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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,
Plaintiff,

Case No. 3:16-cr-00051-BR-05

vs.

AMMON BUNDY, et al,
Defendant.

Judge: Honorable Anna J. Brown

SUPERSEDING DEFENDANT'S OBJECTION TO DENIAL OF DUE PROCESS OF LAW AND DEMAND FOR DISCLOSURE OF THE CONSTITUTIONAL AUTHORITY THAT GIVES THE COURT THE CAPACITY TO TAKE JURISDICTION AND ENTER JUDGMENTS. ORDERS AND DECISIONS IN FAVOR OF THE UNITED STATES ARISING FROM A CIVIL, OR CRIMINAL PROCEEDING REGARDING A DEBT IN HARNEY COUNTY, OREGON

CERTIFICATE OF CONFERRAL: Stand-by counsel Lisa J. Ludwig, on behalf of *pro se* Defendant Ryan Bundy, contacted AUSA Geoffrey Barrow who indicated that the government opposes this motion/objection.

NOW COMES DEFENDANT RYAN C. BUNDY in the above captioned matter, appearing specially, not generally, to Object to denial of due process of law and Demand disclosure that gives this Court the constitutional authority to take jurisdiction and enter

judgments, orders and decrees in favor of the United States arising from a civil or criminal proceeding regarding a debt in Harney County, Oregon.

This Court is a district court of the United States and federal trial court authorized by statute to enter judgements, orders and decrees in favor of the United States arising from a civil or criminal proceeding regarding a debt; to wit:

"The United States District Courts are trial courts. Trial courts as opposed to appellate courts, are courts that hear both civil and criminal cases through examination and cross examination by attorneys" The Oxford Companion to American Law, Kermit L. Hall, editor in chief (Oxford University Press, Oxford, 2002), p. 175 (s. v. "Courts, United States").

"The United States district courts are the trial courts of the federal The district courts have jurisdiction to hear nearly all category of federal cases, including both civil and criminal matters."

<http://www.utd.uscourts.gov/forms/ufc99.pdf>

(Understanding the Federal Courts 1999 page 5)

28 U.S. Code § 3002 - Definitions

(2) "Court" means any court created by the Congress of the United States, excluding the United States Tax Court.

(3) "Debt" means-

(A) an amount that is owing to the United States on account of a direct loan, or loan insured or guaranteed, by the United States; or

(B) an amount that is owing to the United States on account of a fee, duty, lease, rent service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond forfeiture, reimbursement, recovery of a cost incurred by the United States, or other source of indebtedness to the United States, but that is not owing under the terms of a contract originally entered into by only persons other than the United States;

and includes any amount owing to the United States for the benefit of an Indian tribe or individual Indian, but excludes any amount to which the United States is entitled under section 3011(a).

(8) "Judgment" means a judgment, order, or decree entered in favor of the United States in a court and arising from a civil or criminal proceeding regarding a debt.

The best-known courts are courts of . . . unlimited trial jurisdiction, both civil and criminal, within their jurisdictional area. At the federal level these are called DISTRICT COURTS. . .

West's Encyclopedia of American Law, Volume 9 (West Group: St. Paul, Minn., 1998), page 316

The statutory authority of the Court to enter judgments, orders and decrees in favor of the United States arising from a civil or criminal proceeding regarding a debt is clear: e.g.,

In response to the Criminal Indictment (Dkt. #58) this Court has jurisdiction pursuant to 28 U.S. Code § 1345 • United States as plaintiff, which gives district courts "original jurisdiction of all CIVIL actions, suits or proceedings commenced by the United States, or by any agency or officer there of expressly authorized to sue by Act of Congress" Further this Court has jurisdiction under 18U.S. Code § 3231

- District courts, which gives district courts "original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States."

What is not clear however, is the constitutional authority that gives the Court the capacity to take jurisdiction and enter judgments, orders and decrees in favor of the United States arising from a civil or criminal proceeding regarding a debt, in *Harney County, Oregon* - because a lawsuit authorized by the statutes of Congress is not, in and of itself sufficient to vest jurisdiction in this Court; to wit:

"So we conclude, as we did in the prior case, that although these suits may sometimes so present question arising under the Constitution or laws of the United States that the federal courts will have jurisdiction yet the mere fact that a suit is an adverse suit authorized by the statutes of Congress is not, in and of itself, sufficient to vest jurisdiction in the federal courts." *Shoshone Mining Co. v. Rutter* 177 U. S. 505, 513 (1900).

Statutory authority for a federal court, such as this Court, to enter judgements, orders and decrees in favor of the United States arising from a civil or criminal proceeding regarding a debt, is irrelevant if the capacity to take jurisdiction is not given by the Constitution; to wit:

"[a]s regards all courts of the United States inferior to this tribunal, two things are necessary to create jurisdiction, whether original or appellate. The Constitution must have given to the court the capacity to take it and an act of Congress must have supplied it. . . . To the extent that such action is not taken, the power lies dormant." *The Mayor v. Cooper*, 6 Wall. 247, 73 U. S. 252 (1868)(emphasis added); accord, *Christianson v. Colt Industries Operating Co.*, 486 U. S. 800, 486

U. S. 818 (1988); *Firestone Tire & Rubber Co. v. Risjord*, 449 U. S. 368, 449 U. S. 379-380 (1981); *Kline v. Burke Construction Co.*, 260 U. S. 226, 260 U. S. 233-234 (1922); *Case of the Sewing Machine Companies*, 18 Wall. 553, 85 U. S. 577-578, 85 U. S. 586-587 (1874); *Sheldon v. Sill*, 8 How. 441, 49 U. S. 449 (1850); *Cary v. Curtis*, 3 How. 236, 44 U. S. 245 (1845); *Mcintire v. Wood*, 7 Cranch 504, 11 U. S. 506 (1813). *Finley v. United States*, 490 U.S. 545 (1989).

This Court has CIVIL jurisdiction, 28 U.S. Code Chapter 85·DISTRICT COURTS;

JURISDICTION

Current through Pub. L. 114-38. (See Public Laws for the current Congress.)

US Code

Notes.

prev / next

- A. § 1330 - Actions against foreign states
- B. § 1331 - Federal question
- C. § 1332 - Diversity of citizenship; amount in controversy; costs
- D. § 1333 - Admiralty, maritime and prize cases
- E. § 1334 - Bankruptcy cases and proceedings
- F. § 1335 - Interpleader
- G. § 1336 - Surface Transportation Board's orders
- H. § 1337 - Commerce and antitrust regulations; amount in controversy, costs
- I. § 1338 - Patents, plant variety protection, copyrights, mask works, designs, trademarks, and unfair competition
- J. § 1339 - Postal matters
- K. § 1340 - Internal revenue; customs duties
- L. § 1341 - Taxes by States
- M. § 1342 - Rate orders of State agencies
- N. § 1343 - Civil rights and elective franchise
- O. § 1344 - Election disputes
- P. § 1345 - United States as plaintiff
- Q. § 1346 - United States as defendant
- R. § 1347 - Partition action where United States is joint tenant
- S. § 1348 - Banking association as party
- T. § 1349 - Corporation organized under federal law as party
- U. § 1350 - Alien's action for tort
- V. § 1351 - Consuls, vice consuls, and members of a diplomatic mission as defendant
- W. § 1352 - Bonds executed under federal law
- X. § 1353 - Indian allotments
- Y. § 1354 - Land grants from different states
- Z. § 1355 - Fine, penalty or forfeiture

Aa. § 1356 - Seizures not within admiralty and maritime jurisdiction
Bb. § 1357 - Injuries under Federal laws
Cc. § 1358 - Eminent domain
Dd. § 1359 - Parties collusively joined or made
Ee. § 1360 - State civil jurisdiction in actions to which Indians are parties
Ff. § 1361 - Action to compel an officer of the United States to perform his duty
Gg. § 1362 – Indian tribes
Hh. § 1363 - Jurors' employment rights
Ii. § 1364 - Direct actions against insurers of members of diplomatic missions and their families
Jj. § 1365 - Senate actions
Kk. § 1366 - Construction of references to laws of the United States or Acts of Congress
Ll. § 1367 - Supplemental jurisdiction
Mm. § 1368 - Counterclaims in unfair practices in international trade.
Nn. § 1369 - Multiparty, multi-forum jurisdiction

28 U.S. Code § 1345 - United States as plaintiff, Except as otherwise provided by Act of Congress, the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress.

(June 25, 1948, ch. 646, 62 Stat. 933.)

The Statutes provide only for jurisdiction; there is no reference for criminal jurisdiction.

Where as: The Constitution provides more than one form of law in which federal trial courts are authorized to take jurisdiction and enter judgements, orders and decrees in favor of the United States arising from a civil or criminal proceeding regarding a debt; and;

Where as: It is unknown under which of those forms of law provided in the Constitution the Court is seated and; you have 72 hours to answer with full disclosure or be in default and dishonor.

Where as: The Court has failed in pre- trial proceedings, to disclose to Defendant under which form of law the Court is seated or the constitutional authority that gives the Court the capacity to take jurisdiction and enter judgements, orders and decrees in favor of the United States in a civil or criminal proceeding regarding a debt in Harney County, Oregon--which

omission constitutes a denial of due process of law and; you have 72 hours to answer with full disclosure or be in default and dishonor.

Whereas: It is impossible for Defendant to mount a proper defense if Defendant does not know the constitutional authority that gives the Court the capacity to take jurisdiction, and enter judgments, orders and decrees in favor of the United States in a civil or criminal proceeding regarding a debt, in Harney County, Oregon, and;

Whereas: If the defendant is foreclosed from mounting a proper defense because the Court will not disclose the constitutional authority that gives the Court capacity aforesaid, Defendant will not be able to have a fair proceeding, and;

Whereas: Disclosure by the Court of the constitutional authority that allows the Court to take jurisdiction and enter judgements, orders and decrees in favor of the United States arising from a civil or criminal proceeding regarding a debt, in Harney County, Oregon, will allow Defendant to know the particular form of law under which the Court is seated and mount a proper defense. You have 72 hours to answer with full disclosure or be in default and dishonor.

Wherefore: Defendant hereby Demands disclosure of the constitutional authority that gives the Court capacity to take jurisdiction and enter judgements, orders and decrees in favor of the United States arising from a civil or criminal proceeding regarding a debt in Harney County, Oregon. You have 72 hours to answer with full disclosure or be in default and dishonor.

Respectfully submitted this 25th day of July, 2016.

/s/ Ryan Bundy*
Pro Se Defendant

**Filed on behalf of Mr. Bundy by standby counsel Lisa J. Ludwig, OSB #953387*