

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

UNITED STATES OF AMERICA            )  
  )  
                  vs.                    )     CRIMINAL ACTION NO.  
  )  
SHERRY PEEL JACKSON                )     1:07-CR-108-ODE

PRELIMINARY MOTION TO DISMISS

COMES NOW, SHERRY PEEL JACKSON, through her undersigned counsel, and hereby files this Preliminary Motion to Dismiss. In support of this filing, defense counsel shows as follows:

ARGUMENT

On April 13, 2007, the Government filed a four count information against Ms. Jackson. In each count, the information alleges that Ms. Jackson failed to file tax returns in violation of 26 U.S.C. § 7203. Count one relates to calendar year 2000. Count two relates to calendar year 2001. Count three relates to calendar year 2002. And count four relates to calendar year 2003.

Each count of the information claims that Ms. Jackson "was required by Title 26, United States Code, and by regulations made under the authority thereof, to make a federal income tax return." Although the information alludes to "Title 26" and the "regulations" that allegedly imposed the requirement to make a tax return, it does not identify those provisions. Accordingly, in order to ascertain the provisions against which she will be

required to defend, Ms. Jackson, along with the instant Motion, has also filed a Motion for a Bill of Particulars. In that Motion, Ms. Jackson has requested the provisions of "Title 26" and the "regulations" referenced in the information. Without this information, Ms. Jackson cannot adequately defend against the Government's charges.

In the instant Motion, we preliminarily contend that the Government will not be able to identify a provision within Title 26 or the pertinent regulations that required Ms. Jackson to make a return for the years in question. Since, however, the information did not reference the provisions at issue, we are not certain which provisions the Government is attempting to rely upon. For this reason, Ms. Jackson files the instant Motion in preliminary form. Once the Government identifies the provisions at issue - as it should unquestionably be required to do - counsel will either withdraw the instant Motion, or supplement it with additional authority.

#### CONCLUSION

For the foregoing reasons, we respectfully file this Preliminary Motion to Dismiss, requesting the opportunity to supplement this Motion after the Government responds to Ms. Jackson's Motion for a Bill of Particulars.

Dated: This 8th day of June, 2007.

Respectfully submitted,

/s/ W. Carl Lietz III

W. CARL LIETZ III

GEORGIA STATE BAR NO. 452080

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing PRELIMINARY MOTION TO DISMISS was formatted in Courier 12 pt., in accordance with Local Rule 5.1B, and was electronically filed this day with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following Assistant United States Attorney of record:

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Dated: This 8th day of June, 2007.

/s/ W. Carl Lietz III  
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