

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 v.) **Case No. 06-CR-62-TCK-PJC**
)
 RICHARD MAYNOR BLACKSTOCK,)
)
 Defendant.)

ORDER

Before the Court are Defendant's Motions for Arrest of Judgment and to Dismiss Indictment (Docket Nos. 60 and 61). On June 22, 2006, Defendant was convicted by a jury of 32 counts of Aiding and Assisting in Preparation of Fraudulent Tax Returns, in violation of 26 U.S.C. § 7206(2). Defendant's post-trial motion was made pursuant to Federal Rule of Criminal Procedure 34 and Federal Rule of Criminal Procedure 12(b)(3)(B). (*See* Mot. for Arrest of Judgment and to Dismiss Indictment at 2.) However, the motion also references the legal standard for a motion for judgment of acquittal pursuant to Federal Rule of Criminal Procedure 29 (*see id.* at 1), and the arguments made by Defendant relate at least in part to improper instructions and failures of proof (*see id.* at 4-11). Accordingly, the Court construes Defendant's motion as one made pursuant to Rule 29, Rule 34, and Rule 12(b)(3).

Defendant first contends that the Indictment fails to allege a violation of 26 U.S.C. § 7206(2) because it failed to allege knowledge of the statute providing the offense. The Court ruled before trial, and rules yet again, that the Indictment tracks the statutory language and pleads all necessary elements of the offense.

Defendant next contends that the United States presented insufficient evidence of willfulness or knowledge of the statute. The Court finds that sufficient evidence was presented at trial that

Defendant committed a “voluntary, intentional violation of a known legal duty,” which is the standard set forth in United States Supreme Court case law and the Tenth Circuit Uniform Jury Instruction for this offense.

Defendant next argues that he did nothing more than rely on a false legal theory and that his conduct did not rise to the level of a “false statement to a material matter.” The jury was properly instructed on the elements of the offense and found Defendant did commit such falsities in preparing the returns at issue. The Court finds the evidence presented on this matter sufficient to sustain the conviction.

Finally, Defendant restates his argument that the tax forms at issue violate the Paperwork Reduction Act and therefore cannot form the basis of the conviction. The Court carefully considered this argument and made a lengthy record on the issue during trial, citing relevant case law. The Court will not revisit this issue.

Defendant’s Motions for Arrest of Judgment and to Dismiss Indictment (Docket Nos. 60 and 61) are DENIED.

ORDERED THIS 24th day of July, 2006.

A handwritten signature in cursive script that reads "Terence Kern". The signature is written in black ink and is positioned above a horizontal line.

TERENCE KERN
UNITED STATES DISTRICT JUDGE