/11-4injunctiontranscript.html (20 of 74) [4/10/2003 4:41:32 AM]	

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1	in Cowen versus United States, which was also cited
2	by the government, which I have copies of for the
3	court should it require it. On page 1148, the only
4	thing really required by the intent of the Congress
5	and the enactment of this statute is false speech,
6	and that's where I draw my position of commercial or
7	noncommercial, I need to tell the truth, because
8	what is false is false and hurts people, and what is
9	true needs to come to light, and that's why I
.0	continue to press this, but falsehood is the main
.1	criteria.
	At that I want to touch on Section 7402(a)

12 At that I want to touch on Section 7402(a). http://www.nite.org/USvBell/11-4injunctiontranscript.html (21 of 74) [4/10/2003 4:41:32 AM]

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1	factors.
2	I found four in particular which have been
3	quite profound in Detroit Free Press versus Ashcroft
4	decided by the 6th Circuit on August 26th of 2002,
5	and the government has to prevail on its merits. It
6	has to show that my speech has already been
7	determined to be false, such as in White on page
8	515, that the false speech determined in that case
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http://www.nite.org/USvBell/11-4injunctiontranscript.html (22 of 74) [4/10/2003 4:41:32 AM]

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1 altered for over 80 years and have the effect of 2 law. 3 1.861-8 to be exact is the section, and 4 according to the Commerce Clearinghouse publication 5 of it, it's on page 4266, is that specific citation. http://www.nite.org/USvBell/11-4injunctiontranscript.html (23 of 74) [4/10/2003 4:41:32 AM]

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2 speech, and in Speiser on page 521 the high court http://www.nite.org/USvBell/11-4injunctiontranscript.html (24 of 74) [4/10/2003 4:41:32 AM]

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2	speech, and in Speiser on page 521 the high court
з	stated that "the validity of restraint depends upon
4	careful analysis of the circumstance."
5	In light of the government having to bear the
6	burden of proof under Section 6703(a), the
7	government should be required by this court to
в	specifically address 1.861-8(a)(4) and
9	1.861-8(t)(d)(2)(ii)(A). The significance of
10	8(t)(d)(2)(ii)(A) is that the tax court has
11	continued to issue statements that there is nothing
12	within the regulations that says anything about
13	income being exempt, but 8(t)(d)(2)(ii)(A) is
14	clearly the section of regulation that defines
15	exempt income in relationship to the U.S. sources
16	argument.
17	The United States government, the plaintiff,
18	has asserted that Section 861 has nothing to do with
19	Section 61. In my briefs you will see that I have
20	shown that they do, that the tax court has twice
21	touched upon it and applied 861 statute to Section
22	61 determinations. Therefore the regulations, also
23	being law, need to be applied.
24	I have taken great risk to bring this to the
25	attention of the government, who instead of coming

I	
1	to meet with me and talk with me has decided that
2	they would rather crush the 1st Amendment and ask
з	you for help to do so. The government in their
4	brief, as you will see in my response brief, will
5	say that, has said that Section 861 has to do with
6	foreign earned income because of a title within the
7	publication of the code to which I have responded
в	with Section 7806(b), which I have a copy
9	highlighted for all parties here today which says
10	that, "No inference, implication, or presumption of
11	legislative construction shall be drawn or made by
12	reason of the location or grouping of any particular
13	section of provision or portion of this title, nor
14	shall any table of contents, cross reference, or
15	similar outline or analysis or descriptive matter
16	relating to contents of the title be given any legal
17	effect."
18	THE COURT: Okay, Mr. Bell, I don't mean to
19	interrupt you, but if you could talk a little more
20	slowly so our court reporter can get down everything
21	that you're saying.
- 1	

23

MR. BELL: Okay, but I have that for the court. 22 http://www.nite.org/USvBell/11-4injunctiontranscript.html (26 of 74) [4/10/2003 4:41:32 AM]

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23	If the court would like a copy I will give it to you
24	for your analysis.
25	THE COURT: Okay.

1	MR. BELL: That case basically is saying to my	
2	understanding as a layman who is bound to the law,	
3	because ignorance of the law is no excuse, is that	
4	the words in the law mean what they say, not titles	
5	or groupings or headings, that the law needs to be	
6	read for what it is. The government in its motion	
7	for preliminary injunction I think submitted about	
8	six different arguments. I think if I recall	
9	correctly, three of them actually cancelled each	
10	other out, and three of them were just completely	
11	unreasonable in light of the words in the law and	
12	what it says.	
13	If the government really believed that I, the	
14	defendant, am causing damage to it, it would have	
15	been nice if the government came and accepted my	
16	three invitations to sit down and show me where it	
17	is that I am wrong instead of doing this action, bu	t
18	I understand if it feels that it needs to follow	
19	certain procedures and even take this matter to the org/USyBell/11-4injunctiontranscript.html (27 of 74) [4/10/2003 4:41:32 AM]	

http://www.nite.org/USvBell/11-4injunctiontranscript.html (27 of 74) [4/10/2003 4:41:32 AM]

19	certain procedures and even take this matter to the
20	court, but the requirement that it offer a specific
21	analysis of this argument, although Speiser was
22	1958, has been reaffirmed by the district court in
23	this state, Eastern District of Pennsylvania, in
24	American Library Association versus United States.
2 5	I believe that's been cited in some of my

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1	briefs, but not the one regarding this matter, bu	at
2	the American Library Association, Incorporated	
з	versus U.S. was 201 F.sub 2d 401, Eastern Distric	ct
4	of Pennsylvania, 2002. Page 479 seems to be the	
5	bulwark of protection of speech when in the	
6	government seeks to enjoin it or to suppress it.	
7	In one case it's quoting from the Bantam	
8	Books case, "The separation of legitimate from	
9	illegitimate speech call for sensitive tools. The	ıe
10	1st Amendment demands the precision of a scalpel,	8
11	not the sledge hammer." I have offered an argume	ent,
12	Section 861 regulations. There's approximately,	
13	there's over 55 pages of regulations between Sect	ion
14	1.861-1 to Section 1.861-8. I state, I argue	
15	sections of law on the 17th page of that group of	2
1.6 http://www.nit	law. of that mass of law. and on the 55th page of te.org/USvBell/11-4injunctiontranscript.html (28 of 74) [4/10/2003 4:41:32 AM]	N.

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1	government oppression in the IRS in 1997 which gave
2	us the Revenue Reform and Restructuring Act.
3	I understand, I understand what the government
4	believes that they have here. I understand why the
5	are here today, because they have decided that
6	because my speech merely appears to be similar to
7	prior unprotected speech, that they have a duty by
8	order, request, referral, whatever, referral is the
9	proper word, of the IRS counsel in Philadelphia to
10	seek to enjoin me, but the decision of Ashcroft
11	versus Free Speech Coalition, 122 Supreme Court
12	Reporter 1389, and on April 16th, 2002 nonetheless,
anes - à	

http://www.nite.org/USvBell/11-4injunctiontranscript.html (29 of 74) [4/10/2003 4:41:32 AM]

13 on page 1404 of the Supreme Court Reporter of 14 West's, let me find that page very quickly, the 15 Supreme Court was gracious to our 1st Amendmen 16 rights. In these troubled times it said, "Pro- 17 speech does not become unprotected merely beca 18 resembles the latter."	he nt
15 Supreme Court was gracious to our 1st Amendmen 16 rights. In these troubled times it said, "Pro 17 speech does not become unprotected merely beca	nt
16 rights. In these troubled times it said, "Pro- 17 speech does not become unprotected merely beca	
17 speech does not become unprotected merely beca	otecte
18 resembles the latter."	ause i
19 For that reason I've offered my time, my	
20 efforts to the people of this country and to t	the
21 government to sit down and show me specificall	ly
22 where it is that my speech is incorrect, becau	ise th
23 line is finely drawn. The law and the regulat	cions,
24 the regulations are law, and it's kind of vast	:, and
25 I didn't do a word count on that to find out h	low

27

I

1	many words are in there, but one ruling that touches
2	on the statute doesn't touch the regulations.
3	Six rulings that rule on the statute and
4	don't touch on the regulations do not touch the
5	regulations, which are still law, and I am bound to
6	from my understanding, from my understanding, and
7	that a judge saying that there is nothing within
8	this regulation that provides exemption I find
9	highly questionable in light of a definition of
∎ p://www.n	ite.org/USvBell/11-4injunctiontranscript.html (30 of 74) [4/10/2003 4:41:32 AM]

9	highly questionable in light of a definition of
10	exempt income at 1.861-8(t)(d)(2)(ii)(A).
11	I offer to this court the case of Detroit Free
12	Press versus Ashcroft, 6th Circuit, I have multiple
13	citations from pages 685, 686, 693, 704, 705, and
14	711. It covers the four factors for preliminary
15	injunction according to the 6th Circuit, which may
16	not apply here, but they seem reasonable to me. The
17	1st Amendment as stated on page 686, "The 1st
18	Amendment prohibits the government from suppressing
19	embarrassing information." I think this is
20	embarrassing to them, but I'm more than happy to
21	work it out quietly.
22	693, "The government must account for their
23	choices." I wrote an e-mail to Mr. Davis, and it's
24	somewhere in the mass of this case, probably in one
25	of the motions that Judge Yvette Kane denied, I

1	asked Mr. Davis shortly before New Year's of this
2	year to please show me now where it is that my
3	speech is false so that we can avoid this expense
4	and this effort, because I will confess to this
5	court that I have dealt with the issue of taxes for
б	eight and a half years on the edge of what would be
http://www.n	ite.org/USvBell/11-4injunctiontranscript.html (31 of 74) [4/10/2003 4:41:32 AM]

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6	eight and a half years on the edge of what would be
7	seen as legal, working with people who were being
8	hurt and seeing them taken advantage of by
9	charlatans and liars and con men, and God forbid
10	that I become one of those.
11	I want away from this. I want it addressed. I
12	do not need this in my life. For who in their right
13	mind would think that they can make an existence, a
14	meaningful, have a meaningful life by confronting
15	the IRS and the Justice Department? It's only out
16	of duty and obligation that I'm here.
17	On page 704 the 6th Circuit said in Detroit
18	Free Press, it reaffirms, they reaffirmed free
19	discussion of government affairs that the 1st
20	Amendment is key to that. 705, that the
21	government's selectivity of what information the
2 2	public sees is a powerful tool for deception. The
23	6th Circuit acknowledged that it's possible that our
24	government could deceive us. In almost any capacity
2 5	that's possible, that the 1st Amendment is the

29

bulwark	against that.	That is	why I'm here.
71:	l was the most	profound	statement of our
timer of	t what own nat	ion Faces	

http://www.nite.org/USvBell/11-4injunctiontranscript.html (32 of 74) [4/10/2003 4:41:32 AM]

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3	times of what our nation faces under the onslaught
4	of terrorism that seeks to undermine the fabric of
5	society and collapse our civilization, that the 6th
6	Circuit stood up and said, "We're not going to do
7	the job of the terrorists and destroy that which
8	they seek to do by force with our gavel," and that's
9	at 711, their last paragraph, I will not bore the
10	court by reading it, but it is truly exciting, but
11	ultimately it states that democracy operates on
12	faith, that government officials are forthcoming and
13	honest.
14	I pray this court sees that I have attempted to
15	be forthcoming and honest. I have only stepped into
16	the arena of attempting to help people to understand
17	the administrative process of the IRS, because in
18	order to bring forth the arguments of 1.861-8(a)(4)
19	and 1.861-8(t)(d)(2)(ii)(A), the administrative
20	process must be exhausted. Mr. Davis in the
21	deposition of Mr. Larken Rose, which is not part of
22	the court record but I have a complete copy here,
23	asked Mr. Rose, who is a significant person in this
24	matter, which I hope to get to in a moment.
25	THE COURT: Would you like to make it part of

1 the record, Mr. Bell? 2 MR. BELL: I would like to, but I don't have a 3 copy for the court today. THE COURT: You can submit it in your response 4 5 to the government's recent submission if you would like. 6 7 MR. BELL: Thank you for the wonderful 8 suggestion, Your Honor. He asked Mr. Rose, he said, "Well, if you filed your claim for refund with 9 this argument, why haven't you sued?" Well, in 10 response to Mr. Davis's question, we have worked 11 12 very hard, I have worked very hard for five years now to completely understand the administrative 13 14 process, exhausted, turned over every stone, turned over every point of fact and step, and we have 15 16 reached the point that the government merely calls everything frivolous, throws the people aside, and 17 that the only thing left to do now, yes, Mr. Davis, 18 is we will litigate. 19 20 I have no other choice. I have to carry this forward, because the Supreme Court is the final 21 22 interpreter of the law, and no one is addressing 23 861-8(a)(4) and 8(t)(d)(2)(ii)(A). I would like to http://www.nite.org/USvBell/11-4injunctiontranscript.html (34 of 74) [4/10/2003 4:41:32 AM]

23	861-8(a)(4) and 8(t)(d)(2)(ii)(A).	I would like to
24	go back to	the government's brief.	Ultimately it
2 5	seems that	the government, both the	agents and the

2																																														
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that whatever source does not mean whatever source	,
and Justice Stone in his citation, in his opinion	on
page 607 of Wright versus U.S., 1938, states that	
whatever source does not mean whatever source, and	
he cites Evans vs. Gore and that very famous case	
regarding the taxation of federal judges, which I	
know of course has been overturned on principle, o	n
principle of the judges having to pay the taxes th	at
the people have to pay.	
To date I have yet to see a single case, Tax	
Court, U.S. District Court, Court of Claims, circu	it
Court, United States Supreme Court, that addresses	
the regulations that NITE argues. NITE continues	
and persists in this effort for the purposes of	
redress of grievance, of hearing of the issue. If	
the court rules on something regarding Section 861	
	and Justice Stone in his citation, in his opinion page 607 of Wright versus U.S., 1938, states that whatever source does not mean whatever source, and he cites Evans vs. Gore and that very famous case regarding the taxation of federal judges, which I know of course has been overturned on principle, o principle of the judges having to pay the taxes th the people have to pay. To date I have yet to see a single case, Tax Court, U.S. District Court, Court of Claims, circu Court, United States Supreme Court, that addresses the regulations that NITE argues. NITE continues and persists in this effort for the purposes of redress of grievance, of hearing of the issue. If

http://www.nite.org/USvBell/11-4injunctiontranscript.html (36 of 74) [4/10/2003 4:41:32 AM]

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1 ×		2
17	statute, that is not hitting the mark, and that i	s
18	what our assertion is and that is what the assert	ior
19	of many American citizens is.	
20	We want this matter specifically addressed.	Ιf
21	we're going to be bound by the regulations, then w	ме
22	want the regulations fully applied. The court	
23	addressing the statute is not sufficient. We want	c a
24	ruling on the regulations as was given Chevron in	
2 5	Chevron versus Commissioner. We want a ruling on	

1	this definition of exempt income.
2	For my final point on this opening statement
3	that I can I don't think I can make a final point
4	because I want to look at the notes quickly as to
5	what Mr. Davis's opening statements were, but in
6	Enochs versus Williams Packaging, the United States
7	Supreme Court, 1961, it was stated that "The
8	government's chance of ultimately prevailing on an
9	injunction issue is determined by the information
10	available at the time of suit."
11	Since there's no address of
12	1.861-8(t)(d)(2)(ii)(A) or 1.861-8(a)(4), I
13	don't see any that they can prevail. They have
∎ http://www.ni	ite.org/USvBell/11-4injunctiontranscript.html (37 of 74) [4/10/2003 4:41:32 AM]

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13	don't see any that they can prevail. They have
14	not addressed the defendant's argument to prove
15	frivolity. If there was frivolity, then the
16	argument, if it was actually addressed perhaps
17	someone could say that I was defrauding or bilking,
18	defrauding and bilking the government or the people,
19	then it would be arguable. As for Mr. Davis's naked
20	assertion that I claim to be the only one who
21	understands the code, I don't think so.
22	SPECTATOR: That's right.
23	MR. BELL: There is at least one other person
24	I know who understands the code. There are many
25	people that as I understand it, and that's Mr. Rose.

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1	MR. DAVIS: Your Honor, it's not relevant to
2	number 1 of
3	(Verbal comments from spectator gallery.)
4	THE COURT: Now, hang on. I'm only going to
5	hear arguments from counsel, and I will clear thi
6	courtroom if I hear any arguments from the galler

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1	what NIT	E does,	what kind	of an organ	ization it	is
2	in terms	of the				
3	MR.	BELL: I	believe,	Your Honor,	that it's	

http://www.nite.org/USvBell/11-4injunctiontranscript.html (40 of 74) [4/10/2003 4:41:32 AM]

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4	relevant in respect to showing that I have not
5	misrepresented the existence of the law nor the
6	presentment of the law and the assertion of it by
7	the NITE members, and I would also like to say that
8	I was up until 3:00 in the morning reading the rules
9	of the evidence, and in examining Rule 702 and the
10	notes regarding it, it doesn't show that for someone
11	to even be an expert that they have to be a
12	professional, that experience is also admissible.
13	Mr. Rose spent, I have no idea, at his deposition he
14	says at least 500 hours researching the law and
15	researching all of the law on this section of the
16	law.
17	THE COURT: I'm going to allow the video tape
18	to be submitted, and I'll give it the weight it
19	deserves under the circumstances after I have had
20	an opportunity to review it, and without reviewing
21	it I think I should take it in and take it into
22	consideration. We would like to have that I believe
23	marked as an exhibit, we'll mark it Defendant's
24	Exhibit Number 1.
25	MR. DAVIS: Just so the court doesn't worry

1	about copies, the government already has a copy of
2	that.
3	THE COURT: Oh, you do?
4	MR. DAVIS: Yes. It was actually one of the
5	exhibits to the Larken Rose deposition. Mr. Bell
6	is going to submit that deposition transcription,
7	he would have submitted that,
8	(Defendant's Exhibit 1 marked for evidence.)
9	MR. BELL: The government claims that
10	individuals have used this argument to file
11	erroneous refunds. There is a point of my Exhibit P
12	in support of my affidavit of facts in response to
13	the complaint, Your Honor. Exhibit P is a
14	transcript of the case of the United States of
15	America Versus Gene Webb before the Honorable Judge
16	Anne Conway. For background, Mr. Webb came to me
17	going before a judge who had just put his mother in
18	prison for filing a zero return, and that he was
19	going to be imprisoned should he not file a return
20	for sake of compliance with his probation agreement,
21	or parole, I'm not sure which one.
22	After discussing the matter with me he
23	determined that he wanted to make contentions of
2 4 http://www.r	factual nature using the Form 4852 and the Form 8275 nite.org/USvBell/11-4injunctiontranscript.html (42 of 74) [4/10/2003 4:41:32 AM]

0.4		the Form 4852 and the Form 8275
2 5	making this argument.	It was presented to the

1	court, to the IRS, via certified mail as presented	
2	to the court. My Exhibit O shows the United States	
3	attorney objecting to its submission of this type of	3
4	return. The Exhibit P shows that in May of 2000	
5	U.S. Attorney Gold saying, "He now filed his `98 and	3
6	'99 returns as I understand it, there would have	
7	been refunds due. However, due to his previous tax	
8	problems the IRS used those refunds to apply to some	i g
9	old debts."	
10	That's on lines 16 through 19, Your Honor. It	
11	appears very clear by the evidence of the admission	
12	of the United States Department of Justice that	
13	Mr. Webb's return, which used the argument of NITE,	
14	using the forms of the government, was accepted and	
15	a refund was due, and in the end the document speaks	
16	for itself.	
17	Judge Anne Conway released Mr. Webb from the	
18	court. He has not had to have to return. It was	
19	acceptable argument. That, Your Honor, that event	
20	alone was seminal in my eight years of efforts. It	

10.000	C. Weinderstein and the structure of the second structure of the second structure se structure second structure second str
21	was clear to me at that moment that I needed to pay
22	attention to what happened in that court as very
23	profound, and I went to some fact research and found
24	the case of the United States versus Sullivan, which
25	I believe is 1927, which helped me communicate to

1	NITE members that it is time to stop fighting the
2	government about the requirement to file returns,
3	that the U.S. Supreme Court was clear: If the
4	government believes you're required to file a
5	return, file the return, but it also says that
6	you're not precluded from making your arguments on
7	the face of the return in light of the existence of
8	the Form 4852 and 8275 as used by Mr. Webb in his
9	case where a judge well familiar with the law has no
10	problems putting people in jail, and a Justice
11	Department attorney who was well familiar with it
12	and originally objected it as frivolous, and the
13	IRS, all three, saying basically in paraphrase, Your
14	Honor, return received, refund due, send him home,
15	convinced me that it was time to tell the people who
16	have been fighting the government about whether or
17	not to file to stop the agony of willful failure to
http://www.n	ite.org/USvBell/11-4injunctiontranscript.html (44 of 74) [4/10/2003 4:41:32 AM]

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17	not to file to stop the agony of willful failure to
18	file cases, engage the government in their process,
19	with their forms in good faith, and settle the
20	issues.
21	It is claimed that I'm enriched by this effort.
2 2	Probably only in my service to my fellow man.
23	Money? No. It's shoestring, Your Honor. It's
24	month to month. This isn't this is not something
25	that the American people want to do. They don't

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1	want to come before you and take your time.	ľhey
2	don't want to go into IRS audits. They are as	fraid,
з	and they're all sitting back waiting to see wh	nat yo
4	do to me and to the 1st Amendment. The governme	nent
5	says I know of cases. I've already given my p	point,
6	none of the cases address the law that I argue	е,
7	specifically with the specificity of a scalpe.	l as
8	ALA stated in Speiser says that the line is f:	inely
9	drawn. The only thing that can address it is	
10	something precise.	
11	It is stated that I used the same regulat	tions
12	as others have in prior cases. I find no evid	dence
13	of that in the case of Aiello versus Commissio	oner,
14	Solomon versus Commissioner, you name the case nite.org/USvBell/11-4injunctiontranscript.html (45 of 74) [4/10/2003 4:41:32 AM]	e. If

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1	I am willing to reasonably resolve this. I am
2	willing to be reasonable if the government will
3	specifically address the argument. Mr. Dowie in
4	December said that will come out in court. Well, in
5	light of Enochs versus Williams Packaging, that
6	which shows my speech to be false needs to be in
7	existence in and public knowledge prior to the
8	filing of suit, or least at that moment. I haven't
9	seen it.
10	THE COURT: Mr. Bell, do you have any additional

41

http://www.nite.org/USvBell/11-4injunctiontranscript.html (46 of 74) [4/10/2003 4:41:32 AM]

11	arguments at this time?
12	MR. BELL: I'm trying to go through my notes
13	quickly. The government specifically cites the
14	Madge case. Again it didn't address the argument.
15	The government claims they needed to shut me up in
16	order to stop another person from believing this
17	allegedly false argument. Your Honor, I don't
18	believe that quieting me is going to shut down this
19	argument. There have been 20,000 I believe of those
20	video tapes produced. If the government fails to
21	specifically address and resolve this matter, it's
22	only going to hurt the image and the people's faith
23	in their government, as mine has been hurt because
24	of this suit.
25	THE COURT: 20,000 video tapes of what?

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http://www.nite.org/USvBell/11-4injunctiontranscript.html (47 of 74) [4/10/2003 4:41:32 AM]

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8	impending danger of evil, that the solution in a
9	situation of free speech is not to forcibly stop the
10	speech, but to have more speech. I believe, Your
11	Honor, that the government being given this
12	injunction at this time without specifically
13	addressing the argument will not, it may win this
14	battle, Your Honor, but it's only going to heat up
15	even worse, and I am not going to be able to help
16	anybody understand how to address the situation, how
17	to resolve the situation in the future if I am
18	muzzled.
19	As for Mr. Dowie's statements about the
20	deposition of Mr. Eichner where he made assertions
21	about me having knowledge of case law, again nothing
2 2	is addressed in the regulations specific, the two
2 3	that I have repeated to the point that I do not want
24	to harass the ears of the court any further with
2.5	them.

43

THE COURT: And Mr. Bell, I've already granted
you allowance to respond to those arguments in
writing.
MR. BELL: Yes, sir.

http://www.nite.org/USvBell/11-4injunctiontranscript.html (48 of 74) [4/10/2003 4:41:32 AM]

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4	MR. BELL: Yes, sir.
5	THE COURT: And I will take them into
6	consideration.
7	MR. BELL: And as for the claim that Mr. Bell
8	made advice to people to file zero returns, for his
9	sake he is not here to raise objections. I have
10	looked at this, and you will see in my response what
11	I do with this, that Mr. Dowie twists word so
12	heavily, as in his example on his Exhibit 11, on his
13	document he claims that this Exhibit 11 shows that
14	an attorney "had found no case, rule, or regulation
15	under IRC Section 861 which could be used to modify
16	section 61's definition of gross income," and then
17	he brings in his own inflection into this, his own
18	interpretation. He says, "In other words, the
19	letter informed the addressee that there was no
20	legal justification for the NITE U.S. sources
21	scheme."
22	Well, first of all, Your Honor, the letter
23	doesn't mention NITE, and second of all this exhibit
24	states "I must report," this is Exhibit 11 of that,
25	which you will get a copy of from Mr. Davis, "I must
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44

http://www.nite.org/USvBell/11-4injunctiontranscript.html (49 of 74) [4/10/2003 4:41:32 AM]

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1	report that in the course of this research I found
2	no case law, rule, or regulation addressing the
3	argument" It is a case of first impression, Your
4	Honor, and a case of first impression, it has not
5	been ruled upon. It has not been addressed by the
б	courts. It has not been addressed by Mr. Dowie, who
7	was asked nicely to be forthcoming and honest so
8	that we could expedite this matter, save the time of
9	the court, save me the stress and anguish that has
10	gone along with facing the most powerful government
11	in the world, that would save more people from
12	arguments with the IRS and the pain and suffering
13	that they endured. I want it ended. I want the
14	issues addressed. I've sought to do it nicely. I
15	thank you for entertaining my presentation.
16	THE COURT: I have a couple of questions for
17	you. You've seen the government's argument with
18	respect to the commercial nature of your speech?
19	MR. BELL: Yes, Your Honor.
20	THE COURT: Do you agree that you are providing
21	through the NITE website advice and that your speech
22	should be considered commercial speech?
23	MR. BELL: No, Your Honor. I believe it's
24	purely political in every form. I have met
11	TO UNE CARE AD IN CONTRACTOR DESIGNATION OF A CONTRACT CONTRACT OF A CON

http://www.nite.org/USvBell/11-4injunctiontranscript.html (50 of 74) [4/10/2003 4:41:32 AM]

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with people who have seen others who are out there

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1	who will attempt to charge them \$40,000 just to
2	retain them in association. I have seen other
3	organizations that will charge \$600 for such, and
4	they will not even help the person understand what
5	the procedures are with the IRS, with the courts,
6	what their rights are, or even begin to crack open
7	law book.
8	Your Honor, this is political, because taxes
9	are of a political nature, and we probably have the
10	most vital political nature second to free speech
11	within itself. That is the only reason why I can
12	see, Your Honor, that Mr. Davis, Mr. Dowie, Mr. Rau
13	would even dare to be here and to take the tax law
14	and push it up against the 1st Amendment and see
15	which one cracks first.
16	THE COURT: For that political speech are you
17	receiving any form of remuneration or any form of
18	funds flowing from members of NITE, whether it's in
19	the form of donations or in some other form?
20	MR. BELL: That would, the point is that, and
21	I'm not, I was not prepared to speak of that in

http://www.nite.org/USvBell/11-4injunctiontranscript.html (51 of 74) [4/10/2003 4:41:32 AM]

21	T.W HOF' I MAR HOF brehared to shear of ende th
22	particular, because all I'm concerned about is
23	falsehood. For if anything I'm saying is false,
24	that is sufficient to get my full cooperation, Your
2 5	Honor. The point about receipt of remuneration was

46

1	addressed in the U.S. Supreme Court case I believe,
2	and it might be in my, I do believe I mentioned it
3	in my opposition brief. It said that remuneration,
4	Your Honor, if remuneration were the sole criteria
5	or even used as a criteria opens the door for even
6	the newspapers to be regulated.
7	THE COURT: But I'm asking you, and I'm asking
8	you directly, do you receive any form of donation or
9	remuneration or any kind of compensation whatsoever?
10	MR. BELL: As a newspaper does and as any
11	political party and political movement, Your Honor,
12	yes. That's according to this court decision that I
13	read. I see why the court determined that receipt
14	of money cannot be that determination. It has to be
15	the value of the speech. It has to be the nature of
16	what's going on. I'm not selling the pharmaceutical
17	drug, I'm not selling cars, I'm not selling a
18	commodity item. I'm discussing law, political ite.org/USvBell/11-4injunctiontranscript.html (52 of 74) [4/10/2003 4:41:32 AM]

http://www.nite.org/USvBell/11-4injunctiontranscript.html (52 of 74) [4/10/2003 4:41:32 AM]

18	commodity item. I'm discussing law, political
19	action, legal action, and rights. I'm not selling
2 0	these things. In fact, most of everything I do I
21	give away.
22	THE COURT: The government contends that the
23	injunction is necessary to halt additional advice
24	being given to more people that they claim is
25	erroneous, clearly erroneous. What is your

47

1	intention if I do not issue an injunction with
2	respect to the use of the NITE website?
3	MR. BELL: Presently the members hall has been
4	taken down because of lack of staffing and the
5	ability to keep that information up to date.
6	Presently the members get information from me
7	directly, Your Honor. They send me a note, they
8	communique, and I provide them what they need
9	according to what I know.
)	THE COURT: What kinds of things and I assume
	that that's what you would like to continue to do?
2	MR, BELL: Yes.
3	THE COURT: And what kinds of information do you
1	provide them?
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http://www.nite.org/USvBell/11-4injunctiontranscript.html (53 of 74) [4/10/2003 4:41:32 AM]

5	MR. BELL: Administrative procedure, informati	. 0
6	about their rights.	
7	THE COURT: Including their rights under the	
8	Internal Revenue Code?	
9	MR. BELL: Specifically that, through the	
0	administrative process. I didn't get to address	
1	Mr. Davis's comment about the tax court being the	
2	venue for confronting and cross-examining adverse	
3	witnesses. It's my understanding, Your Honor, in	
4	the Tax Court the burden of proof has already been	0.000
5	well placed on the individual and the government	

1	doesn't have to call its witnesses for the person t
2	be able to confront and cross-examine. So my
3	logical conclusion was press the issue in the
4	examinations process and let's find out what the
5	reasonable answer is, why they can't bring the
6	witnesses forward in examination and expedite these
7	matters.
8	That was the determination in my mind as to
9	what to do with examinations, and I saw they clearl
10	had the authority under Section 7602 to summons the
11	witnesses against the individual, and with cases

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L L	Witnesses against the individual, and with tasts
12	such as Goldberg versus Kelly and Green versus
13	McElroy, and I think it's Olden versus Kentucky, and
14	many other case, the 6th Amendment is the key as
15	getting to the truth.
16	If the examinations process isn't about getting
17	to the truth of the matter, then I just don't even
18	want to say what kind of process it is, Your Honor.
19	It's just, it's too scary. I don't want to
20	prejudice the court with any type of emotional
21	outburst. The 6th Amendment in regards to people's
22	means to defend themselves against an agency with
23	such power, the ability to get to the truth, to know
24	the truth. That's what this is about, just to get
2 5	to the bottom of it.

	The	onl	y w	a y	to ge	et to	the	botto	om of	it,
Your	Hono	r,	is	to	take	the	matto	er thi	rough	the
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requi	re,	and	th	en	step	into	the	court	ts wit	h a claim
for w	hich	re	lie	f c	an be	e gra	nted	. Th:	is cou	rt here is
being	ask	ed	by	the	pla	intif	f to	say	that t	his
decis	ion,	th	is	arg	ument	t is	alre	ady ki	nown t	o be
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http://www.nite.org/USvBell/11-4injunctiontranscript.html (55 of 74) [4/10/2003 4:41:32 AM]

8 frivolous.

9	This court's authority within this regulation
10	of free speech, 6700, 6701, is limited, that it
11	cannot now put the cart before the horse and say,
12	"Well, we've now considered the argument, and now
13	we're going to address it and now it's frivolous, so
14	all your prior speech, Mr. Bell, is sanctionable."
15	No, that's not the function of this court from
16	everything that I have read. It has to already be
17	established and the burden of proof upon the
18	plaintiff to present that.
19	THE COURT: I understand. You've presented that
20	argument and you've cited the Enoch case. Do you
21	have anything further you'd like to add?
22	MR. BELL: I have nothing further, Your Honor.
23	I could present witnesses, but the admission of the
24	video tape is overwhelming. I could bring in
2 5	witnesses about the inconsistencies seen by the IRS,

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1 but I don't want to detract this court's attention 2 and valuable time from the clear, simple issue about 3 those two sections of regulation. Do the people 4 have the right to press those regulations forward in 5 the administrative process to bring it to the http://www.nite.org/USvBell/11-4injunctiontranscript.html (56 of 74) [4/10/2003 4:41:32 AM]

5	the administrative process to bring it to the
6	judiciaries attention? Do the people have the right
7	to group together, to band together so that they
8	don't continue to make the same mistakes as the tax
9	freedom fighters have repeated year after year for
10	three decades. I have sought to bring forth reason
11	and prudence and respect to this issue. I have
12	tried to avoid this day.
13	THE COURT: Anything further?
14	MR. BELL: Thank you.
15	THE COURT: Thank you for your presentation and
16	your demeanor, Mr. Bell, which was excellent. Does
17	the government have any response?
18	MR. DAVIS: Yes, Your Honor. Just a couple of
19	short points. First, the government is not saying
20	that this argument is frivolous because the Tax
21	Court has ruled on it and because courts have
22	enjoined three other people for promoting the same
23	argument. That's further evidence of why Mr. Bell
24	should stop and should know and does know that what
25	he's doing is wrong.

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The argument is frivolous because it's

http://www.nite.org/USvBell/11-4injunctiontranscript.html (57 of 74) [4/10/2003 4:41:32 AM]

2	frivolous. If you look at the regulation, it says
3	in no that he's relying on, in no uncertain terms
4	it says that this regulation is only applicable to a
5	certain defined group of other sections of the
6	Internal Revenue Code, calling them operative
7	sections. There is no reasonable way of reading
8	that regulation any other way, and yet Mr. Bell and
9	Mr. Rose and whoever else he would like to submit to
10	the court as one of his friends will try to argue
11	the other way, but it's frivolous because it's
12	frivolous. The tax court decisions are helpful to
13	the court, but they also really show that Bell
14	should know and knows that his argument is
15	frivolous.
16	Next, he also talked about this case of Ms.
17	Webb, or Mr. Webb. If he submitted the, that
18	taxpayer's tax returns, the court will be able to
19	evaluate whether in fact that was number one even
2 0	accepted by the IRS, because I can write on my
21	return that I'm not liable for any taxes because I'm
22	left-handed, and if indeed I didn't earn any money
23	that year, then the IRS will accept the return.
24	The issue is not simply whether he made the
25	argument, but also whether the individual actually
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http://www.nite.org/USvBell/11-4injunctiontranscript.html (59 of 74) [4/10/2003 4:41:32 AM]

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2.2	an attorney, he has no legal training, and nets
23	misinterpreting the law, misinterpreting the
24	regulations, and steering his clients wrong, and
2 5	they're the ones I mean other than the

1	government, which obviously is losing revenue, they
2	are the ones who suffer, and they don't, a lot of
3	them don't even know it. They'd still stand him
4	until he ends, which is why he needs to know through
5	the court's order that it is not okay what he's been
6	doing.
7	Finally, Bell says that he would have stopped
8	if someone addressed his argument. Well, the IRS
9	has addressed his argument on four or five occasions
10	with public pronouncements, and every time Bell and
11	Mr. Rose and other people in this movement
12	deconstruct what the IRS has said and said we don't
13	agree, you didn't exactly do this right or you don't
14	do that right, they will never be satisfied with any
15	explanation that this court gives or that the
16	government gives. They will continue to do it
17	unless they're told they can't make this argument
18	anymore. They can't get paid for it and they can't
19 http://www.n	incite others to evade their taxes by use of this. ite.org/USvBell/11-4injunctiontranscript.html (60 of 74) [4/10/2003 4:41:32 AM]

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19	incite others to evade their taxes by use of this.
20	Thank you very much, Your Honor.
21	THE COURT: Thank you. Mr. Bell, in closing
22	would you like to address any of the arguments that
23	have been raised by the government?
24	MR. BELL: Yes, sir. The government claims that
2 5	the argument is frivolous because it's frivolous.

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http://www.nite.org/USvBell/11-4injunctiontranscript.html (61 of 74) [4/10/2003 4:41:32 AM]

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16	anything, so I believe that the government has
17	failed to carry its burden of proof.
18	It's an interesting point that the government
19	raises that there needs to be proof that Mr. Webb's
20	return was accepted. I think that matter is res
21	judicata before Judge Anne Conway, that the U.S.
2 2	Attorney's Office agreed with what the IRS
23	determined. They knew well that Mr. Webb, he had
2 4	already been in prison before. They knew well of
25	his mother. They knew well of his boss. His mother

1	and his boss were in prison at the mom	nent that he
2	submitted those returns by the order of	of that judge.
3	The government knew well what it	was that he
4	submitted. I just thank God that what	happened did
5	happen. Now, if the government now is	s complaining
6	that they're getting all these returns	s, well, Your
7	Honor, the prior five years of my life	a before the
8	Webb decision I had been seeing all k	inds of people
9	listening to others running about the	country sayin
10	don't file returns. The Webb case sho	owed me
11	something to show to the people to say	y file your
12	returns, engage the government proper	lv. stop

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12	recurns, engage the government property, stop
13	suffering and hurting yourselves. We will resolve
14	this over time.
15	Now the government claims and protracts this
16	argument to say that my actions are a tax scheme.
17	Well, in light of the breadth of Section 6700, Your
18	Honor, I'm not going to argue that the Congress
19	enacted a law to stop false, frivolous, fallacious,
20	and fraudulent speech about the Internal Revenue
21	Code, but in enacting such a law the courts have
22	made it clear that it is always been the precepts of
23	the lst Amendment that require the government to
24	specifically address the speech and address that
25	fine line between protected and unprotected speech

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9	of individuals and operate to assist them in a pro
10	se capacity as a friend, as a person who has watched
11	far too many people get hurt by the false arguments
12	and charlatans in this country, and to get to the
13	only issue I see left to bring up to the government
14	and end this 30-year conflict. The government has
15	also said that they had issued numerous public
16	pronouncements.
17	Well, they wouldn't respond to my letter to
18	Charles Rossoti, the first one, the second one, nor
19	the third one. I believe I did a responsible, a
20	politically responsible act. I committed one by
21	responding in writing with specificity to the
22	government's public pronouncements that they try
23	to construe to address my specific speech, because
24	the government has not come forth with authorities
25	and specific authorities and address as required in

1	Speiser, they claim that I and others will not, wil
2	never be satisfied.
3	Not true. How do they know what I believe,
4	Your Honor? How do they know what my actions are?
5	How do they know what I think? I just have clearly
o://www.	nite.org/USvBell/11-4injunctiontranscript.html (64 of 74) [4/10/2003 4:41:32 AM]

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1	if the government req	uires you	to	file a	return you
2	have to file a return	, and wha	t I I	have s	ought to do
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-	Here to title a transmit when such a mark stadius was been
з	was help people bring forth their contentions of
4	factual nature against the claim, the naked claim of
5	the employers that they earned something that's
6	includable within gross income, because the form
7	says in its instructions as shown in Exhibit 3, my
8	Exhibit Number 3 in this case, that I'd better
9	read it to you.
10	THE COURT: I have it.
11	MR. BELL: Okay, "if you receive an incorrect
12	W-2." Well, looking at the logical rules of
13	evidence, the only way if the IRS isn't going to
14	listen to what someone says when they step into a
15	meeting, but they've created a form, it's the
16	individual's responsibility to know about the form,
17	implement the form, and implement the process
18	properly and respectfully, and that's what the 4852
19	is about. The 8270
20	THE COURT: Give me an example of how you would
21	use U.S. versus Sullivan and Form 4852.
22	MR. BELL: Well, the U.S. versus Sullivan is
23	just a point of understanding to help the individual
24	to understand that if you are facing a W-2 and a
2 5	1099 filed against you, don't try to hide, because

it's in the computer and it will come up one day 1 and you will have to face this. So consider when 2 the IRS tells you to file, that we don't have a 3 return, CP Form 515, 518, that the government is 4 asking you to file a return, and Sullivan certainly 5 applies in such a case. 6 THE COURT: Okay. Then tell me how you would 7 use, give me an example of how you would use Form 8 4852. Is it specifically to identify an incorrect 9 form W-2? 10 MR. Bell: Or 1099, sir, Your Honor. 11 THE COURT: Or 1099? And how would you -- give 12 me an example of how you would identify an erroneous 13 14 W-2. MR. BELL: Well, it would be addressed, the 15 address that, the name of the person, their social 16 security number, their address, the year, the 17 employer's name and address and EIN if known, and 18 the person would make their contentions of factual 19 nature on the spaces provided in this form, which 20 would be where they would put in the amounts, and if 21 they believe they had no gross income and they had 22

23 nothing includable in gross income, including wages http://www.nite.org/USvBell/11-4injunctiontranscript.html (67 of 74) [4/10/2003 4:41:32 AM]

23	nothing in	cludable	in g	ross	income,	inclu	ıding	wages
24	as defined	by law,	then	they	would	state	zero	in
2 5	contention	of fact	•					

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http://www.nite.org/USvBell/11-4injunctiontranscript.html (68 of 74) [4/10/2003 4:41:32 AM]

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20	the manner that was implemented by Mr. Gene Webb.
21	THE COURT: Pursuant to your advice?
22	MR. BELL: I don't want to play with the word
23	advice. I can't venture there without sitting down
24	and looking at it.
25	THE COURT: Well, pursuant to the information

61

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http://www.nite.org/USvBell/11-4injunctiontranscript.html (69 of 74) [4/10/2003 4:41:32 AM]

10	Claim of the government of anotheresenses of the
17	liability. I am trying to exhibit to the government
18	and to this court that my effort has been to take
19	this information and bring it to the attention of
20	the people so that they can bring it to the
21	attention of the government through the proper
22	process, not to rail, shake their fists, or waste
23	time.
24	THE COURT: Mr. Bell, how much time would you
2 5	like to respond to the government's most recent

62

1	submissions to the court?
2	MR. BELL: Thirty days would be nice.
3	THE COURT: I can't give you thirty days.
4	MR. BELL: Then I guess the rules would have to
5	be fifteen.
6	THE COURT: I'll give you fifteen days from your
7	receipt, which would have been Friday?
8	MR. BELL: Friday, yes, Your Honor.
9	THE COURT: So it will be due Monday, November,
10	help me with the date of the month, I think the
11	18th?
12	COURTROOM DEPUTY: Yes.
13	THE COURT: 19th?

http://www.nite.org/USvBell/11-4injunctiontranscript.html (70 of 74) [4/10/2003 4:41:32 AM]

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13	THE COURT: 19th?
14	COURTROOM DEPUTY: 18th.
15	MR. BELL: 18th.
16	THE COURT: Anything further, gentlemen, on
17	either side?
18	MR. DAVIS: Nothing further, Your Honor.
19	THE COURT: Mr. Bell, anything further?
20	MR. BELL: Not at this time.
21	THE COURT: Okay. We'll take a good hard look
22	at your written submissions after November 18th when
23	they are due, and we will close these proceedings
24	with respect to the motion for preliminary
25	injunction. I would like counsel and Mr. Bell to

1	stay for a second with respect to other pending
2	matters. I have a motion to strike a supplemental
3	document that was filed by Mr. Bell, and I have I
4	think a motion to compel, but was that ruled upon by
5	Judge Kane?
6	MR. DOWIE: No, Your Honor.
7	THE COURT: Okay, so you have a pending
8	outstanding motion to compel, and Mr. Bell, you
9	have a pending outstanding motion to strike?
http://www.n	ite.org/USvBell/11-4injunctiontranscript.html (71 of 74) [4/10/2003 4:41:32 AM]

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10	MR. DAVIS: Your Honor, I thought the motion to
11	strike had been ruled on, but which motion to
12	strike? I know at the very least one has been ruled
13	on. I don't know if he did more than one. May I
14	take a look at the docket?
15	THE COURT: Okay. Mr. Bell, has your motion to
16	strike been ruled upon?
17	MR. BELL: I believe so, but I cannot affirm
18	that at this time.
19	THE COURT: All right. We'll take a look to see
20	if there's an order outstanding on that, and your
21	motion to compel has not been ruled on?
22	MR. DOWIE: That is correct, Your Honor.
23	MR. BELL: I believe the motion, Your Honor, the
24	motion to compel was possibly pending in the review
2 5	of the documents.

THE COURT: That's pending the in camera review, yes. Any other pending motions that you need to bring to the court's attention? MR. DAVIS: None for the government, Your Honor. THE COURT: Mr. Bell? MR. BELL: No, Your Honor.

http://www.nite.org/USvBell/11-4injunctiontranscript.html (72 of 74) [4/10/2003 4:41:32 AM]

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7	THE COURT: Okay. Very good. The record is
8	closed. We'll await Mr. Bell's submissions, and I
9	would like to close the record with Mr. Bell's
10	submissions to bring these proceedings to its
11	logical conclusion so that I can rule. I'm not
12	going to allow the government to respond to
13	Mr. Bell's reply. We have too many briefs as it
14	is, and so that will be the last document that I'll
15	review before ruling on your motion.
16	MR. DAVIS: Understood.
17	THE COURT: Okay? Thank you. We are adjourned.
18	(Thereupon, at 11:11 a.m. the proceedings were
19	adjourned.)
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	65
1	INDEX

3

Preliminary Injunction Hearing

USA vs. Thurston Paul Bell

http://www.nite.org/USvBell/11-4injunctiontranscript.html (73 of 74) [4/10/2003 4:41:32 AM]

3	US	A vs. Thurston Paul Bell	
4		1:01-CV-2159	
5		4 November 2002	
6			
7	Argument:		Page:
8	Mr. Davis		3
9			
10	Response:		
11	Mr. Bell		16
12			
13	Rebuttal		
14	Mr. Davis		50
15			
16	Surrebuttal		
17	Mr. Bell		53
18			
19			
20			
21	Exhibits:	Description	Page:
2 2	Defendant's 1	Video tape by Lanken Rose	36
23			
24			
25			

NITE.org - US v. Bell: An Encouraging Email



US v. Bell

An Encouraging Email from David (used by permission)

WOW, that's GREAT! I read both the transcript and your reply on the web site, as well as the attached document. You seem to be doing a terrific job! Although, when the judge asked you to slow down so the court reporter could accuratly capture you statements, I'm not sure that reflects anything other than that you were excited and were talking rather fast. :) Not being present at the hearing, I can't say for sure, but that's how I read it in the transcript.

The first thing that raised my eyebrows is at the very beginning of the hearing where it appears the IRS agent you dealt with (Roginsky?) has become a lawyer for the DOJ??? What's with that??? Is there more to be read into that besides just a simple "job transfer"?

Another thing I observed was how interesting it is how some people, regardless of context, are wont to judge others as idiots if they don't have some specific degree or professional license or certificate. You're not a lawyer, so obviously you cannot make make legitimate arguments of law. Your former "chief counsel" HAD completed law school, but had not yet received his bar license, so HE was incapable of making legitimate arguments of law; in fact, they belittled much of what he said in their depositions. And, of course, since Larkin Rose merely has a BA in some liberal arts subject, it's impossible for HIM to be able to make legitimate arguments of law. (They admitted to having Rose's tape in their possession, but it would have been interesting to get them to admit whether they'd actually viewed it! I'd bet they have not watched it in its entirety, like the Judge Connor is likely to do.)

I got the impression from Judge Connor's reactions that he was a bit put off by this arrogant attitude and that he didn't like being advised through implication to simply dismiss all these legal arguments simply because the people bringing them weren't lawyers. That attitude was so pervasive on the part of the Government's lawyers that it CLEARLY tainted much of what they presented, leading to their stating several times that, "... it's frivolous because it's frivolous". They had FOUR lawyers at their bench, presenting a case against a non-lawyer, and they were unable to present anything they said with any clarity or certainty. They think they're arguing against a bunch of nonsensical idiots who have no legitimate standing with the court, and so they lowered themselves to the same level as they regard you to be. I think the judge caught this; don't you? I think he gave YOU the last word because YOUR word was far more legitimately presented than THEIRS. They kept repeating themselves and making broad generalizations that had no basis in fact or law (that they were able to provide). I have no real training in any of this, but it was very clear to me reading the transcript that their case had lots of noise in it and very little substance. They were being that which they were trying to portray you and Rose to be! It's really quite amusing.

Personally, I would say there'a good chance for a quite surprizing and unexpected ruling to issue from Judge Connor. He might just put their backs against the wall and ask them to deconstruct your entire argument point-by-point and present the case law they claim is so "obvious" before he issues a ruling. They are saying you are making "false statements". They didn't effectively site a single one, but nobody has yet to hold them accountable for their actions. It's one thing to simply deny their motion. It's another to get them to explain their position in detail and justify their presence before the court to begin with. With a little luck, they've pissed off the wrong judge.

-David





US v. Bell

DOJ Admission of Intimidation

Here is a more precise dissection of the admissions of the Untied States in the November 4, 2002 Hearing in U.S. v. Bell:

"...the government is not saying that this argument is frivolous because the Tax Court has ruled on it and the courts have enjoined three other people for promoting the same argument. That's further evidence of why Mr. Bell should stop and should know and does know that what he's(sic) doing is wrong." Transcript p.50

If "...the government is not saying that this argument is frivolous because the Tax Court has ruled on it...", does this mean that the government is saying that the Tax Court has not ruled on it?

Either the rulings of the Tax Court are authoritative or not, and if they are not how can they rely upon them?

If "...the government is not saying that this argument is frivolous because the ... courts have enjoined three other people for promoting the same argument." does this mean that the government is saying that the courts have not enjoined three other people for promoting the same argument?

Either the rulings of the other Courts are authoritative or not, and if they are not how can they rely upon them?

If we take this statement of the United States in the context of Mr. Bell's prior statements that none of the Tax Court cases specifically address the regulations he is using in his argument, and that none of the Injunctions have evidenced that the issuing courts have addressed the regulations of his argument with the specificity as required by the High Court, then this statement by Mr. Davis is that the United States of America has abandoned its prior positions of case law and thus abandoned all of the authoritative language of its prior notices to Mr. Bell.

Then there is the interjection of the second sentence:

"That's further evidence of why Mr. Bell should stop and should know and does know that what he's (sic) doing is wrong."

If the Tax Court has not addressed the issue authoritatively, and the other courts have not evidenced that they have authoritatively addressed the argument of Mr. Bell, why then should he know that what he is doing is wrong?

Does not the U.S. D.O.J. know that any individual or group possess the right to have rulings of lower courts heard by higher courts even the U.S. Supreme Court?

With we as U.S. Citizens possessing that right how is the argument of the Government that the speech of Mr. Bell should be enjoined, correct?

Before we get to that, the final sentence needs some more analysis.

The actions of the Courts cannot be separated from any analysis of the speech that they have held as unprotected, in matters of First Amendment and Speiser v. Randall, 357 U.S. 513 (1958), there must be a specific address and analysis of the speech to make it subject to any penalty, so the first half of the Statement by the United States does not make any sense with the second.

If the Court cases did not effect Mr. Bell's speech there cannot be legally any authoritative notice to Mr. Bell. With the Court determinations not being authoritative, as the United States has admitted, they do not effect the case against him and his speech.

This leaves only one possibility of the intent of the second sentence uttered by the United States, and that is that Mr. Bell should have been INTIMIDATED into silence by the rulings of the other Courts.

The mere fact that the United States of America made new argument in its following paragraph of oral argument is proof of that.

"The argument is frivolous because it is frivolous...the regulation he's relying on, in no uncertain terms it says that this regulation is only applicable to a certain defined group of other sections of the Internal Revenue Code, calling them operative sections. There is no other way of reading that regulation any other way...it's frivolous because it's frivolous."

NITE.org - US v. Bell: An Encouraging Email

Transcript p. 51

The complete absence of any citation of the specific language of the regulation or any court determination citing same that supports this new argument proves the matter of the argument of law presented by Misters Bell and Rose, and all other NITE members, is a matter of first impression. If there was any authoritative decision on the language of the regulations, the United States would have presented it, as it was statutorily required to carry the burden of proof in the Preliminary Injunction Hearing.

Thus, there are no authoritative writings on this issue, it is therefore clearly a first impression issue that the government seeks to use INTIMIDATION as its ONLY defense against anyone who dares to argue this law.

Plainly, with no authority addressing Mr. Bell's point of law, no injunction can issue, and that authority had to exist prior to the Filing of suit by the government and the government was required to specifically present that authority in the proceedings, and as well prior to filing suit pursuant to Executive Order 12988.

This game was over before it started.

Discla

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