

No. 18-30228

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

WINSTON SHROUT,

Defendant-Appellant.

**Appeal from the United States District Court
for the District of Oregon
Portland Division
No. 3:15-cr-00438-JO
The Honorable Robert E. Jones**

**EXCERPTS OF RECORD
VOLUME II**

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AFFIDAVIT OF SPECIAL AGENT CASEY HILL

AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEARCH WARRANT

In the matter of the search of the laptop personal computer in the possession of WINSTON SHROUT (SHROUT), I, CASEY HILL, being first duly sworn on oath, depose and say:

Introduction and Agent Background

1. I am a Special Agent with Internal Revenue Service, Criminal Investigation (IRS-CI) in Ogden, Utah. I have been employed with IRS-CI since December 2003. My official duties include the investigation of possible criminal violations of the Internal Revenue laws, Title 26, United States Code, and domestic currency reporting and money laundering violations, Titles 31 and 18, United States Code, and related statutes. I have successfully completed the Criminal Investigator Training Program and the IRS Special Agent Basic Training Program at the Federal Law Enforcement Training Center, which encompassed detailed training in conducting financial investigations and in the use of search warrants in tax-related investigations. In 2001 I received a Bachelor's Degree from Weber State University in accounting with a minor in Spanish. I have also obtained experience working in banking and accounting while working for America First Credit Union from July 1998 to November 2003. I have been the affiant of an affidavit for multiple search warrants and have participated in several search warrants of businesses and residences. Materials searched for have included tax returns and tax return information, business records, bank records, computers, and other documents evidencing the obtaining, secreting, and/or concealing of assets by individuals or business entities.

2. From my experience, I know that individuals normally maintain records of their financial activity, such as receipts for expenditures by cash and check, bank records and other financial documents at their place of business and residence. Furthermore, individuals engaged in an

Purpose of Affidavit

5. Based on my training and experience, information from other law enforcement officers, information from civilian witnesses, and the facts of the investigation to date, I respectfully submit that there is probable cause that evidence of Obstructing the Internal Revenue Service (IRS) in violation of Title 26 U.S.C. §7212(a), Tax Evasion in violation of Title 26 U.S.C.

§7201, Making or Subscribing to a False Return in violation of Title 26 U.S.C. §7206(1), Preparing or Assisting in the Preparation of False Income Tax Returns in violation of Title 26 U.S.C. §7206(2), Fictitious Obligations in violation of 18 U.S.C. §514 and Conspiracy to Defraud the Government in violation of Title 18 U.S.C. §371 will be found on SHROUT's laptop computer.

6. This affidavit is offered for the sole purpose of establishing probable cause for the issuance of the requested search warrant and does not purport to set forth all of the facts of the investigation.

Location to Be Searched

7. The property to be searched pursuant to this search warrant includes the seizure and search of the laptop computer in the possession of WINSTON SHROUT.

8. WINSTON SHROUT SOLUTIONS IN COMMERCE (WSSIC) is hosting a seminar at The Grotto, in Portland, Oregon. The Grotto is a 62-acre Catholic shrine and botanical garden. The Grotto has a conference center which can be rented out to host business meetings or conferences. SHROUT's seminar runs from June 22, 2012 through June 24, 2012. SHROUT will be presenting at this seminar and it is anticipated that he will have his laptop computer with him. PAUL ZACCARDI (ZACCARDI) is a known associate of SHROUT's and has made presentations at SHROUT's seminars in the past. An email received by an IRS-CI undercover

agent indicates that there will be time for seminar registrants to meet with SHROUT and ZACCARDI for a couple of hours on June 22, 2012. This affidavit is not requesting authority to search The Grotto, but requesting authority to seize SHROUT's laptop computer at that location if the occasion presents itself.

Background of the Investigation

9. This investigation began on or about April 21, 2009, when IRS-CI became aware of SHROUT. SHROUT is selling and promoting materials dealing with the "Redemption Theory" and other sovereign citizen ideology. SHROUT is affiliated with WSSIC and has held seminars across the world. SHROUT also sells DVDs of these seminars on his website, www.wssic.com, which teach individuals how to prepare fictitious financial instruments and false tax returns, among other things.
10. SHROUT hosted the following seminars: Fort Collins, Colorado, 2006; Los Angeles, California, 2007; San Antonio, Texas, February 2008; Perth Australia, June 2008; Orlando, Florida, 2008; Phoenix, Arizona, April 2009; Vancouver, Canada, August 2009; London, England, September 2009; Cincinnati, Ohio, November 2009; Las Vegas, Nevada 2010; Los Angeles, California, 2010; Portland, Oregon, 2011; Flint, Michigan, date unknown; Kelowna, Canada, date unknown; Toronto, Canada, date unknown; Calgary, Canada, date unknown; Montreal, Canada, date unknown; Seattle, Washington, date unknown; and Boston, Massachusetts, date unknown. DVD recordings of all of these seminars are currently listed for sale at www.wssic.com.
11. Patricia Bekken, (Bekken) assists SHROUT in the production of the seminars and the selling, distributing, and promoting of SHROUT's materials through Beverly Event And Distribution Services, Inc. (BEADS). According to records retrieved from the State of Oregon's

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) Case No. 3:15-cr-00438-JO-1
)
v.)
) January 7, 2016
WINSTON SHROUT,)
)
Defendant.) Portland, Oregon
)
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FIRST APPEARANCE

FTR-RECORDED PROCEEDINGS

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JOHN V. ACOSTA

UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

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APPEARANCES

FOR THE PLAINTIFF:

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TRANSCRIPT OF PROCEEDINGS

(In open court:)

THE COURT: Mr. Iniguez, are you ready?

MR. INIGUEZ: Yes, Your Honor.

THE COURT: Thank you. Mr. Wexler, go ahead, please.

MR. WEXLER: Good afternoon, Your Honor.

Stewart Wexler of the United States Department of Justice Tax Division, appearing for the United States, in the matter of United States of America v. Winston Shrout. Case number 3:15-cr-438, assigned to Judge Jones. We are here for the initial appearance and arraignment on a six-count indictment alleging with each count a willful failure to file a tax return.

The defendant is present and not in custody, appearing on a summons. It is my understanding he has not retained counsel, but Mr. Iniguez of the Federal Defender's Office is present.

THE COURT: All right. Thank you. Mr. Iniguez?

MR. INIGUEZ: Good afternoon, Your Honor. Ruben Iniguez appearing. Your Honor, my understanding is that Mr. Shrout did receive a summons to appear. He obviously is appearing before the Court pursuant to that summons. I did receive, you know, via CM/ECF, a copy of this six-count indictment, charging six misdemeanor counts, as Mr. Wexler just indicated. I've had an opportunity to review it. I did not have an opportunity to review it personally with Mr. Shrout;

1 however, I believe he has reviewed it himself having previously
2 received it.

3 I had an opportunity to speak with him briefly before
4 court, and he clearly does not want this Court to appoint
5 counsel to represent him in this matter. He's allowing me to
6 stand here, as he knows it's my job, but he made very clear to
7 me, and I think he will tell the Court in a second, that he
8 does not want counsel appointed to represent him in this
9 matter, nor do I believe does he intend to represent himself,
10 as he understands that to be, for various reasons. He's not an
11 attorney, other things that he may better explain to the Court.

12 So that brings us to these proceedings. I'm here. I'm
13 perfectly willing and available to be appointed -- my office is
14 the same -- should the Court see fit; but he's made it very
15 clear to me that he does not want counsel appointed.

16 THE COURT: All right. Thank you.

17 Mr. Shrout, you can remain seated. That's fine. Can you
18 hear me okay?

19 THE DEFENDANT: Yes, I can.

20 THE COURT: All right. You understand you have a
21 right to have a lawyer appointed to represent you. Do you know
22 that?

23 THE DEFENDANT: No, Your Honor, I don't.

24 THE COURT: Well, in a criminal case, you can have
25 appointed counsel if you can't afford counsel. If you can't

1 retain counsel -- in other words, if you can't pay for a
2 lawyer, the Court will appoint one to represent you in this
3 case.

4 Mr. Iniguez is a lawyer with the Federal Public Defender's
5 Office in this district. If you wanted him to represent you, I
6 would appoint him to represent you at no cost to you.

7 Do you want me to do that or --

8 THE DEFENDANT: I've spoken to this gentleman here.
9 He cannot represent me. However, if you want to appoint him as
10 standby counsel for purpose of procedure, I will accept that.

11 THE COURT: All right. I just want to be clear.
12 Whether it's Mr. Iniguez or another lawyer, either in the
13 Federal Public Defender's Office or a lawyer who is a member of
14 the CJA panel, are you telling me that you don't want the Court
15 to appoint any lawyer to represent you?

16 THE DEFENDANT: Yes, that's correct.

17 THE COURT: All right. Thank you for clarifying
18 that.

19 So, in light of that, Mr. Iniguez, I will appoint you as
20 standby counsel for Mr. Shrouf in this matter.

21 MR. WEXLER: Your Honor, if I may?

22 THE COURT: Go ahead, Mr. Wexler.

23 MR. WEXLER: I believe it's only appropriate to
24 appoint Mr. Iniguez as standby counsel if the defendant is
25 choosing to represent himself. Mr. Iniguez mentions in his

1 remarks that it's his understanding the defendant does not
2 intend to represent himself. I would ask that the Court go
3 through a *Faretta* colloquy with the defendant to determine
4 whether or not the defendant has made an unequivocal waiver of
5 his right to counsel and intends to represent himself or is
6 simply just trying to proceed without any attorneys in -- for
7 his side, Your Honor.

8 THE COURT: Good point. Mr. Iniguez did make that
9 distinction.

10 So, Mr. Shrout, the other question I need to ask you about
11 is whether you intend to hire a lawyer to represent you in this
12 case.

13 THE DEFENDANT: Actually, once I'm (inaudible) my
14 intention is to plead guilty.

15 THE COURT: All right. Well, this is an arraignment
16 on the indictment. You're here to enter a plea. I'm going to
17 ask you if prior to coming to court today, after you had a
18 chance to review the indictment, you had the opportunity to
19 talk with a lawyer about the charges against you.

20 THE DEFENDANT: Actually, I never received a copy of
21 the indictment. I had to go to the clerk's office first thing
22 this morning to get one. They have not been supplied to me,
23 and I have not had a chance to review it.

24 THE COURT: Well, do you think you've had enough time
25 to review it now, or do you need more time to review it before

1 you decide what plea to enter?

2 THE DEFENDANT: Actually, my intention is to plead
3 guilty as soon as the prosecutor will read and certify the
4 charges for the record.

5 THE COURT: All right. Mr. Wexler, your thoughts
6 about that?

7 MR. WEXLER: Yes, Your Honor. If the defendant is
8 simply asking that the indictment be read in court, I would be
9 happy to do that. My concern is -- and I have some experience
10 handling cases of this variety -- is the defendant's use of the
11 word "certify." I believe that the defendant is relying on
12 ideology and rhetoric, namely aligned with the sovereign
13 citizen movement, and, in his use of the term "certify," is
14 asking for something more than a simple reading of the
15 indictment. But I would be happy to indulge the Court and the
16 defendant with a simple reading of the indictment if he is not
17 fully aware of what it contains.

18 THE COURT: I think what I'm going to do is this,
19 Mr. Shrout: This is your initial appearance on these charges.
20 Almost always the defendant receives appointed counsel if the
21 defendant wishes it. You've indicated you don't want me to
22 appoint counsel and don't intend to hire a lawyer to represent
23 you, so we've been through that.

24 Typically, as you've heard, because you were here during
25 at least some of the criminal calendar proceedings, I advise

1 defendants of their rights. I will tell you you have the right
2 to remain silent on the charges against you. You don't have to
3 talk to them about anyone if you choose to not do that, and you
4 have a right to know the charges that have been made against
5 you.

6 One of the other things we always do at these hearings is
7 we set the matter for further proceedings.

8 If it is your intention to enter a plea in the case with
9 respect to one or more of the counts in the indictment, my
10 inclination is to set this matter for either a plea hearing or
11 a status hearing before Judge Jones. Judge Jones is the judge
12 assigned to the case.

13 I think if you intend to enter a plea, as you've
14 indicated, it's probably better entered after you've had some
15 time to fully review the indictment and can do so before the
16 judge who is assigned to the case.

17 I can set the matter for -- I'll say a status conference.
18 That way you'll have a hearing date before Judge Jones. If he
19 has questions, he can ask you directly, and then he can decide
20 how best to proceed with respect to what you wish to do with
21 this case.

22 So, Mr. Wexler, that's what I'm going to do. Do you have
23 any objections to that?

24 MR. WEXLER: No objections to that, Your Honor.
25 Though I would ask that it be timely, as I'm sure the Court

1 intends, and there is the matter of the defendant's release
2 conditions pending that status conference.

3 THE COURT: Sure. Well, I think, to some extent, the
4 date I set for a hearing or a status hearing in this matter
5 will be affected by the release of the defendant.

6 Mr. Wexler, have you seen pretrial service's report?

7 MR. WEXLER: I have, Your Honor, as I'm not sure if
8 the Court has also reviewed it.

9 THE COURT: Yes, I have.

10 MR. WEXLER: It is short because there is no
11 information in the report really of any value. My
12 understanding is that the defendant was either not available or
13 not compliant with a pretrial interview.

14 I will note that I object to the ultimate conclusion of
15 the report, which is that the defendant be released on his own
16 recognizance, without conditions, subject to the providing of
17 an address. The government has strong concerns, not concerns
18 rising to the requirement of detention, but strong concerns
19 about the defendant's continued appearance in this case, and,
20 as a result, has fashioned a number of special conditions that
21 I went over with Mr. Nischik on the phone.

22 I also advised Mr. Iniguez briefly, before this matter
23 before you today, that we'd like the Court to institute to
24 ensure that the defendant appears at both the status conference
25 and future hearings in this case.

1 THE COURT: All right. Mr. Wexler, why don't you
2 tell me what those conditions are you have in mind.

3 MR. WEXLER: Yes, Your Honor. First, the government
4 would ask that the defendant be required to surrender his
5 passport. The defendant has worked extensively outside the
6 United States. He has worked in Canada, in Australia, in
7 England. He is scheduled to speak on a cruise called The
8 Conspira-Sea Cruise, as noted in the pretrial service's report,
9 which leaves out of Los Angeles on January 24, 2016. That
10 cruise makes several stops in Mexico.

11 And I would note that while Mr. Shrout has gone to other
12 countries to work, he's frequently gone there at the invitation
13 of like-minded individuals who also hold themselves out to be
14 sovereigns, and, if Mr. Shrout were to leave this country, he
15 would find safe haven among those communities. And so, as a
16 result, the government would first ask that Mr. Shrout
17 surrender his passport.

18 Second, Mr. Shrout maintains a residence, and his spouse
19 lives in the state of Utah. He also maintains a residence here
20 in Hillsboro, Oregon, and we would ask that Mr. Shrout's travel
21 be restricted to either the state of Utah or the state of
22 Oregon; that he be free to travel within those states but that
23 he could only travel to and from those two states and that he
24 would be required to check in and check out with pretrial
25 services as he moved from state to state.

1 I would note that this should not restrict Mr. Shrout's
2 ability to earn income. He gets a lot of his income through
3 internet payments. He earns his income through coaching
4 services that are done via email and on the phone and also does
5 a lot of seminars over the web, webinars, which he can do in
6 either location.

7 He actually has utilized facilities in Oregon before to
8 work, so being in Oregon should not restrict his employment
9 opportunities in any way.

10 Third, we'd ask that while on release that his income
11 sources be restricted to those that are reportable to the
12 Internal Revenue Service.

13 Mr. Shrout's been indicted for a willful failure to file,
14 failure to report his income to the IRS, and, absent the
15 reporting of his income by third parties, the United States has
16 no knowledge of whether or not Mr. Shrout continues to earn
17 income which could result in additional harm to the government.
18 So we would ask that any income sources be restricted to those
19 that are reportable.

20 I would note that all of his known income sources at this
21 time do report to the Internal Revenue Service, so it would not
22 require any change in his current employment.

23 And then, finally, Your Honor, I would note that
24 Mr. Shrout, since the indictment in this case, has submitted
25 several documents, both to the Department of Justice, as well

1 as the Internal Revenue Service, as well as the Court.

2 Indeed, immediately after the indictment, I was approached
3 outside of this courthouse with a document in which Mr. Shrout
4 alleged that he was not subject to the jurisdiction of this
5 court; that he was a sovereign entity protected by a UN
6 charter.

7 And, subsequent to being presented with that document, I
8 received via mail, as well as the agent -- investigating agent
9 in this case received via mail, a document styled a commercial
10 lien in which the defendant reiterated that he is not subject
11 to the jurisdiction of the federal government and assessed
12 penalties against myself, against Special Agent Hill. I will
13 also note that Your Honor has also been mentioned in that
14 document. Each individual mentioned, as well as acting U.S.
15 Attorney Mr. Williams, is liable, according to that document,
16 for \$1 trillion to Mr. Shrout.

17 In addition, after those -- those documents provided for
18 three days to comply. After three days, I received a
19 failure-to-comply notice and that the matter was going to be
20 forwarded to the appropriate international authorities.

21 Subsequent to that, I was made aware of a mailing that was
22 received by the Clerk of the Court here in which two documents
23 were provided. One had mentioned the Clerk of the Court, one
24 that mentioned Your Honor specifically, and which, again,
25 Mr. Shrout reiterated that he is not subject to the

1 jurisdiction of this Court.

2 All of this activity echoes activity that Mr. Shrout took
3 in a case -- a criminal case in the state of Utah in 2014 in
4 which he received a trial subpoena from the defense to appear
5 as a witness. He responded to that trial subpoena by writing a
6 letter to the Court, a handwritten letter to the Court, saying
7 that he was not going to appear, that he was a protected
8 sovereign, and that appearing would be a conflict of interest.
9 And, ultimately, he also did not appear in response to that
10 subpoena.

11 He also responded with a similar commercial lien document
12 in response to a search warrant that was executed on himself
13 and associated business premises. That warrant was executed in
14 2012. He responded in 2014 with a commercial lien, again
15 naming various prosecutors, members of the U.S. Attorney's
16 Office, as well as Judge Stewart, who signed that document.

17 All that is to say that those documents and the
18 defendant's assertions regarding jurisdiction give the
19 government, regardless of Mr. Shrout's presence here today,
20 concern that that presence will continue.

21 I would also ask the Court that the Court admonition the
22 defendant regarding these mailings. It's the government's
23 experience that these mailings are sort of entry documents into
24 a process that frequently results in the filing of actual liens
25 with various state entities, and that is a violation of Title

1 18 U.S.C. 1521.

2 So while it's customary to advise the defendant not to
3 violate any laws while on release, we would ask that the Court
4 specifically admonish the defendant to cease these mailings.

5 Now that this matter is underway, if the defendant has any
6 argument to make, the proper venue for that argument is through
7 the court filing system in the form of a pleading or a motion
8 and also specifically admonition the defendant that the filing
9 of false retaliatory liens is a federal crime under 18 U.S.C.
10 1521. It's 1521.

11 And that is all of the special conditions.

12 THE COURT: So, Mr. Wexler, the question for me to
13 decide under the Bail Reform Act is whether Mr. Shrout presents
14 a risk of danger to the community --

15 MR. WEXLER: Yes, Your Honor.

16 THE COURT: -- a risk of flight or both.

17 So the first thing I need to make sure I understand are
18 you proceeding -- are you seeking detention? Let's start with
19 basics.

20 MR. WEXLER: No, Your Honor, because we feel that
21 these conditions will assure --

22 THE COURT: So you want conditions?

23 MR. WEXLER: Yes, Your Honor.

24 THE COURT: So the conditions that are implemented in
25 any pretrial release order have to be such as to ensure that

1 the defendant, while on release, does not present a risk of
2 danger to the community or a risk of flight.

3 Is it the government's position that he is a risk of
4 flight or a risk of danger or both, such that one or more of
5 the conditions you've articulated need to be implemented?

6 MR. WEXLER: Yes, Your Honor. And I apologize if
7 I -- I may have spoken too fast at the beginning. We believe
8 that the defendant is a risk of flight, and we believe that the
9 defendant is a risk of economic harm --

10 THE COURT: Okay.

11 MR. WEXLER: -- but that these conditions would
12 ensure -- that would assuage the government's fears.

13 THE COURT: Let's talk about flight.

14 MR. WEXLER: Yes, Your Honor.

15 THE COURT: Mr. Shrout is here. He was not arrested.
16 He wasn't brought in by the marshals. He was here on a
17 summons. He showed up voluntarily. He's obviously been around
18 the courthouse based on your description of certain encounters
19 with him. You're aware of his involvement in another criminal
20 case, apparently, out of the District of Utah. He doesn't seem
21 to me and there's nothing in the record to suggest that he is
22 going to get on a boat or a plane or in some other form of
23 transportation and either try to flee this jurisdiction, the
24 country, or otherwise make himself unavailable.

25 In fact, certainly some, if not many of the activities

1 you've described, suggest that he intends to stick around so
2 that he can engage in some of the activities that you've
3 describe he's already begun in connection with these particular
4 charges.

5 The Bail Reform Act is pretty clear about the factors that
6 I have to consider. There isn't anything in the record showing
7 that he has a criminal record. There isn't anything in the
8 record that I have that shows that he -- well, it shows he has
9 ties to the community. You've already indicated that he
10 maintains a residence here in Oregon. He doesn't seem to have
11 any problems with respect to use of drugs or lack of financial
12 resources. He clearly has community ties. He's apparently
13 lived in Oregon for at least a sufficient amount of time to
14 maintain a residence here.

15 Now, let's just put aside the cruise to Mexico. Okay?
16 Let's put that aside, and we'll take that up separately. If
17 this were -- and, Mr. Wexler, tell me if I'm understanding the
18 nature of the charges. Are each of the counts in the
19 indictment misdemeanors, or are there any felonies involved?

20 MR. WEXLER: There all misdemeanors, Your Honor.

21 THE COURT: So if this were any other case and I had
22 the record before me that I had, on the flight issue, I would
23 release this defendant whether there would be conditions or
24 not; but given, frankly, the absence of any negative
25 indicators, under the Bail Reform Act, regarding risk of

1 flight, I don't think I would impose any conditions that would
2 ensure his continued appearance for proceedings in this matter.

3 I understand the arguments you've made. I'm not sure what
4 happened in the Utah case. What I do know is Mr. Shrout is
5 here now. He's apparently been around in connection with the
6 charges in this case, making certain filings or delivering
7 certain documents.

8 So the risk of flight -- again, the Mexico cruise aside --
9 I think doesn't exist.

10 So let's now talk about the cruise to Mexico and whether
11 that changes the -- the circumstances of the risk of flight.

12 Mr. Shrout, I have a question for you before I continue to
13 talk to Mr. Wexler. This cruise that you plan to go on
14 beginning January 24, when did you first make your reservations
15 or book the cruise?

16 THE DEFENDANT: Oh, probably -- I can't tell exactly,
17 but probably as long as three or four or five months ago.

18 THE COURT: Have you gone on similar cruises before?

19 THE DEFENDANT: No. I never have. It would be the
20 first time.

21 THE COURT: All right. Thank you.

22 So, Mr. Wexler, what we have is we have a long-scheduled
23 trip, apparently, scheduled prior to the time Mr. Shrout knew
24 anything about these charges. You indicated earlier that
25 he's -- I think it was you -- maybe it was Mr. Iniguez -- he's

1 gone to different countries. You indicated some concern that
2 he might find safe haven with other ideological colleagues in
3 those jurisdictions; but, apparently, because he's sitting
4 right here at counsel table, he always comes back from those
5 countries, and I -- you haven't told me anything that gives me
6 concern that if he were to go on this cruise he would not
7 return or that there is someone waiting somewhere along the
8 cruise route to give him safe harbor.

9 Do you have any other information that bears on that?

10 MR. WEXLER: Well, Your Honor, first, I would note
11 for the Court that -- that defendant's circumstances have
12 changed because, while it was a misdemeanor indictment, he is
13 under indictment now and facing the possibility of imprisonment
14 of up to a year in prison for each count, which could certainly
15 weigh on the defendant's state of mind at this time.

16 I will also specifically address the cruise note, and I
17 have documents that I would be happy to provide the Court for
18 review. I will note that the cruise has approximately two to
19 three dozen similarly minded speakers scheduled to appear on
20 the cruise, and so certainly the defendant would be within a
21 community just on the boat itself.

22 THE COURT: Okay. Hang on a minute. There had been
23 times in the past, in the eight years I've been on the bench,
24 I've been presented with search warrants and in some of those
25 instances the underlying rationale for the request to search is

1 based on the particular target's association with people of
2 specific ideological groups.

3 If Mr. Shrout were a Democrat or a Republican going to a
4 Democrat or a Republican convention, I'm not sure that would be
5 much different than getting on a boat with a bunch of other
6 folks who have the same ideas that he does about various rights
7 and freedoms.

8 Apart from whether I may agree or not with any of those
9 ideas, what you're asking me to do is impose a condition, based
10 on the risk of flight, essentially because he might hang out
11 with people who think the same things that he does, and, in
12 some way you have not yet made clear to me, that might
13 ultimately persuade him to never come back to this country.

14 I'm not sure I understand how the connection is made.

15 MR. WEXLER: Your Honor, I'm not trying to say that
16 simply by being on the cruise he will be persuaded to not come
17 back to this country. What I'm saying is that the
18 circumstances the defendant now finds him under will persuade
19 him to not come back to this country and that the cruise
20 provides him an opportunity to do that.

21 THE COURT: Sure. He -- was he under indictment in
22 this Utah case?

23 MR. WEXLER: No, Your Honor. He was subpoenaed as a
24 witness in that case.

25 THE DEFENDANT: Your Honor, that's not correct. I

1 was never subpoenaed in any case to be a witness to anything.

2 THE COURT: Okay. All right. Thank you.

3 MR. INIGUEZ: Judge, if I could only say a few
4 things. It's a cruise. It's a seven-day cruise. He goes to
5 Mexico and comes back. You're right. He's had those plans for
6 some time. Maybe it doesn't sound like a lot of money to some
7 folks, but a couple thousand dollars he would lose for that.
8 There's no indication that he would flee, and I think he will
9 tell the Court, if you ask him -- he will give you his
10 assurance he has every intention to appear for all proceedings
11 related to this matter. I think we can take his word.

12 67 years old. There's nothing in the record to suggest that
13 he's going to flee. He's never fled, so --

14 THE COURT: Mr. Shroul, if you get on that boat and
15 you take your seven-day cruise around Mexico, are you coming
16 back here?

17 THE DEFENDANT: I promise to come back and make an
18 appearance any time you have a hearing.

19 THE COURT: Mr. Wexler, I think, given what I've
20 heard so far, your description of charges and the rationale
21 underlying the conduct upon which the charges are based, it
22 seems pretty clear to me that Mr. Shroul has every intention of
23 coming back and continuing to engage with you in this case.

24 I don't get any sense from anything I've seen either in
25 the record or what I've heard here in court today that he's not

1 going to come back if he goes on this cruise. I don't think
2 he's a risk of flight. I think he will come back. In fact, I
3 think he's looking forward to coming back, from what I can
4 tell, and I don't believe he's a risk of flight even if he goes
5 on this cruise to Mexico.

6 On the issue of economic harm, let me tell you what I'm
7 thinking about that, and then you can respond specifically.

8 If I release him on his own recognizance, as with any
9 other defendant, as with Mr. Proudfoot, who was previously --
10 who was the case just before Mr. Shrout, that doesn't relieve a
11 defendant from the obligation to abide by all laws.

12 So if he were engaging in forms of non-reportable income,
13 that would, as you pointed out, be a violation of law. I'm not
14 sure I need to have a written condition that tells him exactly
15 that. It's already what he's required to do, and it could
16 affect his pretrial release status.

17 I want to make sure I don't misunderstand the argument
18 you've made. I don't -- I don't think I heard anything to
19 suggest that right now the government has a concern that
20 Mr. Shrout is engaging in activities which may be the basis of
21 additional misdemeanor charges or other crimes that might be
22 brought by the government.

23 Am I right about that, or did I misunderstand?

24 MR. WEXLER: I think that perhaps goes a little bit
25 too far --

1 THE COURT: Okay.

2 MR. WEXLER: -- from what I was saying, Your Honor.

3 THE COURT: Okay.

4 MR. WEXLER: And I can clarify and say that the
5 special conditions I had outlined were largely focused on the
6 risk of flight.

7 THE COURT: Yes.

8 MR. WEXLER: And speaking to the potential for
9 economic harm, I think it's sufficient that the Court simply
10 admonition the defendant regarding the compliance with laws;
11 but I would also ask that the Court specifically address the
12 criminal act codified under 18 U.S.C. 1521 of filing false
13 liens. I believe that the defendant's actions in regard to
14 these letters, in which the letters are styled as commercial
15 liens -- and I have them all here if the Court would like to
16 review them --

17 THE COURT: I've -- I've seen similar documents.
18 Thank you.

19 MR. WEXLER: -- are an indication of that type of
20 activity, and so a specific admonishment is called for.

21 THE COURT: All right. Thank you.

22 All right. Mr. Shrout, I'm going to follow the
23 recommendation of the pretrial services officer. I'll release
24 you on your own recognizance. You were here as I talked to
25 Mr. Proudfoot about what that means, but I'll go through it

1 again just to make sure that it's clear on the record in this
2 case.

3 What it means is there are no specific conditions for your
4 pretrial release except that you have to make all your court
5 appearances and make sure you respond to whatever requests or
6 orders or scheduling events that the Court has for your case
7 and you have to obey all the laws -- local, state, and federal.
8 There are a lot of laws out there -- local, state, and
9 federal -- as you probably are aware. Mr. Wexler has brought
10 to the fore one or two of those that he has particular concerns
11 about.

12 As a judge, I can't give you legal advice, and I'm not
13 purporting to do that. I will just tell you this: While
14 you're on pretrial release and while your case is pending, you
15 have to obey all the laws -- local, state and federal. If the
16 government charges you with violating any law -- local, state,
17 or federal -- and they establish the violation to a sufficient
18 probability, at least some of the things that could happen is
19 your pretrial release could be revoked or conditions could be
20 imposed; whereas, now you don't have any conditions pending
21 that govern your release except to obey the laws; or the
22 government, if it believes it has sufficient basis to do so,
23 could use any of those behaviors or conducts as the basis for
24 additional charges against you.

25 So I'm just telling you that because that comes under the

1 umbrella of obeying all the laws -- local, state, and
2 federal -- while you're out there. That's pretty much it.

3 Do you have any questions about that?

4 THE DEFENDANT: Not about that, but I have another
5 request.

6 THE COURT: Go ahead.

7 THE DEFENDANT: I request an appearance bond at no
8 cost to myself.

9 THE COURT: That is not a condition of your -- of
10 your release. Release on your own recognizance means all you
11 have to do is make sure you make your court appearances, so
12 there is no appearance bond required.

13 THE DEFENDANT: Okay.

14 THE COURT: All right. The only other thing I need
15 to do is set a date for the next hearing before Judge Jones to
16 make sure that the matter moves along.

17 Here is what I'm going to do at this time: As I think the
18 lawyers know, I don't have access to the district judge's
19 calendars, except for purposes of setting supervised release
20 violation hearings. So what I'm going to do is set a status
21 conference before Judge Jones on one of the two days of the
22 week. Wednesday or Thursday he typically hears supervised
23 release violations.

24 Now, Mr. ShROUT, as I understand it, you leave on the 24th;
25 correct?

1 THE DEFENDANT: I don't recall. It's either the 22nd
2 or the 24th. I think it's actually the 22nd. Is that a
3 Sunday?

4 THE COURT: The 22nd is a Friday. The 24th is a
5 Sunday.

6 THE DEFENDANT: Okay. It would be the 24th. It
7 leaves on a Sunday.

8 THE COURT: Today is the 7th.

9 THE DEFENDANT: It leaves from California, by the
10 way.

11 THE COURT: When are you leaving for California?

12 THE DEFENDANT: I'm not quite sure if I'm going --
13 well, I'm not sure about my means of transportation, so it
14 would be probably a couple of days before that at least.

15 THE COURT: So let me ask you this question: If I
16 set the matter for a status hearing before Judge Jones on
17 Wednesday the 20th, could you appear?

18 MR. INIGUEZ: I think the preference, Your Honor,
19 would be to do it once he returns. And if I'm going to be
20 here, I'm going to be gone that day, the 20th.

21 THE COURT: What about Wednesday the 3rd of February?

22 MR. INIGUEZ: That would -- that would work.

23 THE COURT: Mr. Shrout?

24 All right. Mr. Shrout has indicated he can appear before
25 Judge Jones on Wednesday, February 3rd, at 9:30 a.m.

1 Judge Jones's courtroom is in this building on the 10th
2 floor, and that will be the time for the next hearing in the
3 case. I'm going to set it as a status hearing and then all
4 matters the parties wish to address to Judge Jones at that time
5 regarding the case and further proceedings can be taken up.

6 So Wednesday, February 3, 2016, at 9:30, before
7 Judge Jones.

8 All right.

9 MR. WEXLER: Your Honor?

10 THE COURT: Yes, Mr. Wexler.

11 MR. WEXLER: If I may, I would just like to note for
12 the record that there's been no plea entered in this case as
13 of -- I don't think that --

14 THE COURT: Sure.

15 MR. WEXLER: -- Mr. Iniguez entered a plea of not
16 guilty on Mr. Shrout's behalf. And I know it's customary in
17 this jurisdiction to order discovery within 14 days. However,
18 I don't know that that's appropriate --

19 THE COURT: Yes, I --

20 MR. WEXLER: -- given that hearing is occurring after
21 the 14-day time period.

22 THE COURT: I -- I agree. So --

23 THE DEFENDANT: I'm not understanding what he just
24 said.

25 THE COURT: Let me see if I can be clear about it.

1 MR. WEXLER: Okay.

2 THE COURT: There are two things we always do at
3 these initial appearances, Mr. Shrout, that we haven't really
4 done yet. One is I haven't ordered the parties -- the
5 government to give discovery, the parties to exchange
6 information, within the 14-day time period. Mr. Wexler thinks
7 that's probably not workable in this particular case until at
8 least we have the status hearing on February 3rd. I think he's
9 right. So at this time, unless you have concerns, I will not
10 order the government to produce discovery within 14 days.

11 THE DEFENDANT: Oh, I don't need discovery.

12 THE COURT: Okay. So any further issues about
13 discovery you can take up with Judge Jones on February 3rd.

14 THE DEFENDANT: Sure.

15 THE COURT: The second thing, I know what you told me
16 earlier about entering a plea. Here is what I think the best
17 thing would be to do -- and, Mr. Iniguez, I am interested to
18 hear from you, and, Mr. Wexler, from you. We can do one of two
19 things. Mr. Shrout, we can enter a not guilty plea until you
20 see Judge Jones on the 3rd, or we can defer your entry of a
21 plea --

22 THE DEFENDANT: I'm going to enter.

23 THE COURT: -- until you see Judge Jones on the 3rd.

24 I'm sorry?

25 THE DEFENDANT: Okay. I'm sorry. Go ahead.

1 THE COURT: Or we can defer your entry of a plea
2 until you see Judge Jones, because this is his case, on
3 February 3rd.

4 What do you think about that?

5 THE DEFENDANT: I think that would be the best idea.

6 THE COURT: Mr. Wexler, any concerns about deferring
7 the defendant's entry of a plea in a case until February 3rd?

8 MR. WEXLER: I can't think of any, Your Honor, so I
9 would be fine with that.

10 THE COURT: All right. So we'll defer the entry of a
11 plea on the defendant's behalf until the matter is before
12 Judge Jones on February 3rd. I think that takes care of
13 everything.

14 Mr. Shrout, do you have any other questions?

15 THE DEFENDANT: Not at this time.

16 THE COURT: All right. Thank you.

17 Mr. Wexler, thank you.

18 MR. WEXLER: Thank you.

19 MR. INIGUEZ: Thank you, Judge.

20 THE COURT: Oh, Mr. Shrout, I have an order that says
21 you can go on your own recognizance, and I need you to sign
22 that before you leave today. So I'll sign it, and then you can
23 sign it.

24 MR. WEXLER: You Honor, can I reopen the matter just
25 briefly?

1 THE COURT: Go ahead, Mr. Nischik.

2 PRETRIAL SERVICES OFFICER: Your Honor, I was just
3 going to mention that the defendant will need to be processed
4 by the marshals service.

5 THE COURT: Because of the summons?

6 PRETRIAL SERVICES OFFICER: Because of the summons.

7 THE COURT: That's right. I forgot about that.

8 Before I talk to Mr. Shrout again, Mr. Wexler, go ahead.

9 MR. WEXLER: Just, Your Honor, there was a request in
10 the pretrial report that as a condition of the defendant being
11 released on his own recognizance that he provide an address of
12 contact information.

13 THE COURT: Right.

14 MR. WEXLER: I just would like the Court to reiterate
15 that requirement.

16 THE COURT: Right. So, Mr. Shrout, I'm sorry. There
17 are two other things.

18 THE DEFENDANT: Okay.

19 THE COURT: The first thing is I need you to give
20 some contact information to pretrial services so we know where
21 to send things and let you know when hearings are happening.
22 Typically, that's an address, a phone number, and an email
23 address. That's what people typically provide.

24 THE DEFENDANT: So you can actually email, though,
25 instead of hard mailing them?

1 THE COURT: Not necessarily.

2 THE DEFENDANT: That would be the easiest.

3 THE COURT: For email service?

4 THE DEFENDANT: Sure.

5 THE COURT: Well, all right. If you just provide
6 your address, phone number, and email address to Mr. Nischik,
7 then we'll get that into the record, and things can be sent to
8 you.

9 THE DEFENDANT: Like I said, I mean, up until today,
10 until I came to the clerk's office to get a copy of the
11 indictment, I never had any receipt of that, you know, on email
12 or hard mail.

13 THE COURT: Our practice here is typically when a
14 party does not have a lawyer of record in a case, the clerk's
15 office mails things to the address. That's their practice.
16 They really don't have the capacity to email. Lawyers do and
17 sometimes they exchange documents that way, but the clerk's
18 office really doesn't have the capacity to do that, so they
19 mail hard copies to your physical address. Is that okay?

20 THE DEFENDANT: Of course it is. They sent the
21 summons to that address.

22 THE COURT: Okay. Good. So we'll get your most
23 recent address, phone number, with -- with Mr. Nischik, before
24 you leave.

25 I have the order here as well.

1 Mr. Wexler, you raised a point, and I think I forgot it
2 already.

3 MR. WEXLER: I -- I think that was my point,
4 Your Honor; just that the pretrial had asked for that address
5 in order for him to be released.

6 THE COURT: Mr. Nischik, what was your point? Was
7 that the same thing, or was it different?

8 PRETRIAL SERVICES OFFICER: The marshals.

9 MR. WEXLER: The marshals.

10 THE COURT: Oh, right. Mr. Shrout, because there was
11 a summons issued, the marshals service has to process you so
12 that the summons is satisfied and all the --

13 THE DEFENDANT: What does that entail?

14 THE COURT: Not much. It doesn't mean you're going
15 to be detained or anything. There's just some paperwork to
16 fill out. It shouldn't take you too long.

17 Mr. Iniguez can talk to you about that and what's
18 involved.

19 THE DEFENDANT: Okay.

20 THE COURT: I'm sure it won't take very much time.

21 All right. Mr. Gale, would you hand this to Mr. Shrout,
22 please.

23 Thank you.

24 THE DEFENDANT: Do I get a copy of this?

25 MR. INIGUEZ: Yes, you will.

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THE COURT: Thank you. We're adjourned.
(FTR-recorded hearing concluded.)

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C E R T I F I C A T E

United States of America v. Winston Shrout

3:15-cr-00438-JO-1

FIRST APPEARANCE

January 7, 2016

I certify, by signing below, that the foregoing is a true and correct transcript of the FTR-recorded hearing, taken by stenographic means, via FTR recording, of the proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/Jill L. Jessup, CSR, RMR, RDR, CRR

Official Court Reporter Signature Date: 9/22/16
Oregon CSR No. 98-0346 CSR Expiration Date: 3/31/17

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) Case No. 3:15-cr-00438-JO-1
)
v.)
) February 3, 2016
WINSTON SHROUT,)
)
Defendant.) Portland, Oregon
)
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ARRAIGNMENT and FARETTA HEARING
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT E. JONES
UNITED STATES DISTRICT COURT SENIOR JUDGE

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APPEARANCES

FOR THE PLAINTIFF:

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FOR THE DEFENDANT:

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1 TRANSCRIPT OF PROCEEDINGS

2 THE COURT: Good morning, everybody. Have a seat.
3 Announce the case, please.

4 MR. WEXLER: Good morning, Your Honor. We're here
5 this morning in the case of United States versus --

6 THE COURT: Can you identify yourself first, please.

7 MR. WEXLER: I apologize, Your Honor. I'm
8 Stuart Wexler appearing for the United States. With me at
9 counsel table is Special Agent Casey Hill of the Internal
10 Revenue Service.

11 THE COURT: Thank you. Go ahead.

12 MR. WEXLER: Your Honor, we're here this morning in
13 the case of the United States v. Winston Shrout. Case number
14 3:15-cr-438. We're here for the defendant's arraignment held
15 over from the January 7th initial appearance before
16 Judge Acosta. The defendant stands charged with six counts of
17 misdemeanor willful failure to file in violation of
18 26 U.S.C. 7203.

19 THE COURT: Thank you. There's been a dispute as
20 to -- can you hear me?

21 MR. WEXLER: Yes, Your Honor.

22 THE COURT: -- as to representation.

23 Can you bring me up to date, Mr. Sady, as to what that
24 status is.

25 MR. SADY: Your Honor, Steve Sady from the Federal

1 Public Defender's Office. I'm appearing this morning on behalf
2 of Ruben Iniguez. My understanding is at the first appearance
3 there was not a decision made regarding counsel and that
4 that -- and that there was not a formal arraignment entered and
5 that that resolution of the counsel question was deferred to
6 this court.

7 THE COURT: All right. And have you talked to your
8 client as to what he wants to do this morning?

9 MR. SADY: I should point out that I believe -- my
10 understanding is that Judge Acosta designated us as standby
11 counsel at that time.

12 I have spoken with Mr. Shrout. I believe that matters
13 regarding counsel should probably be conducted ex parte, but
14 that I -- I'm --

15 THE COURT: I do not intend to do that. I'll do it
16 in open court here. All right. But you don't know at this
17 point what his desires are?

18 MR. SADY: I believe that he should probably
19 articulate those himself.

20 THE COURT: Thank you. You can just remain seated
21 there. Just sit and speak into the microphone. The question
22 is can you hear me all right?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. I have a hearing loss myself, so
25 we will -- we'll make sure that we understand each other.

1 THE DEFENDANT: Sure.

2 THE COURT: The issue is as to whether you want to
3 represent yourself alone. That is the first thing. Next thing
4 would be if you want to represent yourself with the guidance of
5 counsel. And then the third one would be whether you just want
6 to have counsel handle it, which is the normal way we would
7 proceed.

8 What is your desire, sir?

9 You don't have to get up. Just sit right there.

10 THE DEFENDANT: Okay. I believe that, in your words,
11 that I would be representing myself and with the public
12 defender as standby? Is that the right word?

13 THE COURT: Yes.

14 THE DEFENDANT: Okay. I think that's acceptable for
15 me. As I come to court under special appearance, then I'll
16 have the attorney as a standby.

17 THE COURT: That will be fine.

18 So in respect to this matter, then, we'll proceed with the
19 arraignment today. Is that what is in mind?

20 MR. WEXLER: Yes, Your Honor. I would note for the
21 Court and pursuant to the notice that I filed previously, on
22 Friday, with the Court, the defendant's mention just now of his
23 appearance -- his being here in court as a special appearance
24 raises a flag for me as to whether or not the defendant
25 understands what he is taking on as representing himself and

1 whether or not he has made an unequivocal waiver of his Sixth
2 Amendment right to counsel, and I would ask the Court to
3 conduct a formal inquiry under *Faretta* to ensure that the
4 defendant understands and knowingly and unequivocally has
5 waived his right to counsel.

6 THE COURT: I'm prepared to do that. Would you
7 please -- do we have a copy of this for counsel -- for
8 everybody?

9 THE DEFENDANT: I haven't seen any of that.

10 THE COURT: Excuse me. We prepared a little -- we
11 prepared a script here so you can follow what we're saying.

12 Would you make copies for everybody?

13 Under the U.S. Supreme Court case of *Faretta*, when a
14 person wants to represent themselves, even if they have the
15 assistance of counsel, the Court has a duty to advise the
16 person wanting to proceed as their own counsel. With that --
17 even with that proviso, certain hazards are involved in
18 representing yourself, and this has to be done on the record.

19 So we just have to wait a minute. I'll have it all
20 written out for you.

21 THE DEFENDANT: In the meantime, can I ask a
22 question?

23 THE COURT: Sure.

24 THE DEFENDANT: I'm kind of confused by the nature of
25 this situation. I am astute, so I try to understand things,

1 and what's confusing to me is that obviously this is not a tort
2 case. There has to be a commercial crime?

3 THE COURT: That's not true. This is a criminal
4 proceeding.

5 THE DEFENDANT: Sure. Okay. But it's based upon
6 what?

7 THE COURT: The procedures of statutes of the United
8 States.

9 THE DEFENDANT: Those apply to citizens or what?

10 THE COURT: It applies to you, sir.

11 I've been through this situation -- the papers you
12 filed -- many times. It's nothing new to me. I understand
13 what your contentions are -- they've never been upheld by any
14 court -- that you think you're above the law or something.

15 THE DEFENDANT: No, I don't believe I'm above the
16 law, sir.

17 THE COURT: Well, you believe your position is that
18 you are not subject to the jurisdiction of this court, as I
19 understand it.

20 THE DEFENDANT: Is that a question?

21 THE COURT: Yes. I'm not going to -- I just want to
22 go over this with you.

23 THE DEFENDANT: Okay.

24 THE COURT: Do you have it in front of you?

25 THE DEFENDANT: Yes.

1 THE COURT: Okay. We're going to read it together.
2 I'll read it, and then if you have any questions, let me know.

3 The Sixth Amendment to the Constitution provides that
4 you're entitled to have legal representations at all critical
5 stages of this prosecution. You also have a right to waive the
6 assistance of counsel. Before I let you proceed on your own
7 without a lawyer to represent you, even though you have a
8 lawyer to advise you, I must ensure that you knowingly -- are
9 knowingly and intelligently relinquishing the benefits of
10 having legal representation. You must be aware of the dangers
11 and disadvantages of self-representation before you can
12 knowingly and intelligently waive your right to assistance of
13 counsel.

14 First, I must determine that you are competent to waive
15 your rights. Are you under the influence of any substance or
16 impairment that would eliminate your -- that would limit your
17 ability to understand the nature of the proceedings today?

18 THE DEFENDANT: No, I'm not.

19 THE COURT: And you're -- it's not Mr. Iniguez,
20 because he's ill, but you have Mr. Sady here.

21 Mr. Sady, are you aware of anything I should consider
22 bearing on Mr. Shrout's competence?

23 MR. SADY: Your Honor, I do not believe I've had
24 sufficient opportunity to observe or to have an opinion one way
25 or another.

1 THE COURT: Thank you. Next, sir, you must -- I must
2 make sure you understand the charges against you. You are
3 charged with six counts of willful failure to file tax returns
4 in violation of the U.S. Code. The government alleges that
5 during each of the calendar years, 2009 through 2014, you had
6 gross income in excess of the amount that triggers the
7 requirement to file a federal income tax return and willfully
8 failed to do so.

9 Do you understand the charges made against you?

10 THE DEFENDANT: No, sir.

11 THE COURT: Well, those are the charges that are made
12 against you. So do you want to make any comment?

13 THE DEFENDANT: You asked me a question; did I
14 understand them. I'm aware of them. I've seen them on your
15 paperwork and so forth; but, in answer to the question do I
16 understand them, the answer is no.

17 THE COURT: Okay. You're aware of the content,
18 though?

19 THE DEFENDANT: I've looked over them.

20 THE COURT: All right. Then I must make you
21 understand the possible penalties you face. On each count, if
22 you're convicted, you will be subject to a year imprisonment
23 and a fine of \$25,000. That's a lot of time and money when you
24 multiply that by six; your six counts that are against you.

25 In addition, you could be charged with cost of prosecution

1 and subjected to a term of supervision after being released
2 from prison. Do you understand what is at stake here if you
3 proceed to represent yourself and lose the case?

4 THE DEFENDANT: I'm aware of those things; but, no, I
5 do not understand them.

6 THE COURT: Very well.

7 Fourth, I must make sure you understand the dangers and
8 disadvantages of proceeding without legal representation.
9 You're accused of specific violations of a specific statute
10 with which Mr. -- your lawyer, we'll say, is familiar and you
11 are not. He is an expert at researching the law and raising
12 legal issues under federal statute and the constitution that
13 may be pertinent to your defense. You do not have that
14 training or experience and would be at a disadvantage without
15 legal expertise. Intricacies of court proceedings are governed
16 by the rules of Federal Rules of Criminal Procedure and the
17 Federal Rules of Evidence. These rules govern such matters as
18 obtaining evidence, challenging evidence presented by the
19 prosecution, calling witnesses, arguing the merits of your
20 case, and arguing the factual inferences that may be drawn from
21 the evidence.

22 Your lawyer is an expert at using these rules in the best
23 interest of you, such a -- a defendant such as you. You do not
24 have that expertise, and I have no duty to instruct you in the
25 courtroom procedures or to perform any tasks that counsel would

1 normally do for you. I will not be able to save you from
2 mistakes you are sure to make if you try to present your case
3 on your own.

4 In addition, your lawyer would be able to advise you
5 regarding any reductions that may be available under the
6 sentencing guidelines or the advisory sentence to which you
7 would be subject if convicted. And guideline sentences are
8 strictly discretionary with the court. They're not mandatory.

9 Your lawyer is also very experienced in negotiating with
10 authorities who have brought these charges against you. You
11 would lose -- be losing the benefit of all that training and
12 expertise if you choose to proceed without the lawyer.

13 Finally, I don't say the following to denigrate you in any
14 way, but to advise you of the dangers you face. Based on the
15 documents you have submitted so far in this case, it is clear
16 you do not know how to present a viable defense to the charges
17 against you. The documents you have submitted purporting to be
18 a lien and invoice and a liquidation are null and void. They
19 have no legal consequence at all. If these documents are
20 intended to be the basis of your defense, you're going to lose
21 this case. You will be subject to the penalties above.

22 You must understand the proceeding. And the fashion you
23 propose is perilous, and I urge you to accept the assistance
24 from your lawyer.

25 Knowing these dangers I've outlined, do you wish to waive

1 your right to the assistance of counsel in these proceedings?

2 THE DEFENDANT: I intend to maintain the position
3 that we earlier spoke of, yes.

4 THE COURT: You will proceed as your own lawyer, with
5 the assistance of counsel; is that correct?

6 THE DEFENDANT: Are those the right words?

7 MR. SADY: Your Honor, I'm concerned about the
8 wording. As I understand standby counsel, standby counsel is
9 available to step in in the event that the waiver of counsel is
10 revoked and counsel is needed. To the extent that we are
11 providing advice, I would like -- I believe we would need
12 further guidance on what exactly our obligation would be.

13 THE COURT: Well, you can have it either way. You
14 can have the active assistance of counsel but pretty well run
15 your own defense, or you can have them just -- you can just do
16 it all yourself and just have them on standby to come in.

17 THE DEFENDANT: What the heck does assistance entail?

18 MR. SADY: May I have a moment, Your Honor?

19 THE COURT: Yes. I highly recommend that you have
20 the latter -- not the latter -- that you actually be available
21 for assistance at all -- at every proceeding, not just on
22 standby.

23 MR. SADY: Thank you.

24 (Mr. Sady and defendant conferring.)

25 THE COURT: So --

1 THE DEFENDANT: Sir, I have a question.

2 THE COURT: Yes, sir.

3 THE DEFENDANT: I'm confused about the terms being
4 used here. He just explained to me what "standby counsel"
5 means. I don't understand what you mean by advise -- advisory
6 or something like that.

7 THE COURT: Here's what I mean: You've got some
8 theories, which is not new to me, about admiralty courts and
9 all that stuff. It's hogwash. It doesn't exist in the law,
10 but you have a right to make a record of it, as I've done with
11 other tax protesters. A lawyer can't assert that right for
12 you. They just can't do that. They can't present to the Court
13 spurious matters. You can, if that's your choice. But at the
14 same time, where you could be in a win-win position, you can go
15 ahead and assert your positions, even though I feel that they
16 are without merit, but you have a right to put them on the
17 record. The lawyer can't do that, but the lawyer can, in a
18 trial, help you cross-examine witnesses and conduct the trial
19 within the law.

20 So that's where we are. Is that agreeable to you?

21 THE DEFENDANT: Pardon me. Yes, sir. But my
22 question is this: For instance, at the time of trial, will I
23 actually be able to pose the questions on cross-examination or
24 direct?

25 THE COURT: At the time of trial, you will be able to

1 ask questions that are within the law.

2 THE DEFENDANT: I understand that part.

3 THE COURT: Yeah. You can do it yourself.

4 THE DEFENDANT: Okay. So I can call my own
5 witnesses, cross-examine, direct examination, and so on?

6 THE COURT: Yes, you can. But you'll have the lawyer
7 to be there to assist you to the extent they can within the
8 law.

9 So that's where we're going to leave it. Okay?

10 THE DEFENDANT: One more question: On the -- at this
11 advisory position, would an attorney be able to sign my name or
12 any other documents that would pertain to me?

13 THE COURT: I don't -- I can't make a decision on it
14 until I see actually what we're talking about.

15 THE DEFENDANT: That's what I'm trying to get to.

16 THE COURT: So --

17 THE DEFENDANT: I'm trying to understand what the
18 advisory counsel would be.

19 THE COURT: Well, the lawyer will be there to advise
20 you of your rights and to challenge the inadequacies of the
21 government's presentation.

22 THE DEFENDANT: I understand that part, but my
23 question was whether or not an advisory counsel could actually
24 sign any documents that pertains to me. In other words, could
25 he create a liability in me? That's what I mean.

1 THE COURT: I'm not --

2 MR. SADY: Your Honor, perhaps I can clarify in a way
3 that -- just how defense counsel works in general, which is not
4 to sign the name of the person I represent. Even in a standard
5 case, I would sign a document and I would be as the
6 representative of that person.

7 THE COURT: Okay. The answer is you can sign -- you
8 will sign all the documents.

9 THE DEFENDANT: Okay. Would that -- with that being
10 the case, then I agree to the terms of the --

11 THE COURT: So I make a finding now that we'll
12 proceed with the defendant representing himself with the
13 assistance of counsel. We're ready to proceed with
14 arraignment. And do you want to read the charges?

15 MR. WEXLER: If the Court would like me to do so, I
16 will.

17 THE COURT: These are the charges that are against
18 you, sir.

19 MR. WEXLER: In the matter of the United States of
20 America v. Winston Shrout, the grand jury charges, as
21 introductory allegations, at times relevant to this indictment:
22 One, Winston Shrout was a resident of Hillsboro, Oregon; two,
23 Shrout operated a business as Winston Shrout Solutions in
24 Commerce, abbreviated WSSIC; three, Shrout received payments
25 for services as a presenter at seminars and licensing fees

1 associated with the sale of Shroust and WSSIC products, such as
2 DVD recordings of seminars and one-on-one consultations with
3 clients; four, Shroust received regular pension payments from a
4 pension trust. Excuse me.

5 Count 1, charging a violation of 26 U.S.C. 7203, willful
6 failure to file a return. Introductory allegations contained
7 in paragraphs one through four of this indictment are
8 re-alleged and incorporated herein as if copied verbatim.

9 During calendar year 2009, Shroust received gross income in
10 excess of \$18,700. By reason of such gross income, he was
11 required by law, following the close of the calendar year 2009,
12 and on or before April 15, 2010, to make an income tax return
13 to any proper officer of the Internal Revenue Service, stating
14 specifically the items of his gross income and any deductions
15 and credits to which he was entitled. While knowing and
16 believing all of the foregoing, Shroust willfully failed on or
17 about April 15, 2010, in the District of Oregon and elsewhere,
18 to make an income tax return, in violation of Title 26, United
19 States Code Section 7203.

20 Count 2, the introductory allegations contained in
21 paragraphs one through four of this indictment are re-alleged
22 and incorporated herein as if copied verbatim.

23 During calendar year 2010, Shroust received gross income in
24 excess of \$18,700. By reason of such gross income, he was
25 required by law, following the close of the calendar year 2010,

1 and on or before April 18, 2011, to make an income tax return
2 to any proper officer of the Internal Revenue Service, stating
3 specifically the items of his gross income and any deductions
4 and credits to which he was entitled. Well knowing and
5 believing all of the foregoing, he willfully failed on or about
6 April 18, 2011, in the District of Oregon and elsewhere, to
7 make an income tax return, in violation of Title 26, United
8 States Code Section 7203.

9 THE COURT: I think for the following you can just
10 add the additional dates.

11 MR. WEXLER: Yes, Your Honor. There's also a change
12 in the amounts. I'll note that for the record.

13 THE COURT: Read the dates and amounts.

14 MR. WEXLER: Count 3 relates to calendar year 2011.
15 The gross income was in excess of \$19,000. He was required by
16 law to file an income tax return on or before April 17th of
17 2012.

18 Count 4 refers to the calendar year of 2012 and the gross
19 income and amount was in excess of \$19,500, and the defendant
20 was required to file an income tax return for 2012 on or before
21 April 15, 2015.

22 Count 5 refers to the calendar year 2013, which the
23 defendant's gross income was in excess of \$21,200 and the
24 defendant was required to file a 2013 income tax return on or
25 before April 15, 2014.

1 Finally, Count 6 refers to the calendar year 2014. The
2 defendant received gross income in excess of \$21,500 and was
3 required to file a 2014 income tax return on or before
4 April 15, 2015.

5 THE COURT: Thank you. In respect to those charges,
6 do you wish to plead guilty or not guilty?

7 THE DEFENDANT: On behalf of the defendant, I plead
8 guilty to the facts.

9 THE COURT: Say that again.

10 THE DEFENDANT: I said on behalf of the defendant, I
11 plead guilty to the facts.

12 THE COURT: I'm not picking this up. I'm sorry.
13 He's -- read back to me, Mr. Sady, what he just said.

14 MR. SADY: Your Honor, he --

15 THE COURT: Just what his words were.

16 MR. SADY: "I'm guilty of -- I plead guilty to the
17 facts."

18 THE DEFENDANT: No, that's not what I said.

19 MR. SADY: I'm sorry. I would defer to the court
20 reporter.

21 (The court reporter read as follows, "On behalf of
22 the defendant, I plead guilty to the facts.")

23 THE COURT: "I plead" -- you plead guilty to the
24 facts. Well --

25 THE DEFENDANT: Just as she said.

1 THE COURT: Well, that would make you guilty and
2 subject to the penalties that are -- have been set forth. And
3 do you -- I take it, then, you do not wish to go to trial on
4 the facts; is that correct?

5 THE DEFENDANT: That's why I pled guilty to the
6 facts. There have been no facts established in the matter yet,
7 Your Honor.

8 THE COURT: Well, in respect to this matter, he's
9 pleading guilty to the facts, and if -- do you have any basis
10 of -- I've -- I still am confused as to what you want because
11 you could go to trial before a judge or a jury. You could be
12 your own lawyer, to the extent that we've talked about, and you
13 wouldn't have to do anything. You'd have the power of the
14 court to produce evidence and witnesses on your behalf. You
15 would be presumed to be innocent. You would have the
16 lawyer/counselor to advise you all through the trial, all
17 through the proceedings. You would have a right to confront
18 any of the government witnesses and examine those witnesses or
19 have your lawyer do that for you. You could take the witness
20 stand and state what your position is, and if you chose not to,
21 no inference of guilt could be drawn from that decision. So
22 you wouldn't have to incriminate yourself in any way.

23 And so you are waiving those valued constitutional rights
24 by entering a plea of guilty to the facts in this case. As far
25 as challenges to the law, you can make the challenges to the

1 law at any time that you would consider to do so.

2 I've already told you that the challenges I've seen so far
3 are not lawful. They just don't exist. But you -- if you have
4 anything else, you can always assert it.

5 If you are pleading guilty to the facts as your own
6 voluntary decision, the next step would be that I would take
7 your plea as a voluntary plea as to the facts, allowing you to
8 challenge any legal matters that you wish to at a later time.
9 I would strike any trial date that would be set for a trial
10 before the judge or a jury. There would be no trial. We'd
11 have a presentence report ordered and have your whole
12 background examined, and then the government's response, and
13 then I would make a final decision as to what sanctions to
14 impose.

15 That would be the procedure.

16 Is that your decision, sir?

17 MR. SADY: Your Honor, before you ask that question,
18 perhaps we should ask him if he would like advice on this
19 question that you're posing to him.

20 THE COURT: Would you?

21 THE DEFENDANT: Does that mean you want to talk about
22 it?

23 MR. SADY: Only if you do.

24 THE DEFENDANT: Okay.

25 MR. WEXLER: And, Your Honor, before Mr. Sady and

1 Mr. Shrout have a conversation, if I may just bring to the
2 Court's attention a couple of items that are causing the
3 government some concern.

4 THE COURT: Very well.

5 MR. WEXLER: First, during the Court's detailed
6 *Faretta* inquiry, the defendant, in response to item number two,
7 understanding the charges against him, and three, understanding
8 the possible penalties against him, said that he doesn't
9 understand the nature of the charges and he doesn't understand
10 what's at stake; he is generally aware of the charges and aware
11 of what's at stake. And the government has some concern as
12 that does not qualify as a knowing and intelligent response to
13 those two questions.

14 THE COURT: That's why I had you read the charges
15 verbatim so there could not be any question.

16 MR. WEXLER: Yes, Your Honor.

17 THE COURT: So we'll leave it at that.

18 MR. WEXLER: The second issue is I have some
19 experience with defendants such as Mr. Shrout.

20 THE COURT: I do too.

21 MR. WEXLER: I can identify certain code language.
22 And the defendant is specifically saying "on behalf of the
23 defendant," and I believe that what the defendant is trying to
24 get at is his theory regarding the idea that the entity that's
25 charged in the indictment is not the flesh and blood individual

1 sitting before the Court today.

2 THE COURT: I know that. That is a spurious
3 position.

4 MR. WEXLER: And I --

5 THE COURT: But I understand that.

6 MR. WEXLER: And so --

7 THE COURT: So I will be sentencing the defendant.
8 If it happens to turn out to be him, well, that's what it's
9 going to be.

10 MR. WEXLER: Very well, Your Honor. I would just
11 like to state for the record that the government's -- a big
12 concern is that by stating that he's pleading guilty on behalf
13 of the defendant and not as the defendant, that may cause an
14 error in his actual plea in the -- in the formality of his
15 plea.

16 THE COURT: All I can say is that I understand his
17 position. It has no basis in law. He's pleading guilty as
18 the -- he's pleading guilty as to the defendant. It happens to
19 be him.

20 All right. That's where we are. And so then I ask you,
21 sir, as to these six counts, then your plea is guilty as to the
22 facts.

23 MR. SADY: Excuse me, Your Honor. I believe that he
24 indicated that he would like to -- he invited advice before
25 answering your question.

1 THE COURT: He would like to what?

2 MR. SADY: Advice from me before he answers the
3 question.

4 THE COURT: Go ahead.

5 MR. SADY: Could I ask for a brief recess so that I
6 could talk to him privately?

7 THE COURT: Certainly.

8 MR. SADY: Thank you.

9 THE COURT: You can talk to him out -- you can talk
10 to him in our conference room if you would like to. You can
11 have privacy.

12 Are we ready on our next matter, Becky?

13 (Recess taken.)

14 THE COURT: Mr. Sady, what is the posture of things
15 at this time?

16 THE DEFENDANT: I didn't hear that last --

17 THE COURT: I said, "What's going on?"

18 MR. SADY: He wants me to report on the status of the
19 case.

20 THE DEFENDANT: Okay.

21 MR. SADY: Thank you for allowing us to use the
22 facility to confer. As advisor to Mr. Shroust, he's authorized
23 me to advise the Court that standing by his statement read back
24 by the stenographer, he does not intend to waive rights under
25 Rule 11 under the Federal Rules of Criminal Procedure;

1 therefore, in the absence of a knowing, intelligent, and
2 voluntarily guilty plea, we request that the Court enter a not
3 guilty plea on his behalf and set the case for jury trial.

4 THE COURT: Fine. Then that's exactly what we'll do.

5 And the matter will be set at what date? Are you ready in
6 about 30 days?

7 MR. WEXLER: Your Honor, discovery in this matter
8 will be quite voluminous.

9 THE COURT: Why?

10 MR. WEXLER: Well --

11 THE COURT: You've got -- it shouldn't be quite
12 voluminous. You've got a misdemeanor and you've got his income
13 and his failure to report it.

14 MR. WEXLER: Yes, Your Honor.

15 THE COURT: It doesn't take -- this is not a class
16 action. This does not require that much effort, so --

17 MR. WEXLER: Yes, Your Honor. The government, during
18 the course of its investigation, obtained several terabytes of
19 information regarding Mr. Shout's antitax activities. The
20 government believes that they --

21 THE COURT: Well, you can -- what are you going to --
22 all of that may be interesting at the time of sentencing, but
23 as far as proving the essential elements of this offense,
24 that's not a player. That's not admissible under the rules of
25 uncharged misconduct.

1 I would like to have this case handled expeditiously
2 before the Court or the jury.

3 MR. SADY: Your Honor, excuse me. I've had a chance
4 to meet only briefly with Mr. Shrout, but I do believe that
5 from the information that I've obtained that I would ask that
6 the trial set be at least the 70 days under the Speedy Trial
7 Act, and I would also advise the Court that with the
8 information that I'm aware of that I believe the trial
9 preparation is going to be a -- it's a much more complex
10 situation than I think superficially may appear.

11 THE COURT: All I can say is that you can make this a
12 major litigation. It is not. It is misdemeanor conduct of
13 whether he had the income and whether he paid it. The -- all
14 this other stuff, his connections with the protesters and
15 counseling all may be interesting in the event he's convicted.
16 But I will set it over -- we will set this for a trial date in
17 60 days. So we'll -- that is not going to be extended.

18 MR. SADY: Your Honor, again, I -- until we have had
19 a chance to review the discovery, and, from my experience in
20 other cases of this nature, there are important questions
21 regarding both mens rea and other types of potential defenses
22 that should be investigated, and that, I believe, would require
23 time to prepare in order to present properly to a jury.

24 THE COURT: And I appreciate that. Of course I
25 appreciate your expertise, as always. We will set it in 60

1 days.

2 DEPUTY COURTROOM CLERK: How about if we set it for
3 May 3rd at 9:00 a.m.?

4 THE LAW CLERK: That's not 60 days.

5 DEPUTY COURTROOM CLERK: Well, I'm looking at when
6 they're setting -- well, we have the Vazquez case.

7 THE LAW CLERK: May 3rd is beyond the 70-day speedy
8 trial --

9 DEPUTY COURTROOM CLERK: Okay. Let's see.

10 MR. SADY: Your Honor, we would waive -- as I was
11 just saying, I'm convinced that especially if there's that much
12 information that we're going to need to try to process and put
13 into a manner that a pro se defendant can access, that at least
14 that time would be necessary, and we would waive any Speedy
15 Trial Act and make -- and agree to findings under 36 --

16 THE COURT: You understand you have a right to go to
17 trial under the Speedy Trial Act before the expiration of 60
18 days. I'm cutting it loose -- I'm cutting it tight at 60 days.
19 The government and your lawyer/advisor want more time than
20 that, but you are -- the question is: We need your waiver as
21 to the setting of it at even 60 days.

22 THE DEFENDANT: Yes. For the record, I'll waive
23 speedy trial doctrine.

24 THE COURT: Thank you. That's fine. Take care of it
25 then, and then I'll ask you to please trim this case down to

1 where it belongs.

2 MR. WEXLER: May 3rd?

3 MR. SADY: I think it's May 3rd.

4 DEPUTY COURTROOM CLERK: Yes.

5 THE COURT: Thank you. We're in recess.

6 (Hearing concluded.)

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C E R T I F I C A T E

USA v. SHROUT

3:15-cr-00438-JO-1

ARRAIGNMENT

February 3, 2016

I certify, by signing below, that the foregoing is a true and correct transcript of the record, taken by stenographic means, of the proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/Jill L. Jessup, CSR, RMR, RDR, CRR

Official Court Reporter
Oregon CSR No. 98-0346

Signature Date: 2/19/16
CSR Expiration Date: 3/31/17

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

Case No.: 3:15-CR-00438-JO

Plaintiff,

SUPERSEDING INDICTMENT

v.

Counts 1 through 7

18 U.S.C. § 514(a)(1)

(Fictitious Obligations)

WINSTON SHROUT,

Counts 8 through 10

18 U.S.C. § 514(a)(2)

(Fictitious Obligations)

Defendant.

Counts 11 through 13

18 U.S.C. § 514(a)(3)

(Fictitious Obligations)

Counts 14 through 19

26 U.S.C. § 7203

(Willful Failure to File Return)

THE GRAND JURY CHARGES:

Introductory Allegations

At times relevant to this Superseding Indictment,

Background

1. Defendant Winston SHROUT was a resident of Hillsboro, Oregon.
2. SHROUT operated a business using the name Winston Shrou Solutions in Commerce (“WSSIC”).
3. SHROUT received payments for services as a presenter at seminars, through which SHROUT promoted, among other things, the use of bonds as a means to pay off debts.
4. SHROUT received licensing fees associated with the sale of SHROUT and WSSIC products, such as DVD recordings of seminars and private consultations with clients.

SUPERSEDING INDICTMENT

United States v. Shrou

5. SHROUT received regular pension payments from a pension trust.

The Scheme and Artifice to Defraud

6. Beginning in or about February 2008, and continuing through at least June 2015, defendant SHROUT knowingly devised and participated in a material scheme and artifice to defraud financial institutions and the United States out of funds and monies by making, presenting, and transmitting fictitious financial instruments, variously called, among other things, “International Bills of Exchange” (“IBOE”) and “Non-Negotiable Bills of Exchange.” SHROUT claimed that these fictitious financial instruments had monetary value when he knew those instruments were in fact worthless. During the course of this scheme to defraud, SHROUT produced and issued more than three hundred of these fictitious financial instruments, purported to be worth in total over \$100,000,000,000,000 (\$100 trillion), on his own behalf and for credit to third parties.

Execution of the Scheme and Artifice to Defraud

7. It was part of the scheme and artifice to defraud that SHROUT produced fictitious financial instruments, which he falsely claimed had monetary value, when he knew they had no monetary value.

8. It was further part of the scheme and artifice to defraud that SHROUT would produce these fictitious financial instruments naming himself as “Maker,” “Drawer,” or “Principal” and use a fabricated account number at the United States Department of Treasury, which number matched SHROUT’s Social Security number. SHROUT would make and issue these fictitious financial instruments on behalf of himself and third parties.

9. It was further part of the scheme and artifice to defraud that SHROUT would send these fraudulent and fictitious financial instruments and other documentation to financial institutions

SUPERSEDING INDICTMENT
United States v. ShROUT

both within and outside the United States, as well as the United States Department of Treasury, via a private commercial carrier and the United States Postal Service, commanding the financial institutions and the Treasury Department to pay SHROUT and third parties through the fabricated account.

10. It was further part of the scheme and artifice to defraud that SHROUT would provide verification procedures to third parties, through which he asserted the fictitious instruments were “obligations of the United States,” “legal tender as a national Bank note, or note of a National Banking Association,” and a “legal tender obligation of the United States.”

11. It was further part of the scheme and artifice to defraud that SHROUT generated personal income by promoting and marketing the use of fictitious financial instruments as a means to pay off debts, including federal income tax. SHROUT would provide handouts to seminar attendees that contained examples and templates for the creation of these fictitious financial instruments.

12. It was further part of the scheme and artifice to defraud that SHROUT would have these seminars recorded and make recordings and handout materials available for purchase through his website: wssic.com. SHROUT marketed his materials and seminars through the website wssic.com and by direct marketing emails to existing clients for the purpose of generating income for himself.

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SUPERSEDING INDICTMENT
United States v. Shrou

Counts 1 through 7

18 U.S.C. § 514(a)(1)

Fictitious Obligations

13. The Introductory Allegations contained in Paragraphs 1 through 12 of this Superseding Indictment are re-alleged and incorporated herein as if copied verbatim.

14. On or about the dates listed below, within the District of Oregon and elsewhere, WINSTON SHROUT, with the intent to defraud as to a material matter, drew, printed, processed, produced, published, and otherwise made and attempted to make within the United States, false and fictitious instruments, documents and other items appearing, representing, purporting, and contriving through material scheme and artifice to be actual securities and other financial instruments issued under the authority of the United States and an organization, to wit, documents titled "International Bill of Exchange" that were issued for credit to the entities listed below, in the amounts listed below, and bearing the serial numbers listed below, each instrument constituting a separate count of this superseding indictment:

| Count | Date Made | Purported Value | For Credit To | Serial Number |
|--------------|-------------------|------------------------|---|----------------------|
| 1 | August 5, 2011 | \$1 billion | Clarrington Capital Group LLC | CCG10001 |
| 2 | December 14, 2011 | \$10 million | Rainmaker Services Inc. | RSI10B10002 |
| 3 | December 22, 2011 | \$10 million | A&P Management Corporation, S.A. | A&P10M10004 |
| 4 | January 20, 2012 | \$1 billion | Capital International Investments Limited | CIIL1B10002 |
| 5 | February 9, 2012 | \$500 billion | World-Wide Funding, LLC | WWF500B10004 |
| 6 | February 27, 2012 | \$25 billion | Asset International Funding | AIF25B10001 |
| 7 | March 8, 2012 | \$100 million | America Pacific Global Exchange Corporation | APGEC100M10006 |

SUPERSEDING INDICTMENT
United States v. ShROUT

All in violation of Title 18, United States Code, Section 514(a)(1).

Counts 8 through 10

18 U.S.C. § 514(a)(2)

Fictitious Obligations

15. The Introductory Allegations contained in Paragraphs 1 through 12 of this Superseding Indictment are re-alleged and incorporated herein as if copied verbatim.

16. On or about the dates listed below, within the District of Oregon and elsewhere, WINSTON SHROUT, with the intent to defraud as to a material matter, passed, uttered, presented, offered, brokered, issued, sold, and attempted and caused to do the same within the United States, false and fictitious instruments appearing, representing, purporting, and contriving through material scheme and artifice to be actual securities and other financial instruments issued under the authority of the United States and an organization, to wit, documents titled and issued in the amounts listed below, bearing the serial numbers listed below, and presented to the entities listed below, each instrument constituting a separate count of this superseding indictment:

| Count | Date Presented | Document Title | Purported Value | Serial Number | Presented To |
|-------|-----------------|---------------------------------|-----------------|---------------|---------------------------------|
| 8 | October 3, 2011 | International Bill of Exchange | \$1 trillion | MGH10001 | American Metro Bank |
| 9 | October 3, 2011 | International Bill of Exchange | \$1 trillion | MGH11000 | American Metro Bank |
| 10 | June 9, 2015 | Non-Negotiable Bill of Exchange | \$1.9 billion | DMV1001 | United States Dept. of Treasury |

All in violation of Title 18, United States Code, Section 514(a)(2).

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SUPERSEDING INDICTMENT
United States v. Shrout

Count 11

18 U.S.C. § 514(a)(3)

Fictitious Obligations

17. The Introductory Allegations contained in Paragraphs 1 through 12 of this Superseding Indictment are re-alleged and incorporated herein as if copied verbatim.

18. On or about October 3, 2011, within the District of Oregon and elsewhere, WINSTON SHROUT, with the intent to defraud as to a material matter, utilized interstate commerce, including the use of the mails, to transmit, transport, ship, move, transfer, and attempt and cause the same, through the United States, a false and fictitious instrument appearing, representing, purporting, and contriving through material scheme and artifice to be an actual security and other financial instrument issued under the authority of the United States and an organization. Specifically, SHROUT transmitted and caused to be transmitted via FedEx a document titled "International Bill of Exchange," issued in the amount of \$1,000,000,000,000 (\$1 trillion) and bearing the serial number MGH10001, from Hillsboro, Oregon, to American Metro Bank in Chicago, Illinois.

All in violation of Title 18, United States Code, Section 514(a)(3).

Count 12

18 U.S.C. § 514(a)(3)

Fictitious Obligations

19. The Introductory Allegations contained in Paragraphs 1 through 12 of this Superseding Indictment are re-alleged and incorporated herein as if copied verbatim.

20. On or about October 3, 2011, within the District of Oregon and elsewhere, WINSTON SHROUT, with the intent to defraud as to a material matter, utilized interstate commerce,

SUPERSEDING INDICTMENT
United States v. ShROUT

including the use of the mails, to transmit, transport, ship, move, transfer, and attempt and cause the same, through the United States, a false and fictitious instrument appearing, representing, purporting, and contriving through material scheme and artifice to be an actual security and other financial instrument issued under the authority of the United States and an organization. Specifically, SHROUT transmitted and caused to be transmitted via FedEx a document titled "International Bill of Exchange," issued in the amount of \$1,000,000,000,000 (\$1 trillion) and bearing the serial number MGH11000, from Hillsboro, Oregon, to American Metro Bank in Chicago, Illinois.

All in violation of Title 18, United States Code, Section 514(a)(3).

Count 13

18 U.S.C. § 514(a)(3)

Fictitious Obligations

21. The Introductory Allegations contained in Paragraphs 1 through 12 of this Superseding Indictment are re-alleged and incorporated herein as if copied verbatim.

22. On or about June 9, 2015, within the District of Oregon and elsewhere, WINSTON SHROUT, with the intent to defraud as to a material matter, utilized interstate commerce, including the use of the mails, to transmit, transport, ship, move, transfer, and attempt and cause the same, through the United States, a false and fictitious instrument appearing, representing, purporting, and contriving through material scheme and artifice to be an actual security and other financial instrument issued under the authority of the United States and an organization. Specifically, SHROUT transmitted and caused to be transmitted via the United States Postal Service a document titled "Non-Negotiable Bill of Exchange," issued in the amount of \$1,900,000,000 (\$1.9 billion) and bearing the invoice number DMV1001, which was attached to

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United States v. ShROUT

a 2015 IRS Form 1040-ES Estimated Tax Payment Voucher, from Hillsboro, Oregon, to the Internal Revenue Service in Washington, D.C.

All in violation of Title 18, United States Code, Section 514(a)(3).

Count 14

26 U.S.C. § 7203

Willful Failure to File Return

23. The factual allegations contained in Paragraphs 1 through 5 of this Superseding Indictment are re-alleged and incorporated herein as if copied verbatim.

24. During calendar year 2009, WINSTON SHROUT received gross income in excess of \$18,700. By reason of such gross income, he was required by law, following the close of the calendar year 2009, and on or before April 15, 2010, to make an income tax return to any proper officer of the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well knowing and believing all of the foregoing, he willfully failed, on or about April 15, 2010, in the District of Oregon and elsewhere, to make an income tax return.

In violation of Title 26, United States Code, Section 7203.

Count 15

26 U.S.C. § 7203

Willful Failure to File Return

25. The Introductory Allegations contained in Paragraphs 1 through 5 of this Indictment are re-alleged and incorporated herein as if copied verbatim.

26. During calendar year 2010, WINSTON SHROUT received gross income in excess of \$18,700. By reason of such gross income, he was required by law, following the close of the

SUPERSEDING INDICTMENT
United States v. ShROUT

calendar year 2010, and on or before April 18, 2011, to make an income tax return to any proper officer of the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well knowing and believing all of the foregoing, he willfully failed, on or about April 18, 2011, in the District of Oregon and elsewhere, to make an income tax return.

In violation of Title 26, United States Code, Section 7203.

Count 16

26 U.S.C. § 7203

Willful Failure to File Return

27. The Introductory Allegations contained in Paragraphs 1 through 5 of this Indictment are re-alleged and incorporated herein as if copied verbatim.

28. During calendar year 2011, WINSTON SHROUT received gross income in excess of \$19,000. By reason of such gross income, he was required by law, following the close of the calendar year 2011, and on or before April 17, 2012, to make an income tax return to any proper officer of the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well knowing and believing all of the foregoing, he willfully failed, on or about April 17, 2012, in the District of Oregon and elsewhere, to make an income tax return.

In violation of Title 26, United States Code, Section 7203.

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SUPERSEDING INDICTMENT
United States v. ShROUT

Count 17

26 U.S.C. § 7203

Willful Failure to File Return

29. The Introductory Allegations contained in Paragraphs 1 through 5 of this Indictment are re-alleged and incorporated herein as if copied verbatim.

30. During calendar year 2012, WINSTON SHROUT received gross income in excess of \$19,500. By reason of such gross income, he was required by law, following the close of the calendar year 2012, and on or before April 15, 2013, to make an income tax return to any proper officer of the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well knowing and believing all of the foregoing, he willfully failed, on or about April 15, 2013, in the District of Oregon and elsewhere, to make an income tax return.

In violation of Title 26, United States Code, Section 7203.

Count 18

26 U.S.C. § 7203

Willful Failure to File Return

31. The Introductory Allegations contained in Paragraphs 1 through 5 of this Indictment are re-alleged and incorporated herein as if copied verbatim.

32. During calendar year 2013, WINSTON SHROUT received gross income in excess of \$21,200. By reason of such gross income, he was required by law, following the close of the calendar year 2013, and on or before April 15, 2014, to make an income tax return to any proper officer of the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well knowing and believing all of the

SUPERSEDING INDICTMENT
United States v. Shrout

foregoing, he willfully failed, on or about April 15, 2014, in the District of Oregon and elsewhere, to make an income tax return.

In violation of Title 26, United States Code, Section 7203.

Count 19

26 U.S.C. § 7203

Willful Failure to File Return

33. The Introductory Allegations contained in Paragraphs 1 through 5 of this Indictment are re-alleged and incorporated herein as if copied verbatim.

34. During calendar year 2014, WINSTON SHROUT received gross income in excess of \$21,500. By reason of such gross income, he was required by law, following the close of the calendar year 2014, and on or before April 15, 2015, to make an income tax return to any proper officer of the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well knowing and believing all of the foregoing, he willfully failed, on or about April 15, 2015, in the District of Oregon and elsewhere, to make an income tax return.

In violation of Title 26, United States Code, Section 7203.

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SUPERSEDING INDICTMENT
United States v. Shrout

DATED this 15 day of MARCH, 2016.

A TRUE BILL.

OFFICIATING FOREPERSON

Presented By:
BILLY J. WILLIAMS
United States Attorney



STUART A. WEXLER
RYAN R. RAYBOULD
Trial Attorneys
U.S. Dept. of Justice, Tax Division

SUPERSEDING INDICTMENT
United States v. Shrou

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Case No. 3:15-cr-00438-JO-1
)
 v.)
) March 31, 2016
 WINSTON SHROUT,)
)
 Defendant.) Portland, Oregon
)
 -----)

ARRAIGNMENT AND FARETTA HEARING
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT E. JONES
UNITED STATES DISTRICT COURT SENIOR JUDGE

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APPEARANCES

FOR THE PLAINTIFF:

STUART A. WEXLER
Department of Justice
Tax Division
601 D Street NW
Washington, DC 20004

FOR THE DEFENDANT:

RUBEN L. INIGUEZ
Federal Public Defender's Office
101 SW Main Street
Suite 1700
Portland, OR 97204

COURT REPORTER:

Jill L. Jessup, CSR, RMR, RDR, CRR
United States District Courthouse
1000 SW Third Avenue, Room 301
Portland, OR 97204
(503)326-8191

* * *

1 with standby counsel.

2 THE COURT: I'll go over that issue with him in just
3 a moment; but, in the meantime, does he wish to have the
4 indictment read to him, or does he wish to waive that?

5 MR. INIGUEZ: He waives formal reading of the
6 charges, Your Honor.

7 THE COURT: Very well. You can just have a seat.
8 It's very important that you understand what you're getting
9 into here, and I've prepared for you what we call a *Faretta*
10 advisement.

11 Do you find that in front of you?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Okay. Let's go through this together.
14 This provides -- it states that the Sixth Amendment to the
15 Constitution provides you're entitled to have legal
16 representation at all critical stages of the prosecution. You
17 also have the right to waive the assistance of counsel.

18 I've told you about this the last time, and we ended up
19 with counsel being your advisor but not your attorney, and you
20 being -- you want to represent yourself.

21 Before we proceed on your own, even with the counsel as
22 advisor, it's without a lawyer to represent you, and I must
23 ensure that you knowingly and intelligently relinquish the
24 benefits of having legal representation in this case by
25 continuing to represent yourself. You must be aware of the

1 dangers and disadvantages of self-representation before you can
2 knowingly and intelligently waive your right to the assistance
3 of counsel.

4 First, I must determine if you are competent to waive your
5 rights, and so I'm going to ask you this morning, are you under
6 the influence of any intoxicating substance or mental
7 impairment that would eliminate -- would limit your ability to
8 understand the nature of the proceedings here today?

9 THE DEFENDANT: No.

10 THE COURT: Very well.

11 Further, your -- Mr. Iniguez, are you aware of anything,
12 Counsel, that I should consider in considering his competence.

13 MR. INIGUEZ: No, Your Honor, I have not. I've had
14 several interactions with him, and I believe he's fully
15 competent.

16 THE COURT: Thank you.

17 In this new superseding indictment, you are charged with
18 13 counts of fictitious obligations under the United States
19 Code. It alleges that between August 2011 and March of 2012
20 you created seven false financial statements. Between
21 October '11 and June '15, you offered or brokered the three
22 false financial statements. In October of 2011 you attempted
23 to distribute these financial false statements -- instruments
24 with intent to defraud.

25 These are Class B felonies.

1 You are also charged with the same six counts from the
2 original indictment. Those charge you with willful failure to
3 file income tax in violation of the U.S. Code involving
4 calendar years 2009 to 2014 when you had gross income in excess
5 of the amount that triggers the requirement to file a federal
6 income tax, and you willfully failed to do so.

7 Do you understand those charges?

8 THE DEFENDANT: I've read those, just like you said.

9 THE COURT: All right. The penalties involved on
10 each of the Class B felonies carry up to a maximum sentence of
11 25 years on each count, and that could mean a long time in
12 prison when you consider there are 13 counts against you. On
13 the willful failure to file your taxes, there's a -- that --
14 the misdemeanor carries up to a year imprisonment and a fine of
15 \$25,000.

16 In addition, you could be charged the cost of prosecution
17 and subjected to a term of supervised release after release
18 from prison. So you understand there's a lot at stake here and
19 that you must understand the dangers of trying to represent
20 yourself.

21 Let's put it bluntly. You're not competent to represent
22 yourself, but you have a right to do that. If you're asked to
23 select a jury, you would have to know what questions are proper
24 to ask a jury. To make an opening statement, would you have to
25 know the limits of what constitutes a proper opening statement.

1 If you go off on your bizarre defenses that you've already
2 raised, you would be cut off. They're nonsense, legally.

3 Further, when you get into the trial, you would have to
4 know how to cross-examine, how to cross-examine an expert
5 that's going to be called. You don't have the competency to
6 know the first thing about cross-examining a witness, but --
7 you come to challenging the charges legally as to each count.
8 What were the elements of each count? How would you know how
9 to argue whether they have been met or not met?

10 These are all matters -- I've said this before to people
11 like you. You're well meaning. You -- you are bizarre,
12 however, because you have one of our very best federal
13 defenders here to do those things. I'm not going to help you
14 try your case. I've said before it's just like somebody trying
15 to take out their own appendix. It just doesn't happen. It
16 doesn't work. But you have a right to plead guilty to these
17 charges, or some of them, and you have a right to plead not
18 guilty to these charges.

19 Now, if you plead not guilty, it doesn't make any
20 difference as to whether you're factually guilty or not. The
21 government would have the sole burden of proof to prove beyond
22 a reasonable doubt each element of each offense and convince --
23 if you tried it to the judge or to -- would have to convince
24 each juror of each element with proof beyond a reasonable
25 doubt. You would have the right to have your advisor with you

1 at all stages of the proceedings. And, on the other hand, you
2 wouldn't have to do anything because you would be presumed to
3 be innocent. The sole burden is on the government to prove
4 each element beyond a reasonable doubt, and you've -- you would
5 have the power of the Court to produce evidence and witnesses
6 on your behalf. You would have a right to confront any of the
7 witnesses that testified against you and cross-examine those
8 witnesses. You would have the right to take the witness stand
9 and tell your side of what -- how -- why you do this.

10 On the other hand, if you chose not to testify, no
11 inference of guilt could be drawn from that decision. So you
12 wouldn't have to incriminate yourself in any way.

13 And so those are the rights you would have if you went to
14 trial.

15 Do you understand what I'm saying here this morning, sir?

16 THE DEFENDANT: Yes. I choose to be my own attorney,
17 as you say.

18 THE COURT: Say that again.

19 THE DEFENDANT: Yes. I choose to be my own attorney,
20 without representation from Mr. Iniguez, but as standby
21 counsel.

22 THE COURT: He'll be standby.

23 THE DEFENDANT: Sure.

24 THE COURT: That's your choice. I'll accept that as
25 a full and knowing decision, complying with the *Faretta*

1 decision.

2 Are there other matters pertaining to this stage as to the
3 *Faretta* advisement?

4 For the government?

5 MR. WEXLER: I don't think so, Your Honor.

6 I would like to just ask the Court specifically there --
7 in the *Faretta* inquiry that the Court had prepared and
8 distributed, there is specific reference to the most recent
9 pleading filed to the docket by the defendant and makes some
10 findings or pronouncements about the nature of that pleading.
11 I just wasn't sure if the Court wanted to include that as part
12 of the *Faretta*, or I -- I did have some follow-up questions
13 about that. We can get to those.

14 THE COURT: I'm talking solely about the *Faretta*.

15 MR. WEXLER: Then nothing further, Your Honor.

16 THE COURT: Anything further on that?

17 MR. INIGUEZ: No, thank you, Judge.

18 THE COURT: I find, without doubt, he's totally
19 competent, and if he chooses to represent himself after
20 advisement, that's his legal right.

21 In respect to this matter, we have a trial date to set.
22 This involves setting the \$300 trillion -- is that correct?

23 MR. WEXLER: Yes, Your Honor. The documents
24 contained on Mr. Shrout's computer do total that amount.

25 THE COURT: You have an expert who is not available

1 until June 6th; is that correct?

2 MR. WEXLER: Yes, Your Honor.

3 THE COURT: Therefore, I'm going to declare this as a
4 complex case and to eliminate any matters pertaining to a
5 speedy trial. I want to set the final pretrial conference on
6 the first week of June. I think it's -- yeah, June -- is it
7 June 1? On a Monday? Somebody?

8 DEPUTY COURTROOM CLERK: June 1st is a Wednesday.

9 THE COURT: Okay. Wednesday is perfect. That will
10 be the final pretrial conference on -- on Wednesday the 1st.

11 And then on Monday I'm -- because sometimes at the final
12 pretrial conference we have to get ready, as you know, but your
13 client doesn't, we have to have the list of witnesses and a
14 synopsis of what they're going to say. I want to have your
15 instructions prepared. I want your jury questions prepared. I
16 want you to meet and confer. You can confer with advisory
17 counsel on exhibits and make sure that the defendant himself is
18 present for matters.

19 You can meet with advisory counsel on exchanging matters,
20 but he will -- the defendant will be present for the final
21 pretrial conference on June the 1st.

22 And then on Monday, the 6th, we'll do the cleanup before
23 we start the trial, and we'll start picking a jury on the next
24 day, June the 7th.

25 I would anticipate that it's going to take us some time to

1 try the case, so we'll just start then and go until it's
2 finished. I will block off the rest of that week, but it may
3 well go over into the following week.

4 So you should clear your calendars for probably a week and
5 a half. Would that be realistic?

6 MR. WEXLER: Yes, Your Honor. The government
7 anticipates a three- or four-day trial, not including a
8 presentation of evidence by the defendant.

9 THE COURT: Well, we're in no hurry. This involves a
10 lot of prison time if the defendant is convicted, and it
11 involves a lot of work and expertise for the -- to put on the
12 government's case, so we'll take the time that it takes.

13 My court hours are from 9:00 until 4:30, an hour and 15
14 minutes for lunch. And I have all sorts of instruction. You
15 might want to -- I guess I can refer to my own works. In
16 Chapter 4 of Federal Trials and Evidence, it gives you the full
17 layout for the final pretrial conference as well as the
18 remainder of the trial.

19 Are there other matters to cover this morning, Counsel?

20 MR. INIGUEZ: Your Honor, I would ask, for the
21 pretrial conference on Wednesday June 1st, what time would the
22 Court like to begin that conference?

23 THE COURT: On that date, I think we should start
24 probably at 9:00 a.m.

25 And we do have another matter as to pretrial release

1 conditions.

2 MR. INIGUEZ: Yes.

3 THE COURT: Is he prepared to stipulate to the new
4 additions?

5 MR. INIGUEZ: Your Honor, this would be my position
6 with respect to the proposed condition: As in all cases, all
7 federal cases out of this district, the first condition imposed
8 on somebody who's on release -- and it's been imposed in this
9 case already -- is that the defendant obey all laws -- local,
10 state, and federal. I fear that by requesting, imposing this
11 condition, the government, and if the Court were to follow
12 suit, would be putting the Court -- the cart, rather, excuse
13 the slip in tongue, the --

14 THE DEFENDANT: Cart.

15 MR. INIGUEZ: -- cart before the horse.

16 The government's allegations here, and as the Court just
17 noted for Mr. Shrout, he's presumed innocent. Those are not
18 just hollow words. Of course he's presumed innocent now.

19 The government, in its case, intends to attempt to prove
20 beyond a reasonable doubt that these instruments are false and
21 fictitious, illegal, in violation of the law. I think it would
22 be getting ahead of ourselves to tell Mr. Shrout at this time,
23 "It's illegal. You can't do that specific act," when that's
24 the act that's alleged that's to be proved, if, in fact, it is
25 proved.

1 So I would say at this point the condition that he obey
2 the law is more than sufficient.

3 I think we normally do this in all cases. I think there's
4 an exception. For example, we all know, there's no question,
5 that use of drugs is illegal. So that more specific condition
6 is often imposed because, clearly, it's always illegal to use a
7 drug. Here the issue is, is this conduct illegal. So I think
8 it would be a little much to say at this point, "You cannot do
9 that."

10 If he continues to do that, and if it is, in fact, proven
11 illegal, I think the government, as it is in this case, can
12 take the normal -- the requisite actions it deems appropriate
13 at that time.

14 So I would ask the Court to leave in place the conditions
15 as they are because they are more than sufficient.

16 THE COURT: The real -- I've confronted this earlier
17 this week with the occupiers. I had a grandmother who
18 continued to want to enlist people to engage in protest and so
19 forth. It's an even more serious issue of First Amendment
20 rights.

21 The conditions that he shall not conduct any further
22 seminars of the nature that he's engaged in in the past is
23 going to be enforced, and the -- the legal reading of that is
24 set forth in the government's motion on page 7, I believe. It
25 says I order the defendant to remove from the website wssic.com

1 all materials for sale that reference paying debt or creating
2 credit through the creation of financial instruments. I order
3 the defendant not to make such materials available for sale
4 through any other source.

5 I order the defendant to refrain from presenting seminars
6 or conducting one-on-one consultations with clients that
7 reference paying off debts or creating credit through the
8 creation of financial instruments.

9 The superseding indictment charges this defendant with
10 very serious felony violations.

11 Excuse me. I can't advise him if you're advising him at
12 the same time. Go ahead and finish up what you want to --

13 MR. INIGUEZ: I am, Your Honor.

14 THE COURT: I just want to tell him if he doesn't
15 like these conditions, I'll put him in prison and jail pending
16 trial. He's facing very serious charges, and these -- all he
17 has presented so far to me by way of defenses has been legal
18 nonsense. He will not be allowed to go out and purvey this
19 sort of material. If he doesn't like that, he can be in jail
20 where he certainly won't be off doing any seminars.

21 Anything further?

22 MR. WEXLER: Yes, Your Honor. Just back to the
23 mention in your *Faretta* document that specifically addresses
24 the defendant's pleading on March 25th. The Court noted in the
25 document the so-called bill of particulars submitted by the

1 defendant does not present any question that the government is
2 required to respond to, and I just wanted to clarify that the
3 Court is not expecting or requiring the government to respond
4 to the --

5 THE COURT: You don't have to.

6 Anything further for the government?

7 MR. WEXLER: Nothing further, Your Honor.

8 THE COURT: For the defense?

9 MR. INIGUEZ: Your Honor, I would -- as you noted,
10 Mr. Shrout was inquiring of me as you were speaking and
11 addressing the conditions, so he's understanding that you have
12 now imposed the three orders that you just orally read.

13 THE COURT: No seminars.

14 MR. INIGUEZ: Right. So he's indicated to me of
15 course he's going to follow the Court's order.

16 THE COURT: Good.

17 MR. INIGUEZ: He's indicating that he may want to
18 consult with me regarding appeal of the imposition of those
19 orders --

20 THE COURT: Fine.

21 MR. INIGUEZ: -- which, of course, is his right.

22 THE COURT: Do what he wants to do.

23 MR. INIGUEZ: And, Judge, with respect to the bill of
24 particulars, I would just have to note this for Mr. Shrout,
25 there is, of course -- as we just noted, he's not a lawyer. He

1 may be making a grave mistake by choosing, as is his right, to
2 represent himself. However, I did note that his motion that
3 the government just referenced and the Court just indicated
4 there's no response necessary, there is a Rule of Criminal
5 Procedure, 7(f), that allows, of course, the filing of a bill
6 of particular. I reviewed the motion. I find it to be
7 inartfully drafted; however, by virtue of simply its heading as
8 a bill of particulars and what it's requesting, although
9 inartful, I think it is a valid pleading under the rules, and I
10 would just -- the reason I'm raising this is because in my
11 discussions with counsel it seems that counsel intends to treat
12 any pleading filed by the defendant as frivolous on its face.
13 I think that would be a mistake for all of us.

14 THE COURT: Oh, I haven't seen anything in there that
15 had legal merit. If you want to file a response to that
16 extent, why maybe --

17 MR. INIGUEZ: Judge --

18 THE COURT: -- for further protection of the record,
19 you should do so.

20 MR. INIGUEZ: -- that's all I was suggesting is
21 rather than prima facie treating pleadings as frivolous, that
22 the government, of course, can respond in writing, indicate its
23 position, and then we'll have a record.

24 THE COURT: I want to talk to you for a minute -- to
25 the defendant.

1 The fact that you're representing yourself, I'm not
2 hold -- I think it's an unwise decision. It just doesn't make
3 any sense. And, you know, obviously you're a man of
4 intelligence, and anything you file I have a duty -- I have an
5 extra duty to look to see if there's any merit in what you do
6 file. But I've sat through a lot of these types of cases and
7 defenses, and so don't think I'm just going to ignore what
8 you -- what you're trying to do. I have a special duty to make
9 sure you don't hurt yourself, so I'll do that.

10 But at this point you can file whatever you -- if it has
11 no merit, it's filed and answered that says so.

12 MR. WEXLER: Yes, Your Honor, just to clarify for the
13 sake of the Court and for the sake of Mr. Iniguez, perhaps I
14 was misunderstood in our conversation. I do not mean to say
15 that the defendant is incapable of filing a nonfrivolous
16 pleading or that anything that the defendant will file in the
17 future --

18 THE COURT: That's what I was just trying to tell
19 him.

20 MR. WEXLER: Yes. Just that the nature of what he
21 had filed so far was --

22 THE COURT: As far as I'm concerned, I owe you the
23 duty of a very fair and impartial trial, and I intend to impose
24 it. Thank you.

25 MR. INIGUEZ: And, Judge, just one more thing. I

1 just would want to note at this point the government has
2 produced substantial discovery. I think the Court is correct
3 in declaring this a complex case. In 25 years, I have not had
4 the role of standby counsel. I intend to treat it probably
5 just as I would if I were appointed counsel, but I'm just
6 telling you that right now I have a -- I think it's more than a
7 terabyte. That's only part of the discovery that was produced.
8 It may be that you find that I have to request additional time
9 beyond the June 6th hearing. Of course we're two months out
10 right now. If I'm able to go through -- I will do my best to,
11 of course, go through that information.

12 THE COURT: Sure.

13 MR. INIGUEZ: I think the terabyte is --

14 THE COURT: The most important thing is -- like we
15 encounter in all these complex cases, there's tons of material,
16 but there's very limited relevant material. In this case, the
17 government should hone it down. You know, "Here it is, but
18 these are the things that we're going to rely on." Help out as
19 much as you can, saying, "Look, I owe you the duty to produce
20 everything; but, on the other hand, this is what we're going to
21 really rely on for evidence."

22 MR. INIGUEZ: That would be helpful, Judge. As I've
23 offered Mr. Wexler, although I'm standby counsel, I can be used
24 as the liaison to Mr. Shrout to try to schedule, arrange
25 things, you know, negotiate, do discussions, help this process

1 along. I think that would go a long way toward helping us hone
2 down on exactly what's, in the government's opinion, the most
3 relevant critical materials here.

4 MR. WEXLER: Just one last thing, Your Honor, I would
5 note that the government has supplied an index with the
6 discovery materials so far but certainly would be happy to hone
7 that down even further to the extent that it can be.

8 I would also like to note that in the government's motion
9 filed on Monday there was reference that there is additional
10 discovery in the government's possession that's specifically
11 related to the superseding counts. It's not terabytes. It's a
12 file of information with a transcript of an undercover
13 recording.

14 THE COURT: Okay.

15 MR. WEXLER: So it won't add significant time, but
16 there's still additional discovery that the government intends
17 to disclose.

18 THE COURT: My clerk said that you filed something
19 that you were going to provide today, but it's not available.

20 MR. WEXLER: Yes, Your Honor. I noticed that when I
21 printed out a copy of the motion that I filed on Monday that
22 the attachment to that motion -- while the cover sheet for the
23 attachment did make it through to ECF, the actual attachments
24 didn't, which were screenshots of the website operated by the
25 defendant that had these seminars for sale.

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C E R T I F I C A T E

United States of America v. Winston Shrout

3:15-cr-00438-JO-1

ARRAIGNMENT AND FARETTA HEARING

March 31, 2016

I certify, by signing below, that the foregoing is a true and correct transcript of the record, taken by stenographic means, of the proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/Jill L. Jessup, CSR, RMR, RDR, CRR

Official Court Reporter
Oregon CSR No. 98-0346

Signature Date: 9/22/16
CSR Expiration Date: 3/31/17

From: [Wexler, Stuart A. \(TAX\)](#)
To: [Steve Sady \(Steve_Sady@fd.org\)](#)
Cc: [ruben_iniguez@fd.org](#); [Raybould, Ryan R. \(TAX\)](#)
Subject: Summarizing Shroust Post-Arrest Conversation
Date: 02/03/2016 11:28 AM

Steve,

It was a pleasure meeting you today. I appreciated your efforts during the course of the proceeding. I just wanted to take a quick moment to summarize our hallway conversation re: discovery and superseding charges.

In my opinion, discovery is voluminous. The government executed a search warrant in 2012 against Mr. Shroust's personal computer and the business of Beverly Events and Distribution Services (BEADS). The warrant was executed against Shroust at the Grotto here in Portland; BEADS offices were located in Newburg, OR. At least 1.5TB of computer information was seized during the search, as well as several boxes of paper documents. In addition to the warrant material, the government obtained documents pursuant to several subpoenas during the course of its multi-year investigation of Mr. Shroust.

I will be drafting a discovery letter and will send it to Ruben early next week. The letter will outline our timetable for delivering discovery and what we need from the defense to facilitate that process. In short, I believe we can deliver most of the discovery by the end of next week, the following week at the latest. The computer information, however, requires the defense to deliver a hard drive large enough to contain 1.5TB of information. I will include in my letter the details of where that HD should be sent. I cannot commit to how long it will take to put the information onto the drive you provide, but I don't anticipate it will be very long.

There is so much discovery because, in part, Mr. Shroust has been under investigation for an extended period of time. Evidence acquired during the investigation resulted in the present charges against Mr. Shroust, but also – we believe – may support additional, felony, charges. As a result, the government is actively pursuing a superseding indictment in this case, to include multiple counts of 18 USC 514 (Fictitious Instruments) and potentially a charge of obstruction under 26 USC 7212(a). The 514 charges would reflect criminal activity that has been ongoing for several years; the 7212(a) charge would potentially reflect obstructive activity dating back to at least 2012. The timing of the superseding indictment is uncertain, as the government is waiting on the return of subpoenas. We hope, however, to go before the grand jury by late March or early April. We are endeavoring to supersede in advance of any trial in the present case because there is substantial discovery overlap and we do not believe two separate trials are needed or would be to anyone's benefit.

Please let me know if you have any questions or concerns. I've cc'd Ruben on this email so he is up to speed on our conversation. Thanks very much.

Sincerely,

Stu Wexler

Exhibit C
Page 1 of 2

BILLY J. WILLIAMS, OSB #901366

United States Attorney
District of Oregon

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Attorneys for United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

UNITED STATES OF AMERICA,

Case No.: 3:15-CR-00438-JO

Plaintiff,

**GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS FOR VINDICTIVE
PROSECUTION (DOC. 73)**

v.

WINSTON SHROUT,

Defendant.

COMES NOW, the United States of America, by and through counsel, BILLY J. WILLIAMS, United States Attorney, STUART A. WEXLER, Trial Attorney, United States Department of Justice, Tax Division, and LEE F. LANGSTON, Trial Attorney, United States Department of Justice, Tax Division, and files this response in opposition to Defendant's Motion to Dismiss for Vindictive Prosecution, filed on March 6, 2017, by Ruben L. Iniguez, Advisory

**GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
FOR VINDICTIVE PROSECUTION (DOC. 73) - 1**

Counsel for *pro se* Defendant Winston Shrout. (Doc. 73). For reasons stated herein, the Defendant's Motion should be denied.

I. FACTUAL BACKGROUND

On December 8, 2015, the Grand Jury returned an indictment charging Defendant Winston Shrout with six misdemeanor counts of willful failure to file a tax return, in violation of 26 U.S.C. § 7203. (Doc. 1). These charges alleged that Defendant had earned income in excess of the filing requirement threshold in tax years 2009-2014 and willfully failed to file tax returns for those years.

Defendant made his initial appearance before Magistrate Judge John V. Acosta on January 7, 2016. Assistant Federal Public Defender Ruben Iniguez appeared on Defendant's behalf since Defendant had not brought counsel to the appearance. At the hearing, Defendant stated his desire to represent himself and indicated that he was interested in pleading guilty to the Indictment. (Doc 73-1, pp. 5-6). Based on Defendant's representations, Judge Acosta set the matter for a status hearing in front of Judge Jones on February 3, 2016. (Doc 73-1, p. 25). Because Judge Acosta wanted Defendant to have a full opportunity to examine the charges against him, and with the consent of Defendant, entry of a plea and determination of counsel was deferred until the February 3 hearing. Judge Acosta also stayed discovery until after February 3. (Doc. 73-1, p. 27).

On January 20, 2016, Defendant filed two documents to the record in this case. *See* Doc. 9, 10. Then again, on February 3, 2016, and in advance of the status conference before Judge Jones, Defendant filed an additional document to the record. *See* Doc. 13.

**GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
FOR VINDICTIVE PROSECUTION (DOC. 73) - 2**

On February 3, 2016, the parties appeared before this Court at the status conference. Defendant reiterated that he wished to represent himself and this Court conducted a *Faretta* inquiry to determine whether Defendant's waiver of counsel was knowing and voluntary. After initially attempting to "plead guilty to the facts," Defendant entered a plea of not guilty and the case was set for trial. (Doc. 73-2, p. 18). During the *Faretta* inquiry, the Court informed Defendant that the documents filed by Defendant prior to the status hearing, including a lien, an invoice, and a liquidation, were "null and void" and "of no legal consequence at all." (Doc 73-2, p. 11).

On the day of the hearing, counsel for the Government, Stuart Wexler, had a conversation with Assistant Federal Public Defender Steve Sady, who acted as standby counsel for Defendant during the arraignment before this Court.¹ During that conversation, the Government informed Mr. Sady that the Government was actively pursuing a superseding indictment against Defendant to potentially include multiple counts of 18 U.S.C. § 514. That conversation was memorialized by email the same day. (Doc. 73-3). A superseding indictment was returned on March 15, 2015, alleging an additional thirteen counts of 18 U.S.C. § 514 against Defendant for making, presenting and mailing fictitious obligations. (Doc. 17).

On March 6, 2017, Defendant filed the instant motion to dismiss the counts added by the superseding indictment for vindictive prosecution. (Doc.73). In summary, Defendant alleges that the superseding indictment creates an appearance of vindictiveness because the charges alleged in the superseding indictment are more severe than the charges in the original indictment and there is a reasonable likelihood that the superseding indictment was motivated by

¹ Mr. Sady appeared on behalf of Mr. Iniguez, who was unable to appear at the February 3 arraignment.

**GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
FOR VINDICTIVE PROSECUTION (DOC. 73) - 3**

Defendant's decision to choose to represent himself and file *pro se* pleadings. (Doc. 73, pp. 11-12).

II. LEGAL STANDARD

The Due Process Clause of the Fifth Amendment Prohibits a prosecutor from vindictively prosecuting a defendant for the defendant's exercise of a statutory, procedural, or other protected right. *Blackledge v. Perry*, 417 U.S. 21, 27 (1974). A prosecutor violates Due Process when he seeks additional charges solely to punish a defendant for exercising a protected right. *United States v. Kent*, 649 F.3d 906, 912 (9th Cir. 2011). The Supreme Court, however, has held that "exceptionally clear proof" is required before a court may infer an abuse of prosecutorial discretion. *McCleskey v. Kemp*, 481 U.S. 279, 297 (1987). Because courts ordinarily presume that public officials have properly discharged their official duties, a defendant who contends that a prosecutor made a charging decision in violation of a defendant's rights has a demanding standard of proof. *Nunes v. Ramirez-Palmer*, 485 F.3d 432, 441 (9th Cir. 2007).

To establish a *prima facie* case for vindictive prosecution a defendant must establish either (1) direct evidence of the prosecutor's punitive motivation or (2) facts and circumstances that establish a reasonable likelihood of vindictiveness. *Kent*, 649 F.3d at 912. A defendant may establish prosecutorial vindictiveness by producing *direct* evidence of the prosecutor's punitive motivation toward him. *United States v. Jenkins*, 504 F.3d 694, 699 (9th Cir. 2007). Alternatively, a defendant is entitled to a presumption of vindictiveness if he can show that charges were filed because he exercised a statutory, procedural, or constitutional right in circumstances that give rise to an appearance of vindictiveness. *Id.* "[T]he appearance of vindictiveness results only where, as a practical matter, there is a realistic or reasonable

**GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
FOR VINDICTIVE PROSECUTION (DOC. 73) - 4**

likelihood of prosecutorial conduct that would not have occurred but for hostility or a punitive animus towards the [d]efendant because he has exercised his specific legal rights.” *Id.* at 700.

Once a presumption of vindictiveness arises, the burden shifts to the prosecution to show that “independent reasons or intervening circumstances dispel the appearance of vindictiveness and justify its decisions.” *United States v. Hooton*, 662 F.2d 628, 634 (9th Cir. 1981), *cert. denied*, 445 U.S. 10004 (1982).

III. ARGUMENT

a. The Defendant Has Not Established Circumstances that Give Rise to an Appearance of Vindictiveness.

Defendant’s Motion does not lay out sufficient facts to give rise to an appearance of vindictiveness. Defendant’s argument is, in essence, *post hoc ergo propter hoc*: Defendant chose to represent himself, plead not guilty, and make *pro se* filings; subsequently, the Government sought a superseding indictment; therefore, the superseding indictment was motivated by Defendant’s exercise of those rights. This argument, without more, does not establish a *prima facie* case of vindictive prosecution.

“Departures from the initial indictment do not raise presumptions of vindictiveness except in a rare case.” *United States v. Gallegos-Curiel*, 681 F.2d 1164, 1170 (9th Cir. 1982). “[T]he appearance of vindictiveness results only where, as a practical matter, there is a realistic or reasonable likelihood of prosecutorial conduct that would not have occurred but for hostility or a punitive animus towards the defendant because he has exercised his specific legal rights.” *Id.* at 1169 (*citing United States v. Goodwin*, 102 S. Ct. 2485, 2488 (1982)). Courts recognize that, especially in the pretrial context, prosecutors should remain free to exercise their discretion

**GOVERNMENT’S OPPOSITION TO
DEFENDANT’S MOTION TO DISMISS
FOR VINDICTIVE PROSECUTION (DOC. 73) - 5**

to shape charges based on evolving understanding of the evidence. *See United States v. Kent*, 649 F.3d 906, 915 (9th Cir. 2011); *United States v. Gamez-Orduno*, 235 F.3d 453, 463 (9th Cir. 2000); *United States v. Austin*, 902 F.2d 743, 745 (9th Cir. 1990).

Defendant's minimal factual showing does not establish a reasonable likelihood that the Government sought the superseding indictment to retaliate against Defendant's exercise of protected rights. At the time the Government informed standby counsel that it was considering additional charges, the case had barely begun. Defendant had pleaded not guilty, sought to represent himself, and filed a small number of *pro se* motions.

Defendant's motion contains no allegations as to why the Government would be motivated to seek additional charges to punish Defendant for such conduct. Defendant's decision to represent himself imposes no additional burden on the prosecution nor does the filing of motions that are, in the words of the Court, "of no legal consequence at all." Defendant's motion is devoid of any mention of threats or harassment from the Government designed to discourage Defendant from representing himself. Further, if the bringing of additional charges after a not guilty plea were sufficient to establish a presumption of vindictiveness, the test would lose all meaning and the prosecution would always be required to justify its decision to seek a subsequent indictment. Such a requirement ignores the warning in *Goodwin* that "[t]o presume that every case is complete at the time an initial charge is filed . . . is to presume that every prosecutor is infallible—an assumption that would ignore the practical restraints imposed by often limited prosecutorial resources." *Goodwin*, 457 U.S. at 382.

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**GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
FOR VINDICTIVE PROSECUTION (DOC. 73) - 6**

b. There are Intervening Circumstances that Justify Seeking the Superseding Indictment Irrespective of Any Presumption of Vindictiveness.

In addition to not establishing circumstances that give rise to an appearance of vindictiveness, Defendant's Motion ignores independent reasons and intervening facts and circumstances that resulted in the superseding charges.

First, as Defendant is well aware, the Government has been investigating Defendant for potential violations of 18 U.S.C. § 514 since at least June 2012. In that month, Defendant was personally served with a search warrant issued by the District of Oregon. The Affidavit in Support of that search warrant, completed by IRS Special Agent Casey Hill, establishes probable cause that Defendant acted in violation of 18 U.S.C. § 514. Defendant has been in possession of a copy of this Affidavit through discovery material provided in this case; the Affidavit is Bates stamped MIS-SRW-03-000001, *et. seq.*²

Second, the Government's discovery of an important piece of evidence at around the time of the initial indictment prompted the Government to revisit its case against Defendant for violations of 18 U.S.C. § 514. On June 9, 2015, Defendant mailed to the United States Treasury the fictitious obligation charged in Counts 10 and 13 of the Superseding Indictment. *See* Doc. 17. While Defendant mailed the document well in advance of the initial indictment in this case, the prosecution team did not become aware of its existence until approximately December 4, 2015, just two business days prior to the indictment date of December 8, 2015. Further, only IRS Special Agent Casey Hill was aware of the existence of the document on December 4; the prosecutors in this case were not aware of the document until Special Agent Hill showed it to them in person on December 7, one day prior to the indictment. Special Agent Hill later

² Out of an abundance of caution, the Government is not attaching a copy of the Affidavit to this pleading. A copy can be provided to the Court for review, however, upon request.

digitized the document and emailed it to attorneys for the Government on Dec. 10, two days *after* the initial indictment in this case.³ The timing of the receipt and examination of this document precluded the Government from including the superseding felony charges in the initial indictment. Its receipt, however, prompted the Government to take additional investigative steps and ultimately lead, in part, to the charges alleged in the superseding indictment.

The Government had been in possession of this document and had been refocused on its investigation for several weeks prior to February 3 arraignment. By this time, the Government believed superseding charges were likely and, out of courtesy to counsel and Defendant, the Government alerted counsel to this fact after the arraignment. The Government does not specifically recall what subpoenas it was referring to in its conversation and subsequent email with counsel, but Government records indicate two subpoenas were issued by the Grand Jury in this matter in late-February/early-March, 2015. It is likely that the Government, in its conversation with counsel, was either alluding to these subpoenas or to subpoenas that were contemplated by not ultimately issued; all other subpoenas had been returned to the Grand Jury prior to February 3. Both of the subpoenas that were issued in February/March, however, proved unresponsive: neither party possessed any material relevant to the investigation.

Regardless of whether the subpoenas referenced by the Government in its conversation with counsel existed or not, Defendant fails to demonstrate why the Government making this assertion is proof of vindictiveness. If anything, it demonstrates the Government was actively furthering an investigation into Defendant, in a meaningful and planned manner, which had existed since at least 2012.

³ At counsel's request, a copy of this email was provided to counsel and Defendant on March 1, 2017, several days prior to the filing of the instant Motion to Dismiss.

IV. CONCLUSION

Defendant has not sustained his burden of demonstrating that the Superseding Indictment is the result of vindictive prosecution. Defendant has not made the requisite showing of facts and circumstances that create a presumption of vindictiveness and, irrespective of Defendant's allegations, there are sufficient intervening facts to justify the seeking of a Superseding Indictment. For these reasons, the United States respectfully submits that the Court should deny Defendant's Motion to Dismiss for Vindictive Prosecution.

Dated this the 17th day of March, 2017.

Respectfully submitted,

BILLY J. WILLIAMS
United States Attorney

/s/Stuart A. Wexler
STUART A. WEXLER
LEE F. LANGSTON
Trial Attorneys, Tax Division
(202) 305-3167

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 17, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorney(s) of record for the defendant. Additionally, a copy of the foregoing was emailed to the defendant at milieannjones@gmail.com.

/s/ Stuart A. Wexler

Stuart A. Wexler
Trial Attorney, Tax Division

**GOVERNMENT'S OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS
FOR VINDICTIVE PROSECUTION (DOC. 73) - 10**

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

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|---------------------------|---|---------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | Case No. 3:15-cr-00438-JO |
| |) | |
| v. |) | |
| |) | October 22, 2018 |
| WINSTON SHROUT, |) | |
| |) | |
| Defendant. |) | Portland, Oregon |
| |) | |

SENTENCING
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT E. JONES
UNITED STATES DISTRICT COURT SENIOR JUDGE

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APPEARANCES

FOR THE PLAINTIFF:

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* * *

TRANSCRIPT OF PROCEEDINGS

(October 22, 2018)

(In open court:)

THE COURT: Good morning, everybody.

MR. WEXLER: Good morning, Your Honor.

MR. LANGSTON: Good morning, Your Honor.

THE COURT: Have a seat, please.

We'll hear from the government.

MR. WEXLER: Yes, Your Honor. Good morning. We're here in the matter of the United States v. Winston Shrout, 3:15-cr-438, for the purpose of sentencing.

If I may, Your Honor, the Court has the government's detailed brief. It's certainly not my intention today to read that brief into the record, but I do want to highlight for the Court some areas that I believe would be helpful for the Court to focus on when considering a sentence in this case.

I want to start just by reiterating what the government's recommendation is in this case, and that is 20 years of imprisonment followed by five years of supervised release, with special conditions as outlined in the government's sentencing memorandum, and an order of restitution to the Internal Revenue Service for \$191,226.10.

Now, not surprisingly, the defense disagrees with the government's recommendation. I think the first point of disagreement appears to be around the calculation of loss and

1 how the Court should handle that. The defendant's position is
2 that loss in this case is only approximately \$150,000, which is
3 related to the defendant's failure to file and pay taxes and
4 that there's essentially no other harm. But that position is
5 incorrect for two reasons. First, the intended loss in this
6 case is significantly higher, and both the sentencing
7 guidelines and Ninth Circuit case law are clear that the Court
8 should consider intended loss when applying the guidelines.
9 And this includes even where the defendant's fraud was
10 impossible or unlikely to occur or where the defendant's
11 fraudulent intent was thwarted.

12 And there was significant evidence at trial, including the
13 defendant's own admissions, that he intended for his fraud to
14 work. And even if the defendant's -- even the defendant's
15 sentencing memo implies that the loss was intended to occur.

16 I mean, why else would the defendant focus on his supposed
17 beneficent motivations for doing the conduct? Why do the
18 conduct at all if you're not intending for it to work, if
19 you're not intending for the loss to occur?

20 So the Court can and should include the intent of the
21 defendant's fraud even if he never succeeded or couldn't have
22 succeeded.

23 And the second reason is that the actual harm in this case
24 is really closer to \$30 million if the Court considers relevant
25 conduct.

1 Now, the guidelines and the Ninth Circuit both state that
2 the Court can consider conduct that isn't charged or is not an
3 element of the conviction if it was part of the same course of
4 conduct or common scheme or plan as the offenses of conviction,
5 and the Ninth Circuit specifically says to focus on similarity,
6 regularity, and temporal proximity.

7 The defendant's seminars, which were a large part of the
8 government's case, weren't limited to promoting and teaching
9 the use of fictitious financial instruments. The defendant
10 also promoted other fraudulent schemes, including a scheme
11 known as the false form 1099-OID scheme, which the --
12 essentially involved the filing of false tax returns using a
13 fraudulent IRS form, and the government's brief goes into a
14 little bit more detail as to what the OID scheme is essentially
15 about.

16 And the defendant's promotional activity resulted in a
17 number of related convictions, including family, friends, and
18 customers. The government provided a list of approximately two
19 dozen cases -- that was attachment C to the government's
20 sentencing memorandum -- where individuals used portions of the
21 defendant's schemes learned through attending a seminar,
22 viewing or reading a product, such as a video or a book, or
23 receiving one-on-one coaching. And those cases defrauded the
24 federal government out of at least \$30 million, and that's the
25 amount of ordered restitution. That's real harm.

1 And that conduct only includes cases where there was a
2 federal tax nexus. It doesn't include any cases that may have
3 occurred at the state level. It doesn't include any cases that
4 may have not had a tax nexus, such as mortgage fraud or bank
5 fraud.

6 THE COURT: What does it include?

7 MR. WEXLER: It includes cases -- a number of cases
8 related to the OID scheme and a number of cases related to the
9 fictitious -- filing of fictitious instruments.

10 THE COURT: You now say 30 million loss?

11 MR. WEXLER: Yes, sir.

12 THE COURT: Loss to whom?

13 MR. WEXLER: Loss to the federal government,
14 Your Honor. I think, in some of those cases, it may have been
15 third-party loss to banks, but essentially it's loss to the
16 federal government for -- either related to false tax returns
17 or --

18 THE COURT: Are you talking about the taxation of
19 30 million, or are you talking about the gross amount?

20 MR. WEXLER: I'm talking about the gross amount,
21 Your Honor. So this would have been, for example, someone
22 would have filed a false tax return using the OID scheme, and
23 they would have received a fraudulent refund as a result. Some
24 of these refunds were quite large, and so that's the loss. The
25 government is out that loss, and that was the basis of the

1 restitution.

2 MR. INIGUEZ: Your Honor, if I may, I wanted to wait
3 until my turn; however, I was going to object not only to the
4 government's exhibit, but to this evidence.

5 THE COURT: I know you do, and you wait your turn.

6 MR. INIGUEZ: Okay. Thank you, Judge.

7 THE COURT: Now, while we're on the -- I appreciate
8 that there's no -- all you can do is give it your best
9 estimate.

10 Do you know how many people over the years actually
11 attended these seminars?

12 MR. WEXLER: Your Honor, it would be in the hundreds.
13 I don't know the exact number, but I have reviewed records from
14 BEADS, which was the organization that ran a number of the
15 seminars, and I know that they received customer payments from,
16 at times, at least a hundred people for a given seminar.

17 THE COURT: That's just for one seminar.

18 MR. WEXLER: That's just one seminar, Your Honor.
19 This is conduct that went on for at least ten years. The
20 seminars went on for at least ten years.

21 THE COURT: I'm trying to get at a total number of
22 attendees, if you figured that out, of your best estimate.

23 MR. WEXLER: Your Honor, I -- I don't -- I would --
24 it would just be an estimate, and it would be in the hundreds.
25 I can't put together a better -- because, one, the government

1 is not aware of every seminar that the defendant gave.

2 THE COURT: Do you know approximately how many
3 seminars he conducted?

4 MR. WEXLER: Your Honor, if I can have a moment,
5 Special Agent Casey Hill, who's here today, who would have a
6 better sense of that number, if I can just ask him?

7 THE COURT: Of course.

8 MR. WEXLER: Thank you.

9 THE COURT: You know, he's welcome to pull over a
10 chair and sit at counsel table.

11 MR. WEXLER: Thank you, Your Honor.

12 THE COURT: Counsel, you can slide over just a little
13 bit. Thank you.

14 MR. WEXLER: Agent Hill's best estimate is, in terms
15 of organized seminars, 15 to 20 organized seminars that we know
16 of. I personally know of at least half a dozen private
17 coaching seminars where individuals hired the defendant to come
18 out to them and give them a personal private seminar. So we're
19 up to at least two dozen seminars that we know of.

20 THE COURT: Over the ten-year period?

21 MR. WEXLER: Over the ten-year period, beginning
22 in -- I will say the defendant's seminar activity has trailed
23 off in the last few years. So it's really between 2006 -- I
24 mean, the defendant has been under indictment. So I would say
25 between 2006 and 2015. So really an eight- to ten-year period.

1 And that, of course --

2 THE COURT: What was the charge? How much were the
3 participants charged?

4 MR. WEXLER: That would range, Your Honor, but the --
5 Your Honor saw the defendant's advertisement for a new seminar
6 during the competency hearing, and I believe the fee was \$575
7 for that. I would imagine the defendant charged different
8 rates over different periods.

9 Do you know?

10 From -- Agent Hill's recollection, it's from \$350 on up.

11 This, of course, Your Honor, is just related to the
12 seminars. The defendant also sold copies of his seminars
13 through DVD sales on his website, and the government's PayPal
14 records, which were part of the government's evidence at trial,
15 showed that the defendant made 1 -- over 1,000 individual
16 transactions -- individual sales of his material from April of
17 2014 to April of 2015. That's just a one-year period. Over
18 1,000 transactions of selling his material.

19 THE COURT: So to backtrack over the whole period of
20 time, you think it was how many people, again, over a ten-year
21 period went to seminars?

22 MR. WEXLER: Your Honor, I would say, conservatively,
23 2,000 seminars, 50 people per seminar. So about a thousand
24 people.

25 THE COURT: Now, how do you reach your 30 million?

1 MR. WEXLER: Your Honor, that's just the cases that
2 we provided you in attachment C, are cases Agent Hill --
3 Agent Hill can take the stand if Your Honor would prefer to
4 hear from him under oath, but Agent Hill sent out a national
5 inquiry to IRS investigative agents, asking if they had or were
6 aware of cases that had a connection to the defendant. And the
7 cases that we have listed in our attachment C are cases that
8 came back where those defendants either attended a seminar put
9 on by the defendant, they received a private seminar put on by
10 the defendant, they relied on videos or one-on-one coaching.
11 In all of those cases, there's a connection between the scheme
12 the defendant used and what the defendant was teaching, and
13 those defendants were in possession and were known to have
14 relied on that material.

15 THE COURT: I don't know how you jump from 100 plus
16 the sales at -- at the seminars to 30 million. How do you get
17 there?

18 MR. WEXLER: Well, Your Honor, that's the -- the
19 restitution amounts that are in those cases, that's the
20 30 million. So the government's argument is that the defendant
21 should be responsible, in part, for that loss because it was
22 his schemes that were relied on in those cases. So the
23 30 million is loss from those cases. So for --

24 THE COURT: How is it loss?

25 MR. WEXLER: From successful fraud, Your Honor.

1 These were restitution amounts that were ordered because
2 individuals succeeded in defrauding the government out of those
3 amounts. So they were ordered to pay restitution in the amount
4 of the fraud loss.

5 THE COURT: You mean, now -- let's just take your
6 maximum number of attendees again. State the number of
7 attendees over a ten-year period. It's how many?

8 MR. WEXLER: I would very conservatively say at least
9 a thousand, Your Honor.

10 THE COURT: A thousand. All right.
11 Out of a thousand, they paid so much to go to it.

12 MR. WEXLER: Yes, Your Honor.

13 THE COURT: That adds up to how much?

14 MR. WEXLER: Hundreds of thousands. The
15 government's -- I don't have the exact income amounts that the
16 government presented at trial to the defendant, but it would
17 have been hundreds of thousands over that period of time.

18 THE COURT: And then how do you get up to 30 million?

19 MR. WEXLER: So let me just take a step back,
20 Your Honor, because I think we're probably passing each other
21 here.

22 THE COURT: Well, I keep asking you the same
23 question. I'm trying to get a -- an amount that makes sense.

24 MR. WEXLER: Sure, Your Honor.

25 THE COURT: If we're talking about him charging, I --

1 I thought it would be many more seminars than what you propose,
2 from what I heard, so I'm -- we'll limit it to no more than
3 what you said.

4 Then so much income came from those, and you gave me a
5 figure in the hundreds of thousands. But I don't know how that
6 lines up. And then you jump to 30 million, and I don't know
7 how you get there from here.

8 MR. WEXLER: Yes, Your Honor. So the \$30 million
9 number is related to conduct that the government is arguing is
10 relevant conduct, and it's not -- and it's not loss associated
11 with the defendant charging at a seminar. It's loss associated
12 with a customer of the defendant's defrauding the government.

13 THE COURT: Okay. Now, how many customers defrauded
14 the government?

15 MR. WEXLER: Well, Your Honor, I don't have a certain
16 number of that, but what I do have is what we presented in
17 attachment C, which is at least two dozen cases that went to
18 indictment, trial, and conviction.

19 I don't -- I don't know who, beyond that, went and tried
20 to defraud the government. It could be -- if each individual
21 at the seminar did exactly what they were taught, then it could
22 be everybody. But I don't have a number for that.

23 What I do know is that the cases that we included in our
24 attachment C, I can confirm that all of those two dozen cases
25 had a connection to what the defendant taught and those people

1 learned it.

2 THE COURT: Those two dozen cases amount to how much?

3 MR. WEXLER: The restitution amounts that were
4 ordered in those cases total approximately \$30 million.

5 THE COURT: Okay. That's where I wanted to get.

6 So we're talking about the restitution amounts of the
7 people that were, quote, students of the defendant, applied his
8 tax evasion scheme, amounted to \$30 million.

9 MR. WEXLER: Yes, Your Honor.

10 THE COURT: To your best estimate?

11 MR. WEXLER: Yes, Your Honor.

12 THE COURT: Thank you. Go ahead with your
13 presentation.

14 MR. WEXLER: Thank you, Your Honor.

15 Loss, as the Court is well aware, is a significant part,
16 but it's also just one part of the Court's consideration when
17 determining an appropriate sentence. And the Court must also
18 consider factors under Section 3553(a).

19 The government feels that one of the most helpful factors
20 for this case is the need to avoid unwarranted sentencing
21 disparities. This leads me to the discussion of the similar
22 cases that the government presented in its brief and the one
23 case that the defense presented in its brief.

24 The first case that the government's presented was
25 *United States v. Teresa Marty*.

1 Now, in that case, Marty pleaded guilty to, in part,
2 defrauding the United States through the use of the false OID
3 scheme. This may actually help the Court understand sort of
4 the nexus.

5 And Ms. Marty received ten years in prison.

6 And the case -- Marty's case is related to this case
7 because Teresa Marty actually presented at the defendant's
8 seminar. She was a guest speaker at the defendant's Orlando
9 seminar, which was part of the government's case at trial,
10 where she talked about how to do the OID scheme.

11 And the government would suggest that the ten-year
12 sentence represents really a floor for the sentence in this
13 case because Ms. Marty was just a guest speaker at the
14 defendant's seminars. The defendant's conduct goes beyond that
15 for a number of years and a number of schemes and a number of
16 individuals.

17 And so Ms. Marty got ten years, but she was just a small
18 part of the defendant's overall fraudulent activity.

19 THE COURT: Any criminal history?

20 MR. WEXLER: In this case, Your Honor, or Ms. Marty?

21 None that I'm aware of in Teresa Marty's case, Your Honor.

22 THE COURT: Thank you.

23 MR. WEXLER: The next case that the government
24 provided was *United States v. Dennis Alexio*. In that case
25 Alexio was convicted of filing false returns that used the OID

1 scheme and the use of fictitious financial instruments, just
2 like the defendant here was convicted of.

3 And there was actually a client folder for Dennis Alexio
4 on the defendant's computer that was found during the search of
5 the defendant's computer, and it contained a false OID tax
6 return. And Dennis Alexio received 15 years, but he was just a
7 client of the defendant. Just one of hundreds.

8 But, finally, the government presented the case of
9 *United States v. James Timothy Turner*, and that's the case the
10 government feels most clearly reflects the defendant's conduct
11 in this case.

12 Turner received a sentence of 18 years for producing and
13 using fictitious financial instruments that totaled over
14 \$2 trillion. Now, the Court there also considered Turner's
15 other conduct, such as hosting seminars, where he spread his
16 fraud schemes; teaching others how to use fictitious
17 instruments, to pay tax and other debts, and failing to report
18 the income he received from customers from his seminars.

19 The Turner court was also persuaded by the fact that
20 Turner caused many of his customers to lose money as a result
21 of the schemes or to accrue criminal charges themselves, and
22 that's exactly like the defendant.

23 THE COURT: Now, we're talking about your allegation
24 of 300 fictitious financial instruments worth in excess of
25 \$100 trillion?

1 MR. WEXLER: Yes, Your Honor. Those instruments were
2 found on the defendant's computer. Mr. Kerr testified at trial
3 as to those instruments. The government would argue that under
4 the guidelines they can be considered as relevant conduct.

5 THE COURT: So you're -- thank you.

6 MR. WEXLER: But the connection between the *Turner*
7 case and this case is -- is -- goes beyond just the fictitious
8 instruments, as I just mentioned.

9 In fact, the government provided to the Court in its brief
10 the intelligence report from the Southern Poverty Law Center
11 from 2010 that labeled both Timothy Turner and the defendant
12 here as leaders of the same sovereign citizen movement for
13 promoting the same schemes and doing essentially the same
14 conduct.

15 The only difference really is that the defendant did it
16 for longer than Timothy Turner did.

17 Now, on the other hand, the defendant -- the defendant
18 only gave one case, and that's the case of *United States v.*
19 *Richard Ulloa*. But the defense mischaracterized the facts in
20 that case. While the Court did a guidelines calculation based
21 on actual loss, that came to 21 to 27 months, as the defense
22 stated, the Court actually found that range too low, when
23 considering Ulloa's overall conduct, and sentenced him to
24 60 months.

25 The extent of Yoloa's conduct in that case is far, far

1 less than the extent of the defendant's conduct in this case.

2 Now, an important goal embodied in the sentencing
3 guidelines is the concept of uniformity of punishment. Similar
4 conduct in the federal system should be punished similarly. It
5 simply cannot be a fair and just system if the defendant's
6 conduct in this case, which is virtually identical to
7 Timothy Turner's conduct in the Middle District of Alabama, is
8 sentenced much differently than Timothy Turner's conduct was.

9 So I would like to transition to just talk briefly about
10 the actual offense conduct and the nature of the offense under
11 3553(a).

12 Your Honor, Section 514, which covers fictitious
13 obligations, is a serious crime. As the government noted in
14 its brief, the Court can look to the Congressional Record for
15 the why of 514 being enacted. But the Court should also make
16 note that Congress made it a Class B felony, a very serious
17 felony that's not eligible for a probationary sentence.

18 In other words, Congress did not intend for people who
19 commit this crime to receive probationary sentences; yet that
20 is exactly what the defendant is asking for. The defendant is
21 asking for one day, but the credit received -- the defendant
22 receives credit for being processed by the marshals, so he's
23 essentially only served one day. So it's essentially only a
24 fully probationary sentence.

25 Congress went so far as to not only criminalize --

1 THE COURT: Well, technically, the defense gets
2 around that by saying one day and then followed by supervised
3 release. It ends up having the same personnel handling it, the
4 same conditions. So it's just a matter of nomenclature than
5 anything else.

6 MR. WEXLER: Yes, Your Honor.

7 And Congress went so far as to not only criminalize intent
8 in 514, but also simply possessing fictitious instruments with
9 an intent to defraud is a crime.

10 The breadth of the statute itself speaks to just how
11 serious Congress considered this conduct.

12 Now we're talking about a 20-year pattern of conduct. By
13 the defendant's own admission, the defendant got on the stand
14 and said he's been doing this for at least 20 years.

15 Now, as I mentioned earlier, the Court should consider
16 this relevant conduct that the defendant is promoting, multiple
17 schemes, including this OID scheme, which is widespread and
18 harmful. He's not simply someone who didn't file his taxes and
19 try to defraud the government and banks with fictitious
20 instruments. He's a nationwide, even worldwide promoter of
21 antigovernment fraud schemes. The government put on evidence,
22 as evidence at trial, the defendant's seminar from London, and
23 the defendant has also given seminars in Canada and Australia.

24 THE COURT: Now, in respect to that --

25 MR. WEXLER: Yes, Your Honor.

1 THE COURT: -- has there been any calculation as to
2 the amount of world travel that he's engaged in -- he says they
3 admired him in Australia, and he went to London on these
4 excursions -- as to how that was paid for or what it was -- the
5 costs at all?

6 MR. WEXLER: If I can have a moment, Your Honor?

7 THE COURT: Really, I just need a feeling as to how
8 much travel there was. Were these isolated?

9 Go ahead.

10 MR. WEXLER: Yes, Your Honor. There's at least a
11 half dozen to a dozen seminars that the defendant gave abroad.
12 Most of them are in Canada because it's close. The defendant
13 did give one in Panama, in London, and -- in London, England;
14 in Australia.

15 Right after he was indicted, the defendant went on a
16 cruise to Mexico called the Conspira-Sea Cruise, where he spoke
17 on that. The government provided a citation in its brief to a
18 review of what he actually stated on that cruise.

19 THE COURT: Thank you.

20 You answered my question.

21 MR. WEXLER: Thank you. And, of course, Your Honor,
22 as I mentioned, the promotion activity that the defendant
23 engaged in led to criminal conduct by family members, by
24 friends, and by at least the two dozen cases that the
25 government cited in its brief. But as we discussed, the number

1 is really a lot more.

2 And none of that reflects well on the defendant's
3 character.

4 The defendant, in his brief, seems to view himself as some
5 sort of Robin Hood. But the jury rejected that. They heard
6 the defendant on the stand, and they still convicted him. The
7 defendant knew his family, friends, and customers were going to
8 jail using the things that he was teaching, and he kept going.
9 And the defendant seemed to ignore, in his brief, the fact that
10 one of the fictitious instruments that he was convicted of was
11 sent to the United States Treasury, and it was for payment to
12 him.

13 The defendant's sentencing memo talks about how none of
14 this was payment to him. He was just doing this for other
15 people. But it completely ignores the fictitious instrument.
16 The nonnegotiable bill of exchange the defendant sent to the
17 Treasury for his own benefit. He's not Robin Hood. He's just
18 robbing people.

19 THE COURT: How much for this?

20 MR. WEXLER: That was 1.9 billion, this instrument,
21 Your Honor.

22 THE COURT: Thank you.

23 MR. WEXLER: There are no mitigating health issues in
24 this case. Dr. Pelton's letter, which the government provided
25 to the Court from the Bureau of Prisons, says the defendant's

1 physical ailments are nothing new. In fact, there's an entire
2 system within BOP for handling inmates with physical conditions
3 like the defendant.

4 The case law that the government provided in its brief
5 says that the defendant's age, his advanced age, is not -- does
6 not necessitate a lenient sentence, and the defendant's mental
7 health, frankly, is mischaracterized in the defendant's brief.

8 First, the Court presided over the competency hearing.
9 It's not settled that there's any delusion at all. The Court
10 can completely discard Dr. Martin's report. She did not
11 testify at the hearing. And most importantly, her report does
12 not include any consideration of subculture, which both
13 Drs. Millkey and Lopez said was critical to their analysis. So
14 the Court can discard that.

15 So really the Court is left with Dr. Millkey versus
16 Dr. Lopez. And they come up to differing conclusions. The
17 defendant just relies on Dr. Millkey and completely ignores
18 Dr. Lopez.

19 Second, even if the defendant is delusional, Dr. Millkey
20 was clear that the delusion is not related to the conduct in
21 this case. Dr. Millkey said the defendant believed in aliens.
22 Dr. Millkey never said that the defendant couldn't act
23 purposely or intentionally to defraud somebody, which is what
24 they -- the defendant's sentencing memo actually says that
25 Dr. Millkey -- Dr. Millkey never made that conclusion.

1 Really, the entire mental health issue is just an intent
2 to nullify the verdict. The first attempt was to have the
3 competency hearing itself and to avoid sentencing entirely.
4 And now the second attempt is to claim some sort of diminished
5 capacity. But the jury concluded that there was no diminished
6 capacity at the time of the defendant's actions. There's --
7 there was no discussion from Dr. Millkey or Dr. Lopez regarding
8 whether the defendant was actually suffering from any
9 diminished capacity when he was committing these acts.

10 The defendant can't split the baby. He can't argue that
11 he's led a law-abiding life and poses no threat to society but
12 at the same time has mental issues to prevent him from
13 controlling behavior that he knows is wrong.

14 The fact is that the defendant's mental health, as it
15 relates to his criminal conduct, is fine. It's always been
16 fine.

17 He's always known exactly what he was doing.

18 Your Honor, I just would like to finish with a discussion
19 about deterrence.

20 Now, deterrence is an area that often gets short shrift
21 but is part -- I believe a particular important factor for the
22 Court to consider in this case. First, there is the issue of
23 specific deterrence.

24 The defendant says the issue of one day in prison is
25 sufficient. But we're talking about a 20-year pattern of

1 conduct. The defendant, throughout that period, was repeatedly
2 put on notice of the criminality of its conduct, and it had no
3 effect.

4 When the defendant was indicted, he simply responded with
5 a commercial lien and threats against the Court and law
6 enforcement. He still does weekly and regular podcasts that
7 appear on YouTube and in other venues where he's flouted his
8 case as being part of his larger plan, and the pod -- he gave a
9 podcast the day after his competency hearing in which he said
10 that even though he took down his website, it would all be back
11 when there's a change in government. Whatever that means. But
12 what it does mean is that the government is not deterred -- the
13 defendant is not deterred.

14 It's laughable now that, frankly, the defendant would
15 argue that just one day in jail would deter conduct that's gone
16 undeterred for 20 years. Despite knowing his friends and
17 family were going to prison, his customers were going to jail,
18 he was under investigation for his conduct. He was under
19 indictment for his conduct. He was convicted for his conduct.
20 None of that has deterred him.

21 But, Your Honor, perhaps of even greater importance here
22 is the concept of general deterrence. Frequently, in tax
23 cases, the government highlights the importance of tax
24 enforcement and deterring noncompliance with the tax code, and
25 those are important issues.

1 But more importantly here is that the defendant is a
2 prominent figure in the sovereign citizen and tax defrauding
3 community. As I stated earlier, he had over 1,000 customers in
4 a one-year period, from April of 2014 to April of 2015. The
5 government provided a link to a YouTube video of defendant
6 speaking that has over 160,000 views. This case has been
7 followed by the local press here in Portland. It's been
8 followed by national organizations, like the Southern Poverty
9 Law Center and The Anti-Defamation League.

10 All of this is to say that people are paying attention.
11 People of like mind with the defendant, who see him as a
12 leader, as an authority figure, in a matter of hours, news of
13 this Court's sentence here today will spread throughout that
14 community, and those folks, which is hundreds of people, if not
15 thousands, will either be emboldened by defendant walking away
16 with merely a slap on the wrist and think that their conduct is
17 worth that risk, or they'll be deterred. They will see that
18 the risk is too great, and they won't want to spend a good
19 portion of their lives in prison for that conduct.

20 They'll turn away. They'll choose a different path.

21 And the Court has the power here today to alter the path
22 of hundreds of like-minded individuals. And the government
23 asks that the Court seize that opportunity, consider the
24 government's brief and all that I've discussed here today, and
25 sentence the defendant to 20 years in prison.

1 THE COURT: Thank you, sir.

2 MR. WEXLER: Thank you, Your Honor.

3 THE COURT: Counsel?

4 MR. INIGUEZ: Good morning, Your Honor.

5 Your Honor, I have appeared before this Court many times
6 in the last 20, 25 years. This is probably the single case
7 where I have seen such a difference in perspective between the
8 parties. The government here is arguing that this Court should
9 exercise its sound discretion and sentence this 70-year-old
10 gentleman, whose commission of these offenses resulted in no
11 violence, no actual loss, and I'm asking you to consider all
12 the personal history and characteristics.

13 20 years imprisonment; one day in prison, five years of
14 supervision. That is a big gap. I don't envy the Court's
15 decision. I think what Mr. Wexler just told the Court -- I
16 know the Court is not concerned with public -- the public.
17 It's concerned with justice, fairness, reasonableness, and I
18 wanted to start out by reading what Congress directed the
19 Sentencing Commission 34 years ago when it initiated the
20 sentencing guidelines that we operate under in this courtroom,
21 and I'll quote from Title 28 U.S. Code § 994(j), the Sentencing
22 Reform Act of 1984. And what Congress instructed was that the
23 general appropriateness of imposing a sentence other than
24 imprisonment in cases in which the defendant is a first
25 offender who has not been convicted of a crime of violence or

1 an otherwise serious offense -- this was not a crime of
2 violence. This is a first-time offender. This is an older
3 gentleman who does have a lifetime of accomplishment, who
4 stands before you.

5 I'm not trying to say that this is not serious. He's
6 been found convicted, guilty of these offenses. But, again,
7 I'll go to the issue that you first addressed with the
8 government, which is the issue of loss here, Judge. And that
9 is why I am objecting to the guideline calculations here
10 because it is undisputed. These over -- I think it was 300
11 documents that they're claiming is relevant conduct, worth over
12 100 -- supposedly \$100 trillion is the purported face value.
13 The fact is not one of those fictitious instruments was
14 negotiated, honored, transacted, accepted by any person or any
15 entity, including the federal government.

16 You heard the government talk about that one document sent
17 to IRS. That, of course, just like what the bank did, was look
18 at it. It's ludicrous on its face. And this, Your Honor, I
19 think, ties directly into the notion that whether the
20 government likes it or not, there are two professional expert
21 opinions, both who found Mr. Shrout to suffer from delusional
22 disorder. I know they want to ignore that and say, "Oh, it's
23 not proven. It's not accepted." It is. We had testimony
24 about that.

25 And that is key in this case, Judge, because if Mr. Shrout

1 was a perfectly functioning individual without a mental
2 disorder, then that would say this person perfectly intended
3 for other people to suffer loss.

4 In fact, no actual loss. I'll get into this issue of
5 \$30 million because I do have a very, I think, strong objection
6 there, Judge. Everything that you're hearing from the
7 government, your questions are well directed, and I think
8 they're getting at the point here.

9 The government, until its submission of this sentencing
10 document and this listing of other cases, listening -- reading
11 their brief and listening to the presentation this morning, it
12 strikes me how much of the government's case is talking about,
13 not Mr. Shrout, but other people, restitution of \$30 million of
14 other individuals in other cases who they claim -- and that's
15 all they do, is claim -- attended a seminar. Read -- read
16 something, listened to a DVD, and somehow, because someone --
17 part of what they read -- you know, my bookshelf is full of
18 books. Simply because I read a poem by Robert Frost, is he
19 culpable for something that I later do because they can show I
20 bought his book?

21 What they want to say is these people committed acts on
22 their own. We don't know anything about those individuals,
23 anything about their characteristics, anything about those
24 facts, and, yet, the government comes in here today and tries
25 to say, "He should be held responsible for everything these

1 other people that we say are somehow associated with him --
2 they attended a seminar, they read a book, and therefore he
3 should be held responsible for something they have already been
4 held responsible for."

5 No one, not Mr. Shrout, no one has that much power to
6 control and direct. Did he not control and direct these
7 individuals. That argument, that use of that amount -- why
8 does the government do this, Judge? Why is it trying to use
9 restitution in other cases as actual loss here? Because it has
10 no actual loss.

11 These instruments, again, undisputed. I would challenge
12 my colleague to tell the Court about any single instrument that
13 was honored by anyone. The answer is he cannot because it did
14 not occur. There is no actual loss. The only loss in this
15 case is the tax loss for the failure to file that the
16 government suffered, that Mr. Shrout agrees he must pay and he
17 will pay.

18 THE COURT: The 191,000?

19 MR. INIGUEZ: I believe the number proven at trial,
20 Judge, was a little over 157. The government is arguing that
21 the Court should allow penalties and interest. It did provide
22 information last week that the defense has not had an
23 opportunity to review.

24 As I suggest, the statute allows us to set over
25 restitution only for a period where we can get to the bottom of

1 exactly how much. But the bottom line is this: It's less than
2 \$250,000. We both agree. Their position is 191; mine is 157.
3 We'll figure out whether the loss and the penalties apply. The
4 reason that less than 250 is important is because when you look
5 at the tax table -- go to 2T1.1, and 1.4 is the table -- that
6 is a base offense level of 16. That is where we should begin
7 this discussion. Not at this level seven plus. Because the
8 loss was over \$100 trillion of intended loss, we're going to go
9 up 30 levels to more than 20 years, that's where the government
10 comes up with this number, Judge. And that's just not -- this
11 case really shows us how the guidelines, try as they might to
12 be reasonable and fair, it's not one size fits all.

13 We have no actual loss. My argument, and, again, it
14 ties -- this case cannot be decided without looking at
15 Mr. Shrout's mental health. And the guidelines define intended
16 loss as purposefully inflicting pecuniary harm or intending to
17 inflict pecuniary harm. Even if it's unlikely, as the
18 government says, or impossible to occur, right, but it has to
19 be intentional, purposeful, and that's why this conduct here
20 does not satisfy the definition of intended loss.

21 The loss we're dealing with really is less than \$250,000
22 under the tax table, and that's where we should start.

23 Now, going back to these other cases that the government
24 is talking about, Judge, you know, my objection is this: The
25 need -- they're really focused on the need to avoid unwarranted

1 sentence disparity. He discusses it. 20 percent of the
2 government's brief addresses that issue, addresses other cases,
3 not Mr. Shrout's case. That's where they would like the Court
4 to spend its time and attention. Not on this unique individual
5 before the Court and that the Court must judge.

6 They discuss the *Marty* case right now orally. A guest
7 speaker. You heard Mr. Wexler admit she, not him, advocated
8 this OID scheme. Not Mr. Shrout; her. She's responsible for
9 her own conduct, but somehow the government wants to say she
10 was a speaker; so, therefore, because she did that, you should
11 attribute that to him and hold him equally or more accountable.

12 Here is really my -- they talked about *Alexio* and *Turner*,
13 too, Judge, but here is the bottom line: The government, in
14 much of its brief, acknowledges Ninth Circuit law that applies
15 but not when it comes to this issue that they spend so much
16 time discussing. Here is the Ninth Circuit law that guides the
17 Court on the issue of unwarranted disparity. We both cited
18 this case, and it's *United States v. Treadwell*. It's a 2010
19 Ninth Circuit case. The citation being 593 F.3d 990. Here is
20 what the Court -- the Ninth Circuit in that case says I would
21 like to quote. A district court need not, and, as a practical
22 matter, cannot compare a proposed sentence for defendant to the
23 sentence of every criminal defendant who has ever been
24 sentenced before. Too many factors dictate the exercise of
25 sound sentencing discretion in a particular case to make the

1 inquiry that the government urges helpful or even feasible.

2 That's at page 1012 of *Treadwell*. It is a bit of a long
3 quote, but I'm going to read it, Judge. Because here is
4 what -- here is what the defendant in *Treadwell* was trying to
5 do, was use the same argument the government was saying. Look
6 at all these other people around the country at other times and
7 in other cases who got lighter sentences. So you should
8 compare me not with the defendants in this case; right? That's
9 what you do with sentence disparities. Look at defendants in
10 their particular case, not at people from all around the
11 country. And the Court shot that argument down.

12 It doesn't matter, for the purposes of 3553(a), said the
13 Court, that the government could point to a specific criminal
14 defendant who may have received a greater sentence for a
15 different fraud. A district court considers the 3553(a)
16 factors to tailor a sentence to the specific characteristics of
17 the offense and the defendant, and they quote from the
18 Supreme Court. It has been uniform and constant in the federal
19 judicial tradition for the sentencing judge to consider every
20 convicted person as an individual. And every case as a unique
21 study in the human failings that sometimes mitigate, sometimes
22 magnify the crime and the punishment to ensue. That's a quote
23 from the Supreme Court.

24 The mere fact that here the government can point to a
25 defendant convicted at a different time of a different fraud

1 and sentenced to a term of imprisonment, greater -- here
2 greater than the defendant's -- does not create unwarranted
3 sentence disparity.

4 For one thing, we aren't presented with the records in
5 those cases on which the government relies. That is really my
6 argument, Judge, that they're asking you to consider something
7 that you should not. It's illegal. They can't ask the Court
8 to consider these other cases when deciding the sentence here.
9 The focus here -- the focus here, as always, is on this unique
10 defendant, these unique circumstances, this particular offense.

11 Judge, I -- I cannot presume, with the Court's
12 experience -- I know this Court has sentenced thousands of
13 defendants. You, better than my colleague, better than myself,
14 can look at this case. I know we have had this case for years.
15 Mr. Shrout has appeared before you several times. Not only at
16 trial, but at the competency hearing. And I trust that the
17 Court can look at this case and say, you know, 20 years
18 imprisonment. Prison? Years in prison? Really? For a
19 defendant who is nonviolent, who's had the kind of background
20 and history -- you can see from his family -- sons, daughters,
21 grandchildren --

22 THE COURT: On that score, I received a letter from
23 his common-law wife.

24 MR. INIGUEZ: Charlotte?

25 THE COURT: What?

1 MR. INIGUEZ: Charlotte Killips?

2 THE COURT: Yes. She says that Winston raised 18
3 children, consisting of 12 sons and 6 daughters. Is that -- is
4 that the correct number? Would you ask him?

5 THE DEFENDANT: Yes.

6 MR. INIGUEZ: Yes, Judge.

7 THE COURT: All right. And apparently all the
8 children have done very well?

9 MR. INIGUEZ: They have.

10 THE COURT: Have been crime-free?

11 MR. INIGUEZ: Yes. Yes.

12 MR. WEXLER: Your Honor, they actually haven't.

13 MR. INIGUEZ: One is a stepdaughter.

14 THE COURT: Well, that was a stepdaughter. That was
15 a separate thing completely. I kept it out before the jury. I
16 keep it out of my thinking for this sentence.

17 MR. INIGUEZ: Judge, you know, the first factor under
18 3553(a), if I may, is personal history and characteristics, and
19 that's really what I'm asking you to consider here, among other
20 things. Not only his age. You know, it strikes me as so
21 incredible sometimes when the government can come in and just
22 pooh-pooh someone's age and health and treat it like it just
23 should not be considered. It should and it must, and Congress
24 has dictated that it should and must.

25 This gentleman has several health issues. I have heard,

1 as I'm sure the Court has, so many times, the government come
2 in and try out the fact that the Bureau of Prisons can take
3 care of this. "It's okay. Send him to prison. He'll be fine
4 with the Bureau of Prisons." There are studies upon studies,
5 most recently from this year, where the Bureau of Prisons is
6 woefully inadequate. They cannot -- they say they can, but
7 they cannot address these sorts of physical health conditions.

8 The government could sit here before you and say that they
9 can, but it's just a claim. The studies bear it out. They're
10 not able to. And that's a factor that the Court can consider.
11 Those health conditions, as we all know, during the past almost
12 three years that he's been on pretrial supervision, with the
13 Court's authority, he's traveled outside the country because
14 it's less extensive get hip replacements, to have his back
15 worked on. He suffers from chronic pain. I -- I think during
16 the time that we've seen him in this process, he's -- his
17 health has substantially deteriorated. The cataracts, the
18 heart condition, the --

19 THE COURT: Hernia?

20 MR. INIGUEZ: The hernias, the condition of his legs
21 that he's about to have treated, Judge. Those are all things
22 that we need to consider.

23 The other thing we just discussed -- and these are, I
24 think, extraordinarily strong family ties and support.
25 Marriages of many years. Ms. Killips, who you just discussed

1 in the letter, that is his common-law wife of almost 40 years.

2 THE COURT: Is she here today?

3 MR. INIGUEZ: She is not -- oh, where is Charlotte?
4 She's right there, next to Ms. Bekken.

5 THE COURT: Yeah, she said in her letter to me that
6 she had been here constantly.

7 MR. INIGUEZ: Your Honor, military service. You
8 know, it's not insignificant. And, again, the government wants
9 to turn it on its head and somehow say, wow, let's treat it --
10 because he stands convicted of offenses that he does, that we
11 should just disregard his military service and treat it as if
12 he's dishonorable. He's not. He served three years --
13 four years in the Vietnam War.

14 THE COURT: Well, he wasn't in the Vietnam War. He
15 was stationed in Okinawa, and he received -- he was a tech
16 sergeant in the Marine Corps, and he served his time honorably.
17 He's a sharpshooter.

18 MR. INIGUEZ: That's right.

19 THE COURT: So he did a good job.

20 MR. INIGUEZ: Judge, also his education. Clearly,
21 and, you know, this is the thing about delusional disorder --
22 and we heard it from the witness stand -- it is not unusual for
23 this to offset in later life.

24 And, I think, Judge -- again, I know you've seen so many
25 defendants, so many witnesses, and what I'm hoping is that it's

1 come clear to us every time Mr. Shrout stands before you that,
2 you know, it's difficult for me to stand in front of a client
3 and say, "I'm sorry, but you suffer from delusion. You don't
4 recognize it. You don't see it, but the experts do." And it's
5 inextricable to sit here and try to disentangle beliefs in
6 people from Pleiades and the fact you're a walk-in from another
7 planet at the age of 5, from the idea that you -- you too were
8 fed these lies.

9 Mr. Shrout did not invent these theories that we're here
10 discussing today. You know, they want to point him as some
11 sort of, I think, a leader, a guru. He did not invent these
12 things. He, too, later in life, read them, listened to them,
13 and was gullable enough and delusional enough to believe them
14 and spew them back out.

15 But we have to consider -- we're not looking at someone as
16 the government tries to portray, a monovalent, greedy terrible
17 person. The evidence is very much to the contrary, Judge.

18 Like I say, I think we've all seen him. I am sorry. But
19 Mr. Shrout is not functioning mentally the same way that
20 Your Honor does, the same way that I do and that the prosecutor
21 does. Those beliefs -- it's a little different; right? The
22 jury found those beliefs -- they found him guilty, but
23 Mr. Shrout, because of that disorder, holds those beliefs. But
24 it goes back to the issue that is critical here of intention
25 and purposefulness.

1 And, again, I think we can't dissect this stuff. We can't
2 say, "Oh, look he got a BS in psychology in 1976, and back then
3 he had a high IQ, so, therefore, this was all purposeful. It
4 was intentional." No. Things happen to people at different
5 points in their lives.

6 THE COURT: His IQ is labeled at 136?

7 MR. INIGUEZ: Back in the day.

8 THE COURT: That was the Marine Corps level. Do you
9 have anything more fresh?

10 MR. INIGUEZ: No, I don't, Judge. I'm sorry.

11 I do know the IQ you're preferring to, I think, was back
12 at 40, 45 years ago.

13 THE COURT: Yeah.

14 MR. INIGUEZ: Yeah. Judge, his employment history as
15 well. A very long career of hard work supporting that family.
16 He worked hard. A journeyman carpenter for 20 years. He
17 worked for the government with a clearance. All these things
18 have to be considered.

19 Again, I can't stress it enough.

20 THE COURT: Journeyman carpenter?

21 MR. INIGUEZ: Yes. That's right, Judge.

22 THE COURT: Apparently.

23 MR. INIGUEZ: Yeah, for 20 years. And then he's been
24 retired. And that, Judge, I think, again it coincides with the
25 end of his employment, retirement, the onset of this disorder,

1 and that's when these things start.

2 Again, not violent offenses. Congress says, you know,
3 when you've got a violent offender, sentence of imprisonment
4 should be presumed. But when you don't and it's a first-time
5 offender, the presumption is the other way. There should not
6 be prison.

7 Again, no actual loss. No intended loss. The commission
8 of the offenses are inextricably intertwined with delusional
9 disorder. I'm asking -- the government acts like it's no big
10 deal, but we have a felon -- convicted felon, who I believe --
11 I strongly believe supervision by this Court will go the same
12 way that supervision by the Court has for the last three years.
13 He will comply. He will comply now more than ever because, as
14 you just heard, the day after the competency hearing, he shut
15 down the website. We've discussed the fact of these conditions
16 that we agree with. No further conduct, behavior -- it's not
17 really employment, but whatever we want to call it, regarding
18 seminars, books, DVDs, tax laws, anything, it's over with.
19 It's done. He's complied with -- for three years. He will
20 comply with five years, Judge. This is not, I think --

21 THE COURT: How many books did he author?

22 THE DEFENDANT: Three.

23 MR. INIGUEZ: Three books, Your Honor.

24 THE DEFENDANT: One all on UFOs.

25 MR. INIGUEZ: One on UFOs.

1 THE COURT: Thank you.

2 MR. INIGUEZ: Judge, five years of supervision. We
3 don't have this -- this idea of future harm, future crimes. I
4 think we can tell from his past, before the onset of this
5 disorder, before these offenses for which he stands convicted,
6 no crimes. None at all. As a juvenile; as a young adult. Now
7 that he's been made fully aware, regardless of his disordered
8 beliefs, he understands now fully this is over. It's done.

9 So when I look at -- here is one of the things I look at:
10 When we have a case where there's tax loss -- as I say, that's
11 the only loss; right? This idea that we should be sentencing
12 this gentleman for hundreds of trillions of dollars, as I point
13 out in my brief, that's outrage. Everybody knew it was
14 outrageous. No one acted on it because it's so, I'm sorry,
15 crazy.

16 Only three of these documents for which he was convicted
17 were worth less than the gross domestic product of the world's
18 leading economy -- the United States. That's insane; right?
19 If I were to get a piece of paper by anybody that said it was
20 worth trillions of dollars, I would have to laugh. I'm not
21 going to believe that. No one is going to believe that. This
22 was not only impossible or not likely to occur, it would never
23 have occurred. And, in fact, it did never occur.

24 THE COURT: Well, he also wanted to have all those
25 trillions of dollars to bail out the people who suffered

1 foreclosure from the fall of 2008. That was his goal.

2 MR. INIGUEZ: Isn't that, Your Honor, on its face,
3 when I hear that, although, I think, well, that's well-meaning,
4 but that's incredible. The fact that anybody would believe
5 that they single-handedly had the power to write up a document,
6 put a number on it, and solve the world's problems -- it sure
7 would be nice if that's how things worked. But I think, again,
8 Judge, I think we all know from our own personal experience,
9 that is a strong indicator of just how disordered this
10 particular mind is.

11 I wish I could solve the world's hunger crisis by writing
12 a check, but I can't. No one can. Most of us know that.
13 This, I think, Judge -- to sentence this man to prison, my
14 humble opinion, would be a travesty.

15 I know the government wants to, for lack of a better word,
16 scare, threaten, impress upon at least, the Court that, "Oh, my
17 God, if you were to send him home and supervise him and
18 give him -- let him have the medical treatment and mental
19 health treatment that he needs, all these people out there in
20 the world are going to be emboldened. They're all watching,
21 Judge. Hours from now everybody is going to see what you did,
22 and, wow, you should be really harsh, not consider the
23 individual circumstances. Look at all these people and what
24 happened in their cases that we don't have any information for
25 you about, other than our claim that they're somehow related

1 here, and treat him the same way. Forget about who he is as an
2 individual. Forget about everything we know about him. Don't
3 do the just and reasonable and fair thing, but be vindictive
4 and be harsh, as we would like you to do."

5 I know this Court has the perspective to put this case in
6 perspective with other cases.

7 Judge, you know, I'm not going to -- I'll deal with the
8 issue of restitution just briefly for this purpose. Again,
9 we're between -- we're less than 250,000, but between 157 and
10 191. I think we can decide that issue with finality in due
11 course.

12 Supervision. Five years will allow the repayment of
13 restitution. If, in fact, what the government is after is not
14 an eye for an eye but recompense --

15 THE COURT: How is he going to pay any restitution if
16 he's got multiple disks, still is disabled, has no other
17 source -- he can't return to carpentry. How in the world is he
18 going to pay anything, realistically? Certainly not selling
19 books.

20 MR. INIGUEZ: Not at all.

21 THE COURT: Or conducting seminars.

22 MR. INIGUEZ: That is for sure.

23 THE COURT: That may be a moot issue.

24 MR. INIGUEZ: Actually, Judge, you know, when we keep
25 talking about here the loss, the actual tax loss was the amount

1 of taxes due. Not all of his income is from this scheme.

2 His income -- he had a considerable amount of income from
3 a pension because of that 20 years as a carpenter, a journeyman
4 carpenter. So I would respectfully submit that that is where
5 that money can come from, as -- in addition to family members
6 and friends that want to help him.

7 But I think he can do that. In prison, he can't.

8 THE COURT: You have 90 days to resolve that issue.

9 MR. INIGUEZ: Yes.

10 THE COURT: After I sentence.

11 MR. INIGUEZ: Thank you, Judge.

12 THE COURT: I would like to hear from the government.

13 MR. INIGUEZ: Judge, if I might just make one other
14 point, since we're talking about, it seems like, money, I just
15 wanted to note one thing I find rather remarkable. That's the
16 cost of imprisonment for 20 years versus supervision.

17 THE COURT: \$36,000 a year.

18 MR. INIGUEZ: Or \$726,000 total versus \$21,000.

19 That's three percent of the cost of prison by putting him on
20 supervision. If we're really at the government -- if the
21 government is really concerned about money, it does not make
22 sense.

23 Thank you, Judge.

24 THE COURT: All right. We'll take a recess so you
25 can regroup here, and we'll pick up in ten minutes.

1 MR. WEXLER: If you want, Your Honor, I'm ready to
2 go.

3 THE COURT: Well, we have a court reporter.

4 MR. WEXLER: Thank you, Your Honor.

5 THE COURT: Thank you. We'll take ten minutes.

6 (Recess taken.)

7 THE COURT: Counsel.

8 MR. WEXLER: Thank you, Your Honor.

9 Your Honor, Mr. Iniguez's comments earlier are --
10 essentially amount to a second try at closing argument. All of
11 the arguments regarding the defendant's conduct were made
12 during trial, and the jury found none of those arguments
13 compelling and convicted the defendant for all of the conduct
14 that Mr. Iniguez now says nobody could possibly believe.

15 The jury believed him, and they convicted the defendant.
16 The verdict -- the defense is asking for the judge to impose
17 your judgment in lieu of the jury's verdict.

18 He's saying that the seminars that he conducted had no
19 impact at all; that people, for some reason, attended them for
20 no reason; that they paid hundreds of dollars to attend them
21 for no reason; that they asked him for private coaching for no
22 reason; and that his -- the fact that his stepdaughter went to
23 jail is mere coincidence.

24 MR. INIGUEZ: Your Honor, I object. It's repeated
25 reference despite your admonition to the stepdaughter and her

1 conviction, Your Honor.

2 MR. WEXLER: Your Honor --

3 THE COURT: Let's leave the stepdaughter out of it,
4 period. You don't need it. You have plenty other to talk
5 about.

6 MR. WEXLER: Very well, Your Honor.

7 THE COURT: I don't know how you -- you want to get
8 into a subject that is -- is not helpful to the Court. I've
9 made that clear to you.

10 Now, I want is help from you as to what the guidelines
11 should be and what the -- your -- your rebuttal is to what
12 counsel has to say.

13 MR. WEXLER: Yes, Your Honor.

14 THE COURT: He didn't say anything about the
15 stepdaughter, did he?

16 MR. WEXLER: There is a reason for that, Your Honor,
17 but I'll move on.

18 THE COURT: Please do.

19 MR. WEXLER: Thank you. Your Honor, regarding
20 restitution, there's no need for a 90-day extension for
21 resolving restitution. The government provided a number.

22 THE COURT: I would like to get right to the essence
23 of the case.

24 MR. WEXLER: Very well, Your Honor.

25 THE COURT: The restitution is a minor, minor matter.

1 Let's just talk about what rebuttal you have to his argument.

2 MR. WEXLER: Yes, Your Honor.

3 Mr. Iniguez talked about the defendant's unordered mind
4 and that he read all of his stuff and his delusions caused him
5 to believe it. The government put on video evidence at trial
6 where the defendant stated that he was making up these
7 documents, that he was changing the documents to make them more
8 successful, to have a better chance of working.

9 In fact, he said, "We added this stub so that it would
10 look more official." That's evidence of an ordered mind.
11 That's evidence of someone who's making stuff up of their own,
12 and that's why people paid the defendant to come to his
13 seminars.

14 If he was just repeating what everybody else is repeating,
15 why did they come to him? They came to him because he had new
16 stuff. He was working hard on creating all of these new
17 documents, and that's why they paid him. And they used it to
18 their detriment, and they're in jail, and they're paying
19 restitution.

20 Mr. Iniguez talks about \$36,000 a year. All the
21 defendants that used the defendant's scheme and are now in
22 jail, the government is paying for them to be in jail. Why
23 would they -- the government have to pay for them to be in jail
24 but not the defendant who taught them the scheme?

25 And regarding the connection between those cases,

1 Your Honor, as the government has stated in its brief,
2 Agent Hill is here and available to testify. If the Court
3 wants to hear as to how each of those cases are connected to
4 the defendant --

5 THE COURT: I do not.

6 MR. WEXLER: Very well.

7 Your Honor, I sort of glanced over this, but now I see
8 that perhaps I shouldn't have given it short shrift in my own
9 argument, but the tax system is one of voluntary compliance,
10 and Mr. Iniguez says the Court shouldn't be considering
11 punishment here. But punishment -- the fact of the matter is
12 punishment is an essential deterrence. People will look at
13 Mr. Shrout, who didn't -- by his own admission, didn't file or
14 pay taxes for 20 years. And if he walks out of this courtroom
15 today and just has to spend some time in his house -- which, by
16 the way, is where he broadcasts his YouTube podcasts from
17 anyway -- that in no way is going to encourage somebody to
18 comply with a voluntary compliance system. Instead, it's going
19 to embolden them to not comply. Punishment is an essential
20 aspect of the sentencing regime. To completely ignore it, I
21 think would be improper for this Court.

22 Another example of the Court's order -- the defendant's
23 order of mind, Your Honor, is the government put on evidence
24 from an undercover agent Mark Morini at trial. And Mr. Morini
25 testified to how he went through an extended back and forth by

1 email with the defendant about producing a fictitious financial
2 instrument.

3 The defendant said, "Do this." Agent Morini tried it and
4 sent it back. Defendant said, "No, no, no. You have to change
5 this, change this, change this, and do that."

6 That's not delusional. That's focused and -- a focused
7 fraud that the defendant is well aware of. There's nothing in
8 the defendant's mental history -- in fact, Mr. Iniguez stood up
9 at the *Faretta* hearing so many months ago, years ago, and told
10 this Court, "The defendant is competent. The defendant is
11 competent to represent himself at trial."

12 The judge asked, "Mr. Iniguez, do you know of any reason
13 why I should not find this defendant competent?"

14 Mr. Iniguez, "No, Your Honor. I spent a lot of time with
15 him. He's perfectly competent."

16 That's what Mr. Iniguez said, and now Mr. Iniguez is
17 coming back saying, "He was crazy the whole time. He couldn't
18 possibly have known what he was doing."

19 You can't have it both ways, and he's not crazy. I mean,
20 there's no evidence of that.

21 THE COURT: Well, that's correct. The
22 psychiatrist -- psychotherapist, at least as far as I'm
23 concerned, found that he does not suffer from a specific
24 psychosis, delusional disorder, but is grandiose.

25 I think that was the fair conclusion that he was

1 competent, and that's why we're having this hearing today,
2 because I have found him competent.

3 MR. WEXLER: Yes, Your Honor.

4 And Mr. Iniguez continues -- Mr. Iniguez brought attention
5 to this -- what he thinks will be the effect of the Court
6 sentencing the defendant here today to just one day in prison
7 by referring to the fact that the defendant took down his
8 seminar advertisement two weeks ago.

9 And the Court should really take note that part of the
10 defendant's release conditions was to not have that seminar.
11 So just by advertising it, he was in violation of his release
12 conditions. He advertised it years after he was indicted in
13 this case, and then -- and he was going to have it the weekend
14 before -- this past weekend. His sentencing is today. The
15 seminar was scheduled for this past weekend. The only reason
16 the defendant took down the seminar application and took down
17 his website is because the Court told him specifically, at the
18 competency hearing, "If you don't do this, I am going to
19 sentence you more harshly." That's the motivation. He knew
20 that the gambit was up. All his delays had been expended.
21 Sentencing was facing him, and the Court told him, "Hey, if you
22 don't do this, you'll face a harsher penalty." So it came
23 down.

24 The day after the competency hearing, he went on YouTube
25 and said, "It's all coming back up. Just wait for the change

1 in government." Who knows what that means? But it's clear
2 that the defendant took it down for the sole reason of getting
3 favor with the Court today and out of no intention to comply
4 with taking it down forever.

5 And with -- I'll -- I'll pass on that last thing I was
6 going to mention.

7 THE COURT: That's okay. When I wave you off of a
8 couple of issues, I'm trying to give you the direction that I
9 really need. There's no criticism to you. You've been
10 doing -- as all counsel, you've been doing an exceptionally
11 professional job. Thank you.

12 MR. WEXLER: Thank you, Your Honor.

13 And throughout this process, the defendant has shown no
14 remorse. After he was convicted, he's been on YouTube. It's a
15 weekly podcast, as the government put in it's sentencing brief.
16 It's called the GoldFish Report. He appears weekly on that
17 report. And ever since he was convicted, ever since he was
18 indicted, he's never shown one ounce of remorse. He's never
19 apologized to anybody who ended up in prison. He never did
20 anything to even -- he admitted he did the conduct on the
21 stand. He admits that he does this all -- on all of his
22 videos. But he's never apologized, never shown an ounce of
23 remorse for any of this conduct.

24 And, I mean, to use a metaphor, he's not just trying to
25 rob a bank. He's actively and consistently advocating for

1 others to rob the bank and telling them there's no -- there's
2 no problem; there's no penalty. He's telling them that this is
3 legitimate; this is what you should do.

4 And now he says that the Court should ignore all of that
5 and simply focus on his charged conduct and focus not on the
6 fictitious instruments, but just focus on that he didn't pay
7 taxes.

8 I mean, as -- as I said, Your Honor, 514 is a serious
9 crime. And, yet, the Court should not just simply ignore all
10 of that conduct because there happens to be an ascertainable
11 loss associated with his failure to pay taxes. The guidelines
12 provide and Ninth Circuit case law provide a framework for the
13 court to use in these types of situations, and that's using
14 intended loss.

15 And I -- Your Honor, it just -- it would be -- I'll
16 rephrase that, Your Honor.

17 THE COURT: Careful.

18 MR. WEXLER: Yes, Your Honor. I guess one last thing
19 I want to -- I just want to point this out. I believe I
20 pointed it out in my brief as well. But when the defendant met
21 with Dr. Millkey, Dr. Millkey asked him if he understood "Why
22 are you meeting with me?" And the defendant said -- and this
23 is from Dr. Millkey's report -- "the public defender has a
24 conscience and thinks I was railroaded. He's trying to
25 backtrack without getting an appeal. The shortcut is getting

1 me declared weird."

2 That's what this is all about. That's what their entire
3 argument is all about. It's about undoing the jury's verdict,
4 trying to avoid an appeal, and just having the Court look at
5 the defendant, who looks elderly, looks frail, walks with a
6 cane, all -- and the government doesn't -- you know, he -- he
7 is the age that he is. He has the ailments that he has. But,
8 I mean, to use a cliché, don't judge a book by its cover,
9 Your Honor. You are what your record says you are.

10 And the defendant, for at least 20 years, is a tax cheat
11 and an individual who has convinced others to scheme against
12 the government and perform their own frauds on top of his, and
13 he's responsible for significant harm to the United States, and
14 he should be sentenced accordingly.

15 Thank you, Your Honor.

16 THE COURT: Thank you, sir.

17 MR. INIGUEZ: Judge, may I just respond very briefly
18 to a few points?

19 THE COURT: No.

20 MR. INIGUEZ: No? Just --

21 THE COURT: We have the opening argument, your
22 closing argument, and the rebuttal.

23 If you're bursting with some -- one sentence.

24 MR. INIGUEZ: Just four points, Judge, in terms of --

25 THE COURT: All right.

1 MR. INIGUEZ: -- what he read about Dr. Millkey, he's
2 right. I have a conscience. I thought from the beginning of
3 this case, had I been counsel I would have raised this issue at
4 the beginning of the case. That's why I told Mr. Shrout, "It's
5 too late to," as he says, "undo the convictions." But we have
6 to raise this issue because I have an ethical obligation.
7 That's the one point.

8 The issue of no remorse. You also heard -- it's
9 antithetical. You just heard him admit. And this is what
10 happened at trial. Mr. Shrout admitted he didn't pay taxes.
11 He admitted the six counts of the taxes. And he admitted that
12 he produced and shipped these instruments. He made those
13 his --

14 THE COURT: Okay. That's enough.

15 MR. INIGUEZ: Okay. So he has shown remorse, Judge.

16 THE COURT: Thank you.

17 You can make a statement if you choose to do so.

18 THE DEFENDANT: Is it on?

19 MR. INIGUEZ: Yes. You press it. There you go.

20 THE DEFENDANT: Just a few short comments. I'm
21 really sorry about all of this trouble we had to go through to,
22 you know, get to the point we're at today.

23 THE COURT: You're not under any time constraint.
24 The other issue was procedural. You have all the time you
25 want.

1 THE DEFENDANT: Well, like I say, I'm not here to
2 retry the case or anything like that. You know, I've been
3 studying the law, if you will, for, gosh, I don't know, well
4 over 20 years. Some of it seems to be pretty simple and some
5 of it seems to be pretty confusing, so -- but I have made an
6 attempt, you know, in my life to understand these things, and I
7 have drawn conclusions I have about things from things I've
8 studied.

9 So, anyway, in regards to this whole matter about remorse,
10 yeah, I'm very sorry just this whole thing happened. It's --
11 it's been very confusing for me to understand how it happened
12 and why and so forth. But as mentioned, at the time of trial I
13 took full responsibility for exactly what I have done. That's
14 the way I was trained. That's the way I was taught as a child.
15 You know, you take responsibility for what it is you do right
16 or wrong.

17 Any regards to this -- this business with the psychiatrist
18 and so forth, let me just say some of the comments I made to
19 them would be considered tongue-in-cheek. My mother was a
20 psychiatric nurse for all -- basically all her career and --

21 THE COURT: Your father was a prison guard?

22 THE DEFENDANT: Yeah, uh-huh.

23 Anyway, my mother had a certain disdain for psychiatrists,
24 because she didn't believe they were helping the patients, and
25 so she passed it on to me. So sometimes when I get in the

1 presence of those type of professionals, I think some of my
2 mother rubs off on me, you know, when I make comments to them.

3 In regards to -- you know, certainly I have no intention
4 of continuing on in these matters that seem objectionable, you
5 know, to the Court and to the government and so forth. I had
6 not -- when I started out, I had no belief that they would be
7 objectionable. But apparently it turned out that they are.
8 And so if I have offended in any manner, then I ask your
9 forgiveness. I mean, I was taught to do that a long time ago.

10 And in regards to -- to some of the subjects, he talks
11 about these podcasts and things I do. You know, that's true.
12 But the subject matter that we go over in those has to do with
13 the teachings in the Kings James Version of the Holy Bible. If
14 you go and listen to them, we try to -- or I try to relate our
15 present world to the circumstances and bring it forward from
16 2,000 years ago to see how that applies in our modern society,
17 hopefully, so other people will have a better life.

18 So, again, you know, when we start to talk about
19 intention, I have never had any intention to harm anyone or
20 anything. And if -- if I have offended or harmed someone, then
21 I'm truly sorry, and I would simply ask your forgiveness.

22 And also to the matter in regards to all the things that
23 have gone on, I freely forgive others as well.

24 So that's basically all I have to say, Your Honor.

25 Thanks.

1 THE COURT: Very well.

2 In respect to this matter, if you would please stand.
3 Well, you can sit down. You can just sit down if it's more
4 comfortable.

5 MR. INIGUEZ: Thank you, Judge.

6 THE COURT: As defense counsel pointed out, I perhaps
7 never or seldom have seen a case of what -- such a range in
8 requested sentences from 20 years to essentially no sentence at
9 all. The case has been complex, to say the least. The
10 representation has been remarkable. I could not have asked for
11 a more helpful professional presentation from the government or
12 from the defense. They have been very honorable and
13 straightforward.

14 The defense has had to work with the handicap of being an
15 advisor, as opposed to regular counsel, and has done an
16 outstanding job in that limited capacity.

17 As far as the defendant is concerned, he is also a very
18 remarkable person. 70 years. He came from a stable family; a
19 religious family. He did his service to his country honorably.
20 He has never had a criminal issue. He has not had any
21 substance abuse. He had a brother who was a terrible alcoholic
22 and died of it, but other -- he stayed away from that. He has
23 never abused alcohol or drugs in his life. He has enormous
24 support from all the people that know him. They besieged the
25 Court, to which I welcome, with kind comments about his

1 generosity and helpfulness to other people.

2 But, as they say, the other side of the story is he has
3 grandiose ideas as to who he is and what he can do. He is not
4 psychotic, as the psychiatrist said, but he believes he is a
5 descendant of Christ and Mary, that he comes from a different
6 planet, that he is a nonresident alien, that he was put in a
7 form as a human at age 5. These things he believes to this
8 day.

9 He says that the federal government is not -- doesn't have
10 control over him, that the federal government need not be
11 obeyed, that the -- he has some -- the usual sovereign nation
12 lack of mentality of thinking the Uniform Commercial Code
13 controls our government and all their other totally
14 unacceptable beliefs. The -- you are not being sentenced
15 because of your bizarre beliefs. You are being sentenced
16 because of your conduct. You definitely feel that you are
17 smarter than most everybody you encounter. You have become
18 their teacher. You want to be called the head of your
19 organization. You want to be recognized as a highly -- high
20 intellectual with a vast knowledge of the law. Unfortunately,
21 that isn't the case.

22 You have been a nonproductive person. You have advocated
23 hundreds, if not thousands, of people through the years that
24 they need not pay their taxes and support our government. That
25 is not acceptable.

1 When you tell people that they should violate the law --
2 the tax laws, you are advocating other people to violate the
3 law. The fact of the matter is other people have followed your
4 instruction and tutelage and have violated the law.

5 There is almost no way to track the amounts of money that
6 were actually not reported by your many, quote, students, end
7 quote. But there's no question, in the Court's mind, that you
8 intended -- your intention was to sign these documents and
9 have them be effective for trillions of dollars. And your
10 motive was to rescue the people that were besieged with
11 foreclosures under the 2008 crash. This is what you believe
12 and what you did.

13 When you add up the -- your -- this was your intention.
14 Whether anybody was a damfool to follow them is another matter,
15 but the -- the guidelines call for relevant conduct from
16 262 months to 327 months. That's the calculation, and it's
17 based upon what you intended for people to act. Whether they
18 would be, as you used the phrase, crazy enough to act on these
19 concepts, that's up -- that's irrespective -- that's
20 irrelevant. It's what you intended to do, and that is no
21 question that you intended to do that.

22 But then the guidelines are discretionary. We have
23 a guidelines -- I hesitated to mention this, but
24 Judge James Burns and myself were strong advocates of the
25 guidelines. We taught sentencing guidelines to -- nationally,

1 to 120 judges at a time, and we give them a set of facts,
2 including a homicide that happened in a barroom. And the
3 disparity that we received ran from probation to death in the
4 judges that were there. So we felt very compelled to support
5 the sentencing guidelines.

6 Judge Burns was a member of the Sentencing Commission. I
7 fought for the same thing on the state level with Judge Beatty.
8 But they are still advisory. You just cannot put into
9 individuals a set of numbers. But we start out with the
10 guidelines, but they are advisory only. And, thank heavens, in
11 this case, they are not mandatory.

12 The recommendation of the government is for 20 years. The
13 recommendation for -- from the presentence writer is for
14 15 years. My sentence -- and you will be going to prison -- is
15 for 10 years. Because you're 70 years old, you not only have
16 your eye problem and your hernia problem, you -- and your disk
17 problems, you also have other problems of your general health,
18 that this may well be a life sentence. I'm well aware of that.
19 But you will -- I'll be recommending the facility that the
20 government -- Bureau of Prisons best recommends for a person of
21 your age and your disability.

22 I think that you can be accommodated right here at
23 Sheridan where you will be near your beloved lady who's here
24 today. And your family -- a lot of them are Utah, where you
25 went -- graduated from college. But the final call will be

1 Bureau of Prisons. Unless I hear otherwise, I'll recommend
2 Sheridan facility.

3 There will be no fine. The fee assessment for all
4 accounts totals \$1,450. I can set the restitution at
5 \$191,226.10 at this time, but if you wish to be heard and
6 challenge that, that can be done after he starts -- after the
7 Bureau of Prisons makes their selection as to when and where he
8 should report.

9 I am concerned about releasing you to clear up your
10 matters because of your activity and being able to travel
11 internationally and into Canada willy-nilly.

12 I just know that you have been very faithful in reporting
13 to the Court as directed and that I will need your personal
14 problem from -- promise from you to me that you will appear as
15 directed by the marshal to the institution if I allow you to
16 self-report.

17 THE DEFENDANT: Yes.

18 THE COURT: You make that promise?

19 THE DEFENDANT: Yes.

20 THE COURT: And you know that if I -- you don't and
21 you are ever caught and if I'm still around, I'll give you the
22 maximum. You understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. You do have a right to
25 appeal. Counsel can raise the issues that he wishes to raise.

1 At that time, I accept the presentence report as written with
2 the conditions of supervised release, except that you do not
3 need conditions about alcohol or substance abuse.

4 Are there any objections to the other criteria?

5 MR. INIGUEZ: Your Honor, I would only maintain the
6 objections that I made in writing with respect to the
7 presentence report's guideline calculations.

8 THE COURT: Yes. I'm talking about conditions of
9 supervised release.

10 MR. INIGUEZ: Right. No objections to those,
11 Your Honor. Just the two points you raised that might warrant
12 some discussion. First, if you would see fit to recommend the
13 federal prison camp at Sheridan, I think that would be
14 appropriate, given his age.

15 THE COURT: That's where we put the bankers and the
16 lawyers and the like.

17 MR. INIGUEZ: Thank you, Judge.

18 And with respect to restitution -- well, restitution, I
19 guess, ties in with the self-surrender issue. If we can set --
20 the restitution hearing, we have up to 90 days -- that would be
21 my calculation -- is the very beginning of January. I think I
22 have January 9th. If we can set it a couple of days earlier,
23 it may be that the parties can try to resolve that issue. If
24 so, we'll inform the Court that the hearing is not necessary.
25 But if we can set the hearing for January 7th, and I would ask

1 the Court to set a self-surrender date two weeks after that
2 hearing date for Mr. Shrout.

3 THE COURT: I don't know what you're talking about.
4 What that adds up to be -- normally, we have 30 days. No.
5 Becky how long do we have?

6 DEPUTY COURTROOM CLERK: Usually they turn themselves
7 in within 30 days.

8 THE COURT: He'll be directed to follow the
9 availability at the Sheridan facility, if that's where the
10 person is going to be designated within 30 days.

11 As far as restitution, I want you to clear that up
12 within 30 days.

13 MR. INIGUEZ: Okay. So we'll -- so we'll --

14 THE COURT: Get it all behind us.

15 MR. INIGUEZ: 30 days for both surrender and --

16 THE COURT: And restitution.

17 MR. INIGUEZ: And restitution.

18 THE COURT: Final restitution. I expect you to
19 resolve that.

20 MR. INIGUEZ: Very good.

21 THE COURT: The amount of restitution, I often waive
22 interest, if that's any help.

23 MR. INIGUEZ: That is one of the issues, Your Honor.
24 That's one of the issues.

25 THE COURT: He's going to have a tough time paying

1 the 151,000.

2 MR. INIGUEZ: Judge, just for the issue of the
3 self-surrender, I do have his passport, and I'm prepared to
4 give this to Pretrial Services. You have his word and he'll be
5 appearing in 30 days.

6 THE COURT: Yes?

7 THE PROBATION OFFICER: Your Honor, we just ask for
8 clarification that Counts 1 through 13 he's sentenced to 120
9 months and then Counts 14 to 19 for the statutory maximum of
10 12 months, all to run concurrent to each other, with five years
11 supervised release.

12 THE COURT: And supervised release, yes.

13 THE PROBATION OFFICER: Thank you.

14 THE COURT: Any further questions from the
15 government?

16 MR. WEXLER: No, Your Honor.

17 THE COURT: Anything further for the defense?

18 MR. INIGUEZ: Not at this time, Your Honor. Thank
19 you.

20 THE COURT: Thank you. Court is in recess.

21 (Hearing concluded.)

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C E R T I F I C A T E

United States of America v. Winston Shrout

3:15-CR-00438-JO

SENTENCING

October 22, 2018

I certify, by signing below, that the foregoing is a true and correct transcript of the record, taken by stenographic means, of the proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/Jill L. Jessup, CSR, RMR, RDR, CRR, CRC

Official Court Reporter
Oregon CSR No. 98-0346

Signature Date: 10/29/18
CSR Expiration Date: 9/30/20

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Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

WINSTON SHROUT,

Defendant.

Case No. 3:15-cr-00438-JO-1

NOTICE OF APPEAL

Notice is hereby given that the defendant, Winston Shrou, appeals to the United States Court of Appeals for the Ninth Circuit from the Judgment entered on October 22, 2018, by Senior U.S. District Judge Robert E. Jones [ECF 161], including, but not limited to, the conviction, sentence, pretrial motions, and bail determinations.

Respectfully submitted on October 26, 2018.

/s/ Ruben L. Iñiguez

Ruben L. Iñiguez
Assistant Federal Public Defender

**U.S. District Court
District of Oregon (Portland (3))
CRIMINAL DOCKET FOR CASE #: 3:15-cr-00438-JO-1**

Case title: USA v. Shrout

Date Filed: 12/08/2015

Date Terminated: 10/22/2018

Assigned to: Judge Robert E. Jones

Appeals court case number: 18-30228 9th
Circuit Court of Appeals

Defendant (1)**Winston Shrout***TERMINATED: 10/22/2018*represented by **Ruben L. Iniguez**

Office of the Federal Public Defender

101 SW Main Street

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Portland, OR 97204

503-326-2123

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Email: ruben_iniguez@fd.org

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: Public Defender or Community
Defender Appointment***Pending Counts**

18:514(a)(1) - Fictitious Obligations
(1s-7s)

Disposition

Judgment Amended on 11/7/2018 for
Correction of Sentence for Clerical Mistake -
Defendant will TSI on Monday, November
26, 2018. Recommendation for incarceration
wording edited per defense counsel request.
SENTENCING DATE: 10/22/2018;
IMPRISONMENT: Counts 1 through 13, 120
months on each count, with the sentences on
all counts to be served concurrently with each
other. Counts 14 through 19, 12 months on
each count, with the sentences on all counts to
be served concurrently with each other;
SUPERVISED RELEASE: 5 years on Counts
1 through 13, and a 1 year on Counts 14
through 19; SPECIAL ASSESSMENT:
\$100.00 on each count . 1,450.00 for Counts
1-19(\$100 each for counts 1-13 and \$25 each
for counts 14-19.); RESTITUTION: TBD in
30 days.

18:514(a)(2) - Fictitious Obligations
(8s-10s)

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Judgment Amended on 11/7/2018 for Correction of Sentence for Clerical Mistake - Defendant will TSI on Monday, November 26, 2018. Recommendation for incarceration wording edited per defense counsel request.SENTENCING DATE: 10/22/2018; IMPRISONMENT: Counts 1 through 13, 120 months on each count, with the sentences on all counts to be served concurrently with each other. Counts 14 through 19, 12 months on each count, with the sentences on all counts to be served concurrently with each other; SUPERVISED RELEASE: 5 years on Counts 1 through 13, and a 1 year on Counts 14 through 19; SPECIAL ASSESSMENT: \$100.00 on each count . 1,450.00 for Counts 1-19(\$100 each for counts 1-13 and \$25 each for counts 14-19.); RESTITUTION: TBD in 30 days.

18:514(a)(3) - Fictitious Obligations
(11s-13s)

Judgment Amended on 11/7/2018 for Correction of Sentence for Clerical Mistake - Defendant will TSI on Monday, November 26, 2018. Recommendation for incarceration wording edited per defense counsel request.SENTENCING DATE: 10/22/2018; IMPRISONMENT: Counts 1 through 13, 120 months on each count, with the sentences on all counts to be served concurrently with each other. Counts 14 through 19, 12 months on each count, with the sentences on all counts to be served concurrently with each other; SUPERVISED RELEASE: 5 years on Counts 1 through 13, and a 1 year on Counts 14 through 19; SPECIAL ASSESSMENT: \$100.00 on each count . 1,450.00 for Counts 1-19(\$100 each for counts 1-13 and \$25 each for counts 14-19.); RESTITUTION: TBD in 30 days.

26:7203 - Willful Failure to File Return
(14s-19s)

Judgment Amended on 11/7/2018 for Correction of Sentence for Clerical Mistake - Defendant will TSI on Monday, November 26, 2018. Recommendation for incarceration wording edited per defense counsel request.SENTENCING DATE: 10/22/2018; IMPRISONMENT: Counts 1 through 13, 120 months on each count, with the sentences on all counts to be served concurrently with each other. Counts 14 through 19, 12 months on each count, with the sentences on all counts to be served concurrently with each other; SUPERVISED RELEASE: 5 years on Counts

1 through 13, and a 1 year on Counts 14 through 19; SPECIAL ASSESSMENT: \$100.00 on each count . 1,450.00 for Counts 1-19(\$100 each for counts 1-13 and \$25 each for counts 14-19.); RESTITUTION: TBD in 30 days.

Highest Offense Level (Opening)

Felony

Terminated Counts

26:7203 - Willful Failure to File Return (1-6)

Disposition

Original indictment is dismissed on the motion of the United States.

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition

Plaintiff

USA

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 TERMINATED: 04/06/2017
 Designation: Retained

| Date Filed | # | Docket Text |
|------------|--------------------|---|
| 12/08/2015 | 1 | Indictment (Redacted) as to Winston Shrout (1) count(s) 1-6 Willful Failure to File Return. (sss) (Entered: 12/08/2015) |
| 12/08/2015 | 2 | Indictment Unredacted Version Filed Under Seal as to Defendant Winston Shrout. (sss) (Entered: 12/08/2015) |
| 12/08/2015 | 3 | Defendant Information Relative to a Criminal Case Sheet as to Defendant Winston Shrout. (In accordance with Fed. R. Crim. P. 49.1 this form document containing personal data identifiers is filed under seal). (sss) (Entered: 12/08/2015) |
| 12/08/2015 | 4 | Notice of Case Assignment to Judge Robert E. Jones. (sss) (Entered: 12/08/2015) |
| 12/11/2015 | 6 | Summons Returned Executed on 12/8/2015 as to Winston Shrout (sss) (Entered: 12/14/2015) |
| 01/07/2016 | 7 | Order Setting Conditions of Release as to Defendant Winston Shrout. Signed on 1/7/2016 by Magistrate Judge John V. Acosta. (nini). (Entered: 01/07/2016) |
| 01/07/2016 | 8 | Minutes of Proceedings: First Appearance before Magistrate Judge John V. Acosta as to Winston Shrout held on 1/7/2016. AFD Ruben L. Iniguez appointed as "advisory counsel" for defendant Winston Shrout. ORDER: SETTING over Arraignment is set for 2/3/2016 at 09:30AM in Portland Courtroom 10A before Judge Robert E. Jones. Also setting for 2/3/2016 a further Status Conference and Plea. FURTHER ORDERED - GRANTING the parties request to WAIVE the 14 day discovery deadline. Defense counsel ORDERED to send Mr. Shrout a copy of the minutes of this proceeding. Counsel Present for Plaintiff: Stuart Wexler. Counsel Present for Defendant: Ruben Iniguez. (Court Reporter FTR(pg)11b) (peg) (Entered: 01/08/2016) |
| 01/20/2016 | 9 | Notice (<i>Titled by filer as: Notice of Appointment and Acceptance and Lien and Invoice.</i>) Filed Pro Se by Winston Shrout. (sss) (Entered: 01/21/2016) |
| 01/20/2016 | 10 | Notice (<i>Titled by filer as: Notice of Liquidation</i>) Filed Pro Se by Winston Shrout. (sss) (Entered: 01/21/2016) |
| 01/29/2016 | 11 | Notice by USA as to Winston Shrout <i>Concerning Arraignment Hearing Set for February 3, 2016</i> (Attachments: # 1 Attachment A, # 2 Attachment B, # 3 Attachment C) (Wexler, Stuart) (Entered: 01/29/2016) |
| 02/03/2016 | 12 | Minutes of Proceedings: Arraignment Hearing held on 2/3/2016 before Judge Robert E. Jones for Defendant Winston Shrout regarding Winston Shrout (1) Count 1-6. Defendant advised of rights and charges. Record of Faretta hearing. Court finds that defendant is competent and that he knowingly and intelligently waived his right to representation of counsel. Defendant may proceed pro se with the Federal Defender present as advisory counsel. Not guilty plea entered. Order that Discovery is due in 14 days. Defendant was advised of trial rights. Defendant waived his speedy trial rights pursuant to 18 U.S.C. § 3161(h)(7)(A). Jury Trial is set for 5/3/2016 at 09:00AM before Judge Robert E. Jones in Portland Courtroom 10A. Defendant remains on pre-trial release pending jury trial.Counsel Present for Plaintiff: Stuart A. |

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| | | |
|------------|--------------------|---|
| | | Wexler, Advisory Counsel Present for Defendant. Steve Sady for Ruben L. Iniguez.(Court Reporter Jill Jessup) (bp) (Entered: 02/03/2016) |
| 02/03/2016 | 13 | Notice of Assignment of Reversionary Interest and Status as to Winston Shrout (Attachments: # 1 Exhibits A - K) (sss) (Entered: 02/03/2016) |
| 02/09/2016 | 14 | Motion for Disclosure <i>and Protection Order</i> filed by USA as to Defendant Winston Shrout. (Attachments: # 1 Proposed Order) (Wexler, Stuart). (Entered: 02/09/2016) |
| 02/10/2016 | 15 | ORDER Granting 14 Motion for Disclosure and Protective Order as to Winston Shrout (1) Signed on 2/10/2016 by Judge Robert E. Jones. (sss) (Entered: 02/10/2016) |
| 02/22/2016 | 16 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Arraignment and Faretta Hearing as to Defendant Winston Shrout for date of February 3, 2016, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 or email at jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 3/3/2016. Redaction Request due 3/17/2016. Redacted Transcript Deadline set for 3/28/2016. Release of Transcript Restriction set for 5/26/2016. (jjcr) (Entered: 02/22/2016) |
| 03/15/2016 | 17 | Superseding Indictment (Redacted) as to Winston Shrout (1) count(s) 1s-13s Fictitious Obligations, 14s-19s Willful Failure to File Return. (sss) (Entered: 03/16/2016) |
| 03/15/2016 | 18 | Superseding Indictment Unredacted Version Filed Under Seal as to Defendant Winston Shrout. (sss) (Entered: 03/16/2016) |
| 03/15/2016 | 19 | Defendant Information Relative to a Criminal Case Sheet as to Defendant Winston Shrout. (In accordance with Fed. R. Crim. P. 49.1 this form document containing personal data identifiers is filed under seal). (sss) (Entered: 03/16/2016) |
| 03/16/2016 | 20 | Scheduling Order by Judge Robert E. Jones as to Winston Shrout. Arraignment is set for 3/31/2016 at 10:00AM before Judge Robert E. Jones in Portland Courtroom 10A. (bp) (Entered: 03/16/2016) |
| 03/24/2016 | 22 | Summons Returned Executed on 3/18/2016. as to Winston Shrout (sss) (Entered: 03/25/2016) |
| 03/25/2016 | 23 | Motion/ <i>Titled by filer as: Plea in Bar and Demand for Written Bill of Particulars True Bill in Commerce of Necessity</i>) by Pro Se Defendant Winston Shrout. (Attachments: # 1 Memorandum in Support) (sss) (Entered: 03/28/2016) |
| 03/28/2016 | 24 | Motion for Hearing <i>Concerning Faretta, Trial Date, and Modification of Release Conditions</i> filed by USA as to Defendant Winston Shrout. (Attachments: # 1 Attachment) (Wexler, Stuart) (Entered: 03/28/2016) |
| 03/31/2016 | 25 | Motion to Amend/Correct Motion for Hearing <i>Concerning Faretta, Trial Date, and Modification of Release Conditions</i> 24 filed by USA filed by USA as to Defendant Winston Shrout. (Attachments: # 1 Attachment Screenshots of the "Products" Section of http://www.wssic.com/ (presented at http://www.wssic.info/)) (Wexler, Stuart) (Entered: 03/31/2016) |
| 03/31/2016 | 26 | Minutes of Proceedings: Arraignment and Faretta Hearing held before Judge Robert E. Jones as to Defendant Winston Shrout (1). Defendant advised of rights and charges, and waives reading of the Superseding Indictment. Defendant proceeds as named. The Court finds that defendant is competent and that he knowingly and intelligently waives his right to representation by counsel. Defendant may proceed Pro Se with Assistant Federal Public |

Case: 18-30228, 03/18/2019, ID: 11232690, DktEntry: 22-2, Page 180 of 193

| | | |
|------------|--------------------|---|
| | | Defender Ruben L. Iniguez appointed as advisory counsel. The Court declares the case Complex. Not guilty plea(s) entered to Superseding Indictment. Defendant advised of trial rights. Defendant waives his speedy trial rights pursuant to 18 U.S.C. § 3161(h)(7)(A). ORDER - Final Pretrial Conference is set for 6/1/2016 at 9:00 a.m. before Judge Robert E. Jones in Portland Courtroom 10A. A 2-Week Jury Trial is set for 6/7/2016 at 09:00AM before Judge Robert E. Jones in Portland Courtroom 10A. The 5/3/2016 jury trial is STRICKEN. Defendant to remain on pre-trial release pending jury trial with added special release conditions as stated on the record. Counsel Present for Plaintiff: Stuart A. Wexler. Advisory Counsel Present for Defendant: Ruben L. Iniguez. (Court Reporter Jill Jessup) (pg) (Entered: 03/31/2016) |
| 03/31/2016 | 27 | Clerk's Notice of Mailing a copy of minute order 26 as to Winston Shrou4320 NE Azalea St, Hillsboro, OR 97214 on 3/31/2016. (pg) (Entered: 03/31/2016) |
| 03/31/2016 | 28 | AMENDED Order Setting Conditions of Release as to Defendant Winston Shrou. Signed on 20160331 by Judge Robert E. Jones. (chso). (Entered: 03/31/2016) |
| 04/04/2016 | 29 | Response to Motion by USA as to Winston Shrou regarding Motion for Order 23 filed by Defendant Winston Shrou (Attachments: # 1 Attachment Faretta Advisement) (Wexler, Stuart) (Entered: 04/04/2016) |
| 04/05/2016 | 30 | ORDER Denying 23 Motion titled by filer as: Plea in Bar and Demand for Written Bill of Particulars True Bill in Commerce of Necessity as to Winston Shrou (1)Signed on 4/5/16 by Judge Robert E. Jones. (schm) (Entered: 04/05/2016) |
| 04/15/2016 | 31 | Motion to Dismiss by Defendant Winston Shrou. (Attachments: # 1 Memorandum) (sss) (Entered: 04/18/2016) |
| 04/15/2016 | 32 | Notice of Default of Plea in Bar and Demand for Written Bill of Particulars True Bill in Commerce of Necessity. Filed Pro Se by Winston Shrou. (sss) (Entered: 04/18/2016) |
| 04/15/2016 | 33 | Notice of 1099A. Filed Pro Se by Winston Shrou. (sss) (Entered: 04/18/2016) |
| 04/18/2016 | 35 | ORDER Denying 31 Motion to Dismiss as to Winston Shrou (1)Signed on 4/18/2016 by Judge Robert E. Jones. (<i>Mailed to Defendant this date.</i>) (sss) (Entered: 04/19/2016) |
| 04/19/2016 | 34 | Response to Motion by USA as to Winston Shrou regarding Motion to Dismiss 31 filed by Defendant Winston Shrou (Wexler, Stuart) (Entered: 04/19/2016) |
| 04/27/2016 | 36 | Notice by USA as to Winston Shrou <i>to Introduce Expert Witness Testimony and Summaries of Voluminous Evidence</i> (Attachments: # 1 Exhibit William C. Kerr Curriculum Vitae, # 2 Exhibit Kristin B. Emminger Curriculum Vitae) (Wexler, Stuart) (Entered: 04/27/2016) |
| 05/04/2016 | 38 | Motion to Clarify and Request for Hearing of Necessity filed by Defendant Winston Shrou. (Attachments: # 1 Memorandum) (sss) (Entered: 05/05/2016) |
| 05/04/2016 | 39 | Motion for Identity Hearing and Production of Rule 5(c)(3) Identity Affidavit of Necessity. Filed Pro Se by Defendant Winston Shrou. (Attachments: # 1 Exhibit A, # 2 Memorandum in Support, # 3 Exhibits A and B to Memorandum) (sss) (Entered: 05/06/2016) |
| 05/05/2016 | 37 | Notice by USA as to Winston Shrou <i>Rule 404(b) Evidence</i> (Raybould, Ryan) (Entered: 05/05/2016) |
| 05/09/2016 | 40 | Notice by USA as to Winston Shrou <i>of Intent to Introduce Records Pursuant to Federal Rules of Evidence 803(6) and 902(11)</i> (Wexler, Stuart) (Entered: 05/09/2016) |
| 05/09/2016 | 41 | ORDER Denying 38 Motion to Clarify and Request for Hearing of Necessity as to Winston Shrou (1); Denying 39 Motion/Request for Identity Hearing and Production of Rule 5(C)(3) |

| | | |
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| | | Identity Affidavit of Necessity as to Winston ShROUT (1). Signed on 5/9/2016 by Judge Robert E. Jones. (sss) (Entered: 05/10/2016) |
| 05/10/2016 | 42 | Clerk's Notice of Mailing as to Winston ShROUT regarding Order on Motion for Order, Order on Motion for Hearing,, 41 (sss) (Entered: 05/10/2016) |
| 05/11/2016 | 43 | Motion for Discovery filed by USA as to Defendant Winston ShROUT. (Raybould, Ryan) (Entered: 05/11/2016) |
| 05/11/2016 | 44 | Supplemental Notice by USA as to Winston ShROUT <i>Intent to Use 404(b) Evidence</i> (Attachments: # 1 Attachment) (Raybould, Ryan) (Entered: 05/11/2016) |
| 05/11/2016 | 45 | Motion in Limine <i>to Preclude Certain Exhibits and Testimony</i> filed by USA as to Defendant Winston ShROUT. (Wexler, Stuart) (Entered: 05/11/2016) |
| 05/12/2016 | 46 | ORDER on 43 Motion for Discovery as to Winston ShROUT (1) Signed on 5/12/2016 by Judge Robert E. Jones. (<i>Mailed to Defendant Winston ShROUT this date.</i>) (sss) (Entered: 05/13/2016) |
| 05/17/2016 | 47 | Second Notice by USA as to Winston ShROUT <i>Intent to Use 404(b) Evidence</i> (Attachments: # 1 Attachment) (Raybould, Ryan) (Entered: 05/17/2016) |
| 05/17/2016 | 48 | Motion in Limine <i>for Pretrial Determination of Admissibility of Certain Evidence</i> filed by USA as to Defendant Winston ShROUT. (Attachments: # 1 Attachment, # 2 Attachment, # 3 Attachment, # 4 Attachment, # 5 Attachment, # 6 Attachment) (Wexler, Stuart) (Entered: 05/17/2016) |
| 05/17/2016 | 49 | This filing includes a conventionally filed DVD. This conventional filing is maintained in the Clerk's Office but cannot be made a part of the court's electronic record in CM/ECF., Exhibit C by USA as to Winston ShROUT regarding Motion in Limine <i>for Pretrial Determination of Admissibility of Certain Evidence</i> 48 filed by Plaintiff USA (schm) (Entered: 05/18/2016) |
| 05/17/2016 | 50 | This filing includes a conventionally filed DVD. This conventional filing is maintained in the Clerk's Office but cannot be made a part of the court's electronic record in CM/ECF., Exhibit F by USA as to Winston ShROUT regarding Motion in Limine <i>for Pretrial Determination of Admissibility of Certain Evidence</i> 48 filed by Plaintiff USA (schm) (Entered: 05/18/2016) |
| 05/18/2016 | 51 | Unopposed Motion to Continue / Reset <i>Jury Trial Date</i> by Defendant Winston ShROUT. (Iniguez, Ruben) (Entered: 05/18/2016) |
| 05/18/2016 | 52 | ORDER by Judge Robert E. Jones: WITHDRAWING the Motion to Continue / Reset (# 51) as to Winston ShROUT at the request of counsel. Counsel indicated it was inadvertently filed prior to conferral. (eo) (Entered: 05/18/2016) |
| 05/19/2016 | 53 | Unopposed Motion to Continue / Reset <i>Jury Trial Date</i> by Defendant Winston ShROUT. (Iniguez, Ruben) (Entered: 05/19/2016) |
| 05/20/2016 | 54 | ORDER by Judge Robert E. Jones Granting First 53 Unopposed Motion to Continue Jury Trial Date as to Winston ShROUT (1). The 6/07/2016 Jury Trial is STRICKEN and Jury Trial is RESET for 10/11/2016 at 09:00AM before Judge Robert E. Jones in Portland Courtroom 10A. This continuance constitutes excludable delay from 6/07/2016 through 10/11/2016, pursuant to 18 U.S.C. § 3161(h)(7)(A). The court specifically finds, in granting the motion, that the ends of justice served by taking such action outweigh the best interests of the public and defendant in a speedy trial because the additional time is necessary to afford defense counsel sufficient time to investigate the facts of this case, to negotiate with the government, and to prepare for pretrial motions and jury trial, if necessary. The parties are to notify the court by 9/26/2016 as to whether or not this case is expected to go to trial. (bp) (Entered: 05/20/2016) |

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| 09/06/2016 | 55 | Motion for a Scheduling Order filed by USA as to Defendant Winston ShROUT. (Raybould, Ryan) (Entered: 09/06/2016) |
| 09/08/2016 | 56 | Second Motion to Continue / Reset <i>Jury Trial Date</i> by Defendant Winston ShROUT. (Iniguez, Ruben) (Entered: 09/08/2016) |
| 09/08/2016 | 57 | Response to Motion by USA as to Winston ShROUT regarding Motion to Continue / Reset 56 filed by Defendant Winston ShROUT Oral Argument requested. (Wexler, Stuart) (Entered: 09/08/2016) |
| 09/09/2016 | 58 | Reply to Response to Motion by Winston ShROUT regarding Second Motion to Continue / Reset <i>Jury Trial Date</i> 56 (Iniguez, Ruben) (Entered: 09/09/2016) |
| 09/14/2016 | 59 | Supplemental Reply to Response to Motion by Winston ShROUT regarding Second Motion to Continue / Reset <i>Jury Trial Date</i> 56 (Iniguez, Ruben) (Entered: 09/14/2016) |
| 09/16/2016 | 60 | Supplemental Memorandum in Opposition to Motion by USA as to Winston ShROUT regarding Second Motion to Continue / Reset <i>Jury Trial Date</i> 56 filed by Defendant Winston ShROUT (Raybould, Ryan) (Entered: 09/16/2016) |
| 09/16/2016 | 61 | ORDER by Judge Robert E. Jones Granting 56 Second Motion To Continue Jury Trial Date as to Winston ShROUT (1).The 10/11/2016 Jury Trial is STRICKEN and Jury Trial is RESET for 12/13/2016 at 09:00AM before Judge Robert E. Jones in Portland Courtroom 10A. This continuance constitutes excludable delay from 10/11/2016 through 12/13/2016, pursuant to 18 U.S.C. § 3161(h)(7)(A). The court specifically finds, in granting the motion, that the ends of justice served by taking such action outweigh the best interests of the public and defendant in a speedy trial because the additional time is necessary to afford defense counsel sufficient time to investigate the facts of this case, to negotiate with the government, and to prepare for pretrial motions and jury trial, if necessary. The parties are to notify the court by 11/28/16/2016 as to whether or not this case is expected to go to trial. (bp) (Entered: 09/16/2016) |
| 09/30/2016 | 62 | Motion Government's Motion To Seal Government's Unopposed Motion For Rule 15 Deposition And Joint Motion For Continuance Of Jury Trial Date filed by USA as to Defendant Winston ShROUT. (Raybould, Ryan) (Entered: 09/30/2016) |
| 10/03/2016 | 63 | ORDER by Judge Robert E. Jones Granting 62 Government's Motion To Seal Government's Unopposed Motion For Rule 15 Deposition And Joint Motion For Continuance Of Jury Trial Date (bp) (Entered: 10/03/2016) |
| 10/05/2016 | 65 | ORDER by Judge Robert E. Jones Granting 64 Government's Unopposed Motion For Rule 15 Deposition as to Winston ShROUT (1); Granting 64 Joint Motion For Continuance of Jury Trial Date as to Winston ShROUT (1).. Rule 15 Deposition is set for 10/26/2016 at 1:00PM before Judge Robert E. Jones in Portland Courtroom 10A. The 12/13/2016 Jury Trial is STRICKEN and Jury Trial is RESET for 4/18/2017 at 9:00AM before Judge Robert E. Jones in Portland Courtroom 10A. This continuance constitutes excludable delay from 12/13/2016 through 4/18/2017, pursuant to 18 U.S.C. § 3161(h)(7)(A). The court specifically finds, in granting the motion, that the ends of justice served by taking such action outweigh the best interests of the public and defendant in a speedy trial because the additional time is necessary to afford defense counsel sufficient time to investigate the facts of this case, to negotiate with the government, and to prepare for pretrial motions and jury trial, if necessary. The parties are to notify the court by 4/3/2017 as to whether or not this case is expected to go to trial. (bp) (bp) (Entered: 10/05/2016) |
| 10/26/2016 | 66 | Minutes of Proceedings: Evidentiary Hearing before Judge Robert E. Jones as to Winston ShROUT. The defendant waived his appearance for this deposition hearing. Witness Jennifer |

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| | | Becker sworn and evidence adduced. Government exhibits 1-1, 1-2, 1-3, 1-4, 1-5, 1-6 were received. Counsel Present for Plaintiff: Ryan R. Raybould and Stuart A. Wexler. Counsel Present for Defendant: Ruben L. Iniguez as advisory counsel for Winston ShROUT.(Certified Reporter Kim Nerheim for the deposition and videographer Jonas Hinckley) (bp) (Entered: 10/26/2016) |
| 11/02/2016 | 67 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED First Appearance as to Defendant Winston ShROUT for date of January 7, 2016, before Judge John V. Acosta, Transcriber Jill L. Jessup, telephone number (503)326-8191 or email at jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 or email at jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 11/14/2016. Redaction Request due 11/28/2016. Redacted Transcript Deadline set for 12/8/2016. Release of Transcript Restriction set for 2/3/2017. (jjcr) (Entered: 11/02/2016) |
| 11/02/2016 | 68 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Arraignment and Faretta Hearing as to Defendant Winston ShROUT for date of March 31, 2016, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 or email at jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 or email at jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 11/14/2016. Redaction Request due 11/28/2016. Redacted Transcript Deadline set for 12/8/2016. Release of Transcript Restriction set for 2/3/2017. (jjcr) (Entered: 11/02/2016) |
| 11/21/2016 | 69 | ORDER Granting 55 Motion as to Winston ShROUT (1) by Judge Robert E. Jones. (bp) (Entered: 11/21/2016) |
| 11/21/2016 | 70 | Scheduling Order by Judge Robert E. Jones as to Winston ShROUT. Dispositive Motions are due by 2/13/2017. Response is due by 2/27/2017. Reply is due by 3/13/2017. Pretrial Conference is set for 4/13/2017 at 09:30AM in Portland Courtroom 10A before Judge Robert E. Jones. (bp) (Entered: 11/21/2016) |
| 02/13/2017 | 71 | Scheduling Order by Judge Robert E. Jones as to Winston ShROUT. At the request of counsel Dispositive Motions are due by 2/23/2017. Response is due by 3/9/2017. Reply is due by 3/27/201 (bp) (Entered: 02/13/2017) |
| 02/23/2017 | 72 | Scheduling Order by Judge Robert E. Jones as to Winston ShROUT. Dispositive Motions are due by 3/6/2017. Response is due by 3/20/2017. Reply is due by 3/27/2017. (bp) (Entered: 02/23/2017) |
| 03/06/2017 | 73 | Motion to Dismiss <i>for Vindictive Prosecution</i> by Defendant Winston ShROUT. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (Iniguez, Ruben) (Entered: 03/06/2017) |
| 03/17/2017 | 74 | Response to Motion by USA as to Winston ShROUT regarding Motion to Dismiss 73 filed by Defendant Winston ShROUT (Wexler, Stuart) (Entered: 03/17/2017) |
| 03/23/2017 | 75 | Supplemental Notice by USA as to Winston ShROUT regarding Notice (Generic), 36 filed by Plaintiff USA <i>of Intent to Introduce Expert Witness Testimony Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G)</i> (Wexler, Stuart) (Entered: 03/23/2017) |
| 03/27/2017 | 76 | |

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| | | Memorandum in Support of Motion by Winston Shrout regarding Motion to Dismiss for <i>Vindictive Prosecution</i> 73 filed by Defendant Winston Shrout (Iniguez, Ruben) (Entered: 03/27/2017) |
| 03/28/2017 | 77 | Motion to Amend/Correct Response to Motion 74 filed by USA filed by USA as to Defendant Winston Shrout. (Wexler, Stuart) (Entered: 03/28/2017) |
| 03/31/2017 | 78 | ORDER Denying 73 Motion to Dismiss for Vindictive Prosecution as to Winston Shrout (1) Signed on 3/31/2017 by Judge Robert E. Jones. (sss) (Entered: 04/03/2017) |
| 04/03/2017 | 79 | Notice of Attorney Appearance Lee Langston appearing for USA (Langston, Lee) (Entered: 04/03/2017) |
| 04/06/2017 | 80 | Notice of Withdrawal of Government Attorney: Attorney Ryan R. Raybould withdraws as counsel of record for the United States of America. (Wexler, Stuart) (Entered: 04/06/2017) |
| 04/07/2017 | 81 | Motion in Limine to Clarify Defendant's Pro Se Status filed by USA as to Defendant Winston Shrout. (Langston, Lee) (Entered: 04/07/2017) |
| 04/07/2017 | 82 | Proposed Jury Instructions by USA as to Winston Shrout (Attachments: # 1 Proposed Document Proposed Jury Instructions) (Langston, Lee) (Entered: 04/07/2017) |
| 04/07/2017 | 83 | Proposed Jury Verdict by USA as to Winston Shrout (Attachments: # 1 Proposed Document Proposed Verdict Form) (Langston, Lee) (Entered: 04/07/2017) |
| 04/07/2017 | 84 | Witness List by USA as to Winston Shrout (Wexler, Stuart) (Entered: 04/07/2017) |
| 04/07/2017 | 85 | Exhibit List by USA as to Winston Shrout (Attachments: # 1 Attachment Exhibit List) (Wexler, Stuart) (Entered: 04/07/2017) |
| 04/07/2017 | 86 | Proposed Voir Dire by USA as to Winston Shrout (Wexler, Stuart) (Entered: 04/07/2017) |
| 04/07/2017 | 87 | Trial Brief by USA as to Winston Shrout (Wexler, Stuart) (Entered: 04/07/2017) |
| 04/10/2017 | 88 | ORDER by Judge Robert E. Jones Granting 77 Motion to Amend/Correct as to Winston Shrout (1). (bp) (Entered: 04/10/2017) |
| 04/13/2017 | 89 | Minutes of Proceedings: Granting 48 Motion in Limine as to Winston Shrout (1); Granting 81 Motion in Limine as to Winston Shrout (1). All exhibits are pre-admitted with the exception of 15-14, 11-9 and 11-10. Pretrial Conference held before Judge Robert E. Jones as to Winston Shrout. Stuart A. Wexler and Lee Langstrom present as counsel for plaintiff. Winston Shrout (Pro Se) and Ruben Iniguez present as counsel for defendant. (Court Reporter Jill Jessup.) (bp) (Entered: 04/13/2017) |
| 04/14/2017 | 90 | Notice by USA as to Winston Shrout <i>Government's Summary of Witness Testimony</i> (Wexler, Stuart) (Entered: 04/14/2017) |
| 04/14/2017 | 91 | Pretrial Memorandum filed by USA as to Winston Shrout <i>Government's Memorandum on Mens Rea and Availability of "Good Faith" Defense</i> (Wexler, Stuart) (Entered: 04/14/2017) |
| 04/14/2017 | 92 | Scheduling Order by Judge Robert E. Jones as to Winston Shrout. At the request of the parties an In Chambers Conference is set for 4/17/2017 at 10:30AM before Judge Robert E. Jones in Portland chambers 10A. This hearing is for attorneys only to discuss jury instructions. (bp) (Entered: 04/14/2017) |
| 04/14/2017 | 93 | Exhibit List by Winston Shrout (Iniguez, Ruben) (Entered: 04/14/2017) |
| 04/14/2017 | 94 | Proposed Voir Dire by Winston Shrout (Iniguez, Ruben) (Entered: 04/14/2017) |
| 04/14/2017 | 95 | Witness List by Winston Shrout (Iniguez, Ruben) (Entered: 04/14/2017) |

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| 04/14/2017 | 96 | Proposed Jury Instructions by Winston ShROUT (Iniguez, Ruben) (Entered: 04/14/2017) |
| 04/14/2017 | 97 | <i>Supplemental</i> Proposed Jury Instructions by USA as to Winston ShROUT (Attachments: # 1 Attachment Joint Proposed Jury Instructions, # 2 Attachment Government's Disputed Proposed Jury Instructions) (Wexler, Stuart) (Entered: 04/14/2017) |
| 04/14/2017 | 98 | Trial Brief by Winston ShROUT <i>Response to Government's Memorandum on Mens Rea and Availability of Good Faith Defense</i> (Iniguez, Ruben) (Main Document 98 replaced on 4/17/2017) (sss). (Entered: 04/14/2017) |
| 04/17/2017 | 99 | Clerk's Notice of Docket Correction regarding 98 Trial Brief. The PDF attached to this entry at filing was incorrect. A corrected PDF has been uploaded and has replaced the incorrect attachment. The Notice of Electronic Filing will be regenerated to all parties. (sss) (Entered: 04/17/2017) |
| 04/17/2017 | 100 | Amended Exhibit List by USA as to Winston ShROUT (Attachments: # 1 Attachment Government's Amended Exhibit List) (Wexler, Stuart) (Entered: 04/17/2017) |
| 04/17/2017 | 101 | Minutes of Proceedings: In Chambers Conference before Judge Robert E. Jones as to Winston ShROUT. Defendant waived his appearance. Pre admitting Government Exhibits 11-20 and 11-21. As to Defendant's proposed exhibits, exhibit 2 has already been admitted in the Government's exhibits, exhibit 3 and 4 will not be received. As to the Defendant's proposed witnesses, the defendant will be able to cross examine Casey Hill. Based on his offer of proof he will not be allowed to call AUSA Stuart Wexler or Attorney General Ellen Rosenblum.Counsel Present for Plaintiff: Stuart Wexler, Lee Langston.Counsel Present for Defendant: Ruben L. Iniguez.(Court Reporter Amanda LeGore) (bp) Modified on 4/17/2017 (bp). (Entered: 04/17/2017) |
| 04/18/2017 | 102 | Minutes of Proceedings: Voir Dire Held - Jury Trial Begins before Judge Robert E. Jones as to Winston ShROUT. Opening statements given. Witnesses sworn. Evidence adduced. Jury Trial is set for 4/19/2017 at 09:00AM before Judge Robert E. Jones in Portland Courtroom 10A.Counsel Present for Plaintiff: Stuart Wexler, Lee Langston.Counsel Present for Defendant: Winston ShROUT (Pro Se), Ruben L.Iniguez.(Court Reporter Jill Jessup) (bp) (Entered: 04/18/2017) |
| 04/19/2017 | 103 | Minutes of Proceedings: Jury Trial day 2 before Judge Robert E. Jones as to Winston ShROUT. Witnesses sworn. Evidence adduced. Government rests. Defense motion for acquittal is denied. Defense exhibit 11-17 page two was admitted. Government exhibit 8-0 was admitted. Jury Trial is set for 4/20/2017 at 09:00AM before Judge Robert E. Jones in Portland Courtroom 10A.Counsel Present for Plaintiff: Stuart Wexler, Lee Langston.Counsel Present for Defendant: Winston ShROUT (Pro Se), Ruben L. Iniguez.(Court Reporter Jill Jessup) (bp) (Entered: 04/19/2017) |
| 04/20/2017 | 104 | Minutes of Proceedings: Jury Trial day 3 before Judge Robert E. Jones as to Winston ShROUT. Witness sworn. Evidence adduced. Defense rested. Closing statements given by both parties. The Court ordered that 11 lunches be provided for the jury by Farmhouse Cafe. Defense Exhibit B was admitted. Jury instructed. Jury begins deliberations. Jury Trial is set for 4/21/2017 at 09:00AM in Portland Courtroom 10A before Judge Robert E. Jones.Counsel Present for Plaintiff: Stuart Wexler, Lee Langston.Counsel Present for Defendant: Winston ShROUT (Pro Se), Ruben L. Iniguez.(Court Reporter Jill Jessup) (bp) (Entered: 04/20/2017) |
| 04/21/2017 | 105 | Minutes of Proceedings: Jury Trial day 4 before Judge Robert E. Jones as to Defendant Winston ShROUT. Jury Finding of Guilty on Counts 1-19. See Verdict form; Jury Polled and Discharged; Trial concluded 4/21/2017. ORDER by the Court for 11 lunches for the jury from Bridge City. ORDER Presentence Investigation Report to be prepared by U.S. Probation. |

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| | | Sentencing is set for 8/1/2017 at 11:00AM before Judge Robert E. Jones in Portland Courtroom 10A. Counsel Present for Plaintiff: Stuart Wexler, Lee Langston. Counsel Present for Defendant: Winston Shrout (Pro Se), Ruben L. Iniguez. (Court Reporter Jill Jessup) (bp) Modified on 4/24/2017 to order PSR (bp). (Entered: 04/21/2017) |
| 04/21/2017 | 106 | Order Modifying Conditions of Pretrial Release as to Defendant Winston Shrout. Travel is limited to Oregon unless prior approval is obtained from the Court. Surrender any passport or international travel documents to Pretrial Services or submit a statement to Pretrial Services that the defendant does not possess a passport or international travel documents. The defendant is not to apply for a new passport or international travel documents.' Signed on 4/21/17 by Judge Robert E. Jones (schm) (Entered: 04/24/2017) |
| 04/21/2017 | 108 | Clerk's List of Witnesses and Exhibits as to Winston Shrout (bp) (Entered: 04/24/2017) |
| 04/21/2017 | 109 | Jury Verdict as to Winston Shrout regarding Winston Shrout (1) Guilty on Count 1s-7s,8s-10s,11s-13s,14s-19s. (bp) (Entered: 04/24/2017) |
| 04/21/2017 | 110 | Jury Verdict Unredacted Version Filed Under Seal as to Winston Shrout (bp) (Entered: 04/24/2017) |
| 04/21/2017 | 111 | Jury Instructions as to Winston Shrout (bp) (Entered: 04/25/2017) |
| 04/24/2017 | 107 | Clerk's Notice of Mailing as to Winston Shrout regarding Order Modifying Conditions of Pretrial Release,, 106 . Mailed to the defendant on this date. (schm) (Entered: 04/24/2017) |
| 05/01/2017 | 112 | Order Appointing Federal Public Defender as to Winston Shrout signed on 5/1/2017 by Judge Robert E. Jones. (sss) (Entered: 05/02/2017) |
| 05/08/2017 | 113 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED In Chambers Conference as to Defendant Winston Shrout for date of April 17, 2017 before Judge Robert E. Jones, Court Reporter Amanda LeGore, telephone number 503-326-8184. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 5/15/2017. Redaction Request due 5/30/2017. Redacted Transcript Deadline set for 6/8/2017. Release of Transcript Restriction set for 8/7/2017. (LeGore, Amanda) (Entered: 05/08/2017) |
| 06/02/2017 | 114 | Unopposed Motion for Authorization to <i>Travel</i> by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 06/02/2017) |
| 06/05/2017 | 115 | ORDER by Judge Robert E. Jones Granting 114 Unopposed Motion For Authorization To Travel as to Winston Shrout (1). (bp) (Entered: 06/05/2017) |
| 06/12/2017 | 116 | Scheduling Order by Judge Robert E. Jones as to Winston Shrout. At the request of counsel Sentencing is reset for 9/26/2017 at 11:00AM before Judge Robert E. Jones in Portland Courtroom 10A. Sentencing set for 8/1/2017 at 11:00AM is STRICKEN. (bp) (Entered: 06/12/2017) |
| 08/15/2017 | 117 | Unopposed Motion to Continue / Reset <i>Sentencing Hearing Date</i> by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 08/15/2017) |
| 08/16/2017 | 118 | Unopposed Motion <i>for Authorization to Travel</i> by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 08/16/2017) |
| 08/17/2017 | 119 | ORDER by Judge Robert E. Jones Granting 117 Motion to Continue / Reset as to Winston Shrout (1). Sentencing is reset for 1/9/2018 at 10:00AM before Judge Robert E. Jones in |

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| | | Portland Courtroom 10A. Sentencing set for 9/26/2017 at 11:00 AM is STRICKEN. (bp) (Entered: 08/17/2017) |
| 08/17/2017 | 120 | ORDER by Judge Robert E. Jones Granting 118 Unopposed Motion For Authorization To Travel as to Winston Shrout (1). (bp) (Entered: 08/17/2017) |
| 12/04/2017 | 121 | Unopposed Motion to Continue / Reset <i>Sentencing Hearing Date (Second)</i> by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 12/04/2017) |
| 12/04/2017 | 122 | ORDER by Judge Robert E. Jones Granting 121 Second Unopposed Motion to Continue Sentencing Hearing Date as to Winston Shrout (1). Sentencing is reset for 2/20/2018 at 11:00AM before Judge Robert E. Jones in Portland Courtroom 10A. Sentencing set for 1/9/2018 at 10 AM is STRICKEN. (bp) (Entered: 12/04/2017) |
| 01/23/2018 | 123 | Third Motion to Continue / Reset <i>Sentencing Hearing Date</i> by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 01/23/2018) |
| 01/23/2018 | 125 | Response to Motion by USA as to Winston Shrout regarding Motion to Continue / Reset 123 filed by Defendant Winston Shrout (Wexler, Stuart) (Entered: 01/23/2018) |
| 01/23/2018 | 126 | ORDER by Judge Robert E. Jones Granting 123 Third Motion to Continue Sentencing Hearing Date as to Winston Shrout (1) for the compelling reasons submitted in defense counsel's materials. The Court advises there will be no further extensions for any reason. Sentencing is set for 5/17/2018 at 10:00AM in Portland Courtroom 10A before Judge Robert E. Jones. Sentencing set for 2/20/2018 at 11AM is STRICKEN. (bp) (Entered: 01/23/2018) |
| 03/07/2018 | 127 | Unopposed Motion for Authorization to <i>Travel</i> by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 03/07/2018) |
| 03/08/2018 | 128 | AMENDED ORDER by Judge Robert E. Jones Granting 127 Motion for Authorization as to Winston Shrout (1) to travel per request in the defendant's motion and return before his scheduled sentencing on May 17, 2018. ORDER allowing Pretrial Services to return the defendant's passport and defendant to return the passport within 72 hours of his return. (bp) Modified on 3/12/2018 regarding passport (bp). (Entered: 03/08/2018) |
| 04/16/2018 | 129 | Motion for Hearing <i>To Determine Mental Competency</i> by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 04/16/2018) |
| 04/16/2018 | 130 | Motion For Order To Seal by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 04/16/2018) |
| 04/19/2018 | 131 | Motion <i>Motion to File Government's Response Under Seal</i> filed by USA as to Defendant Winston Shrout. (Attachments: # 1 Proposed Order) (Langston, Lee) (Entered: 04/19/2018) |
| 04/19/2018 | 132 | ORDER Granting 130 Motion for Leave to File Declaration of Counsel and Exhibit Under Seal as to Winston Shrout (1). Signed on 4/19/2018 by Judge Robert E. Jones. (sss) (Entered: 04/20/2018) |
| 04/23/2018 | 134 | ORDER Granting 131 Motion to File Government's Response Under Seal as to Winston Shrout (1) Signed on 4/23/2018 by Judge Robert E. Jones. (sss) (Entered: 04/23/2018) |
| 04/25/2018 | 136 | Motion For Leave To File Reply Memorandum In Support of Motion for Hearing To Determine Mental Competency Under Seal by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 04/25/2018) |
| 04/25/2018 | 137 | ORDER by Judge Robert E. Jones Granting 136 Motion For Leave To File Reply Memorandum In Support of Motion for Hearing To Determine Mental Competency Under Seal as to Winston Shrout (1). (bp) (Entered: 04/25/2018) |

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| 04/26/2018 | 139 | Scheduling Order by Judge Robert E. Jones as to Winston ShROUT. Oral Argument is set for 5/7/2018 at 11:00AM before Judge Robert E. Jones in Portland Courtroom 10A. (bp) (Entered: 04/26/2018) |
| 05/07/2018 | 141 | Minutes of Proceedings: Granting 129 Motion for Hearing as to Winston ShROUT (1). A hearing will be set after the expert witnesses are available for a hearing. Motion Hearing before Judge Robert E. Jones as to Winston ShROUT held on 5/7/2018. Sentencing hearing set for 5/17/2018 at 10AM is STRICKEN and will be reset at a competency hearing. ORDER: The court is ordering a competency evaluation by Dr. Lopez at OHSU with a report due no later than 6/29/2018. A competency hearing will be set in July after the evaluation has been completed. ORDER: Defense counsel will submit an unredacted copy of Dr. Martin's report to the Court. Stuart A. Wexler, Lee Langston present as counsel for plaintiff(s). Ruben L. Iniguez present as counsel for defendant(s). (Court Reporter Jill Jessup.) (bp) (Entered: 05/07/2018) |
| 05/21/2018 | 142 | Unopposed Motion for Order Authorizing Limited Disclosure of Unredacted Psychological Evaluation to Court-Appointed Expert by Defendant Winston ShROUT. (Iniguez, Ruben) (Entered: 05/21/2018) |
| 05/22/2018 | 143 | ORDER: Granting 142 Unopposed Motion Order Authorizing Limited Disclosure of Unredacted Psychological Evaluation to Court-Appointed Expert as to Winston ShROUT (1). Ordered by Judge Robert E. Jones. (pvh) (sss). (Entered: 05/22/2018) |
| 06/29/2018 | 144 | Motion to Continue / Reset <i>Expert Report Deadline</i> filed by USA as to Defendant Winston ShROUT. (Langston, Lee) (Entered: 06/29/2018) |
| 07/02/2018 | 145 | Response to Motion by Winston ShROUT regarding Motion to Continue / Reset 144 filed by Plaintiff USA (Iniguez, Ruben) (Entered: 07/02/2018) |
| 07/03/2018 | 146 | ORDER by Judge Robert E. Jones Granting 144 Government's Motion to Continue Due Date For Expert Report as to Winston ShROUT (1). Further extensions are granted until you have reached a compatible date. (bp) (Entered: 07/03/2018) |
| 07/17/2018 | 147 | Motion for Leave to File <i>Government's Notice of Competency Report Under Seal</i> filed by USA as to Defendant Winston ShROUT. (Attachments: # 1 Attachment Proposed Order) (Wexler, Stuart) (Entered: 07/17/2018) |
| 07/17/2018 | 148 | ORDER Granting 147 Motion for Leave to File Government's Notice of Competency Report Under Seal as to Winston ShROUT (1) Signed on 7/17/2018 by Judge Robert E. Jones. (sss) (Entered: 07/17/2018) |
| 07/30/2018 | 149 | Scheduling Order by Judge Robert E. Jones as to Winston ShROUT. Competency Hearing is set for 9/27/2018 at 11:00AM before Judge Robert E. Jones in Portland Courtroom 10A. (bp) (Entered: 07/30/2018) |
| 09/14/2018 | 150 | Motion for Leave to File <i>Notice of Competency Report Under Seal</i> by Defendant Winston ShROUT. (Iniguez, Ruben) (Entered: 09/14/2018) |
| 09/17/2018 | 151 | ORDER Granting 150 Motion for Leave to File Notice of Competency Report Under Seal as to Winston ShROUT (1) Signed on 9/17/2018 by Judge Robert E. Jones. (sss) (Entered: 09/17/2018) |
| 09/27/2018 | 153 | Minutes of Proceedings: Competency Hearing before Judge Robert E. Jones as to Winston ShROUT. Two witnesses sworn and evidence adduced. The Court finds the defendant competent to proceed to sentencing. Sentencing is schedule for October 22, 2018 at 10:00AM before Judge Robert E. Jones. (Note: Sentencing is scheduled for two hours.) Counsel Present for Plaintiff: Stuart Wexler, Lee Langston. Counsel Present for Defendant: Ruben L. Iniguez. (USPO Present: Chris Song, PreTrial) (Court Reporter Jill Jessup) (bp) (Entered: 09/27/2018) |

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| 10/17/2018 | 155 | Sentencing Memorandum filed by USA as to Winston Shrou (Attachments: # 1 Attachment A through J) (Wexler, Stuart) (Attachment 1 replaced on 10/17/2018) (cw). (Attachment 1 replaced on 10/17/2018) (cw). (Entered: 10/17/2018) |
| 10/17/2018 | 156 | Clerk's Notice of Docket Correction regarding 155 Sentencing Memorandum. A corrected PDF has been uploaded and has replaced the incorrect attachment. The Notice of Electronic Filing will be regenerated to all parties. Attachments A through J contained information that was required to be redacted. The replacement PDF redacts information. (cw) (Entered: 10/17/2018) |
| 10/17/2018 | 157 | Clerk's Notice of Docket Correction regarding 155 Sentencing Memorandum. A corrected PDF has been uploaded and has replaced the incorrect attachment. The Notice of Electronic Filing will be regenerated to all parties. The replacement PDF of attachments did not include all pages. Complete PDF is attached. (cw) (Entered: 10/17/2018) |
| 10/17/2018 | 158 | Sentencing Memorandum by Winston Shrou (Iniguez, Ruben) (Entered: 10/17/2018) |
| 10/22/2018 | 160 | Minutes of Proceedings: Sentencing Hearing before Judge Robert E. Jones as to Defendant Winston Shrou (USM #78953-065). Defendant appeared out of custody. Defendant sentenced. See Formal Judgment. Defendant advised of right to appeal. Restitution to be determined within thirty days. ORDER: The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons by Monday, November 26, 2018 by 2 p.m. Counsel Present for Plaintiff: Stuart A. Wexler, Lee Langston. Counsel Present for Defendant: Ruben L. Iniguez. (USPO Present: Theresa Fuchs) (Court Reporter Jill Jessup) (bp) Modified on 11/13/2018 to amend TSI date(bp). (Entered: 10/22/2018) |
| 10/22/2018 | 161 | Judgment & Commitment as to Winston Shrou (1), Count(s) 1-6, original indictment is dismissed on the motion of the United States.; SENTENCING DATE: 10/22/2018; Count(s) 1s-19s : IMPRISONMENT: Counts 1 through 13, 120 months on each count, with the sentences on all counts to be served concurrently with each other. Counts 14 through 19, 12 months on each count, with the sentences on all counts to be served concurrently; SUPERVISED RELEASE: 5 years on Counts 1 through 13, and a 1 year on Counts 14 through 19; SPECIAL ASSESSMENT: \$100.00 on each count. \$1,450.00 for Counts 1-19 (\$100 each for counts 1-13 and \$25 each for counts 14-19.); RESTITUTION: TBD in 30 days. (USM #78953-065) Signed on 10/22/2018 by Judge Robert E. Jones. (sss) (Entered: 10/22/2018) |
| 10/22/2018 | 162 | Statement of Reasons as to Winston Shrou (NOTE: This document is filed under seal and access is restricted to counsel of record) (USM #78953-065) Signed on 10/22/2018 by Judge Robert E. Jones. (sss) (Entered: 10/22/2018) |
| 10/26/2018 | 163 | Notice of Appeal to the USCA for the 9th Circuit by Winston Shrou (<i>fee waiver status selected (IFP)</i>) (Iniguez, Ruben) (Entered: 10/26/2018) |
| 10/29/2018 | | USCA-9th Circuit Case Number as to Winston Shrou 18-30228 for Notice of Appeal 163 filed by Winston Shrou. (jtj) (Entered: 10/29/2018) |
| 11/07/2018 | 164 | Amended Judgment as to Winston Shrou (1), Count(s) 1-6, Original indictment is dismissed on the motion of the United States.; Count(s) 11s-13s, Judgment Amended on 11/7/2018 for Correction of Sentence for Clerical Mistake - Defendant will TSI on Monday, November 26, 2018. Recommendation for incarceration wording edited per defense counsel request. *(That the defendant be incarcerated in Sheridan Federal Prison Camp (FPC).) (USM #78953-065) Signed on 11/7/2018 by Judge Robert E. Jones. (sss) (Entered: 11/07/2018) |
| 11/15/2018 | 165 | |

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| | | Motion To Extend Self-Surrender Date and Set Briefing Schedule on Motion for Release Pending Appeal by Defendant Winston ShROUT. (Iniguez, Ruben) (Entered: 11/15/2018) |
| 11/16/2018 | 166 | Response to Motion by USA as to Winston ShROUT regarding Motion for Order 165 filed by Defendant Winston ShROUT (Langston, Lee) (Entered: 11/16/2018) |
| 11/19/2018 | 167 | ORDER by Judge Robert E. Jones Denying 165 Motion To Extend Self Surrender Date as to Winston ShROUT (1) (bp) (Entered: 11/19/2018) |
| 11/26/2018 | 168 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Pretrial Conference as to Defendant Winston ShROUT for date of April 13, 2017, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 - jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 - jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 12/3/2018. Redaction Request due 12/17/2018. Redacted Transcript Deadline set for 12/27/2018. Release of Transcript Restriction set for 2/25/2019. (jjcr) (Entered: 11/26/2018) |
| 11/26/2018 | 169 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Trial Day 1 as to Defendant Winston ShROUT for date of April 18, 2017, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 - jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 - jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 12/3/2018. Redaction Request due 12/17/2018. Redacted Transcript Deadline set for 12/27/2018. Release of Transcript Restriction set for 2/25/2019. (jjcr) (Entered: 11/26/2018) |
| 11/26/2018 | 170 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Trial Day 2 as to Defendant Winston ShROUT for date of April 19, 2017, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 - jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 - jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 12/3/2018. Redaction Request due 12/17/2018. Redacted Transcript Deadline set for 12/27/2018. Release of Transcript Restriction set for 2/25/2019. (jjcr) (Entered: 11/26/2018) |
| 11/26/2018 | 171 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Trial Day 3 as to Defendant Winston ShROUT for date of April 20, 2017, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 - jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 - jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 12/3/2018. Redaction Request due 12/17/2018. Redacted Transcript Deadline set for 12/27/2018. Release of Transcript Restriction set for 2/25/2019. (jjcr) (Entered: 11/26/2018) |
| 11/26/2018 | 172 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Verdict as to Defendant Winston ShROUT for date of April 21, 2017, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 - jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 - jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. |

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| | | Notice of Intent to Redact Transcript is due by 12/3/2018. Redaction Request due 12/17/2018. Redacted Transcript Deadline set for 12/27/2018. Release of Transcript Restriction set for 2/25/2019. (jjcr) (Entered: 11/26/2018) |
| 11/26/2018 | 173 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Motion Hearing as to Defendant Winston Shrout for date of May 7, 2018, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 - jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 - jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 12/3/2018. Redaction Request due 12/17/2018. Redacted Transcript Deadline set for 12/27/2018. Release of Transcript Restriction set for 2/25/2019. (jjcr) (Entered: 11/26/2018) |
| 11/26/2018 | 174 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Competency Hearing as to Defendant Winston Shrout for date of September 27, 2018, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 - jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 - jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 12/3/2018. Redaction Request due 12/17/2018. Redacted Transcript Deadline set for 12/27/2018. Release of Transcript Restriction set for 2/25/2019. (jjcr) (Entered: 11/26/2018) |
| 11/26/2018 | 175 | OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Sentencing as to Defendant Winston Shrout for date of October 22, 2018, before Judge Robert E. Jones, Court Reporter Jill L. Jessup, telephone number (503)326-8191 - jill_jessup@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter at (503)326-8191 - jill_jessup@ord.uscourts.gov or PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 12/3/2018. Redaction Request due 12/17/2018. Redacted Transcript Deadline set for 12/27/2018. Release of Transcript Restriction set for 2/25/2019. (jjcr) (Entered: 11/26/2018) |
| 11/26/2018 | 176 | Emergency Motion to Postpone Self-Surrender Pending BOP Designation of Institution by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 11/26/2018) |
| 11/26/2018 | 177 | Response to Motion by USA as to Winston Shrout regarding Motion for Order 176 filed by Defendant Winston Shrout (Langston, Lee) (Entered: 11/26/2018) |
| 11/26/2018 | 178 | ORDER Granting 176 Emergency Motion to Postpone Self-Surrender Pending BOP Designation of Institution as to Winston Shrout (1). The Marshal Service will alert the court and defendant at the time the Bureau of Prisons designates an institution. The court will assign defendant's self surrender date at that time. Signed on 11/26/2018 by Judge Robert E. Jones. (sss) (Entered: 11/26/2018) |
| 12/10/2018 | 179 | Motion To Continue Release Pending Appeal by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 12/10/2018) |
| 12/14/2018 | 180 | ORDER by Judge Robert E. Jones Denying 179 Motion To Continue Release Pending Appeal (1). ORDER: The defendant shall surrender for service of sentence at FCI Sheridan, the institution designated by the Bureau of Prisons, on Monday, January 7, 2018 no later than 2 p.m. (bp) Modified on 12/17/2018 to correct motion name (bp). (Entered: 12/14/2018) |
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| 12/17/2018 | 181 Order as to Winston Shrout, Motion to Continue Release Pending Appeal 179 is DENIED. Signed on 12/17/2018 by Judge Robert E. Jones. (sss) (Entered: 12/18/2018) |
| 12/21/2018 | 182 Motion To Stay Orders To Self-Surrender by Defendant Winston Shrout. (Iniguez, Ruben) (Entered: 12/21/2018) |
| 12/21/2018 | 183 ORDER on 182 Motion to Stay Orders to Self-Surrender as to Winston Shrout (1). This matter is before the court on defendant's unopposed motion to stay orders directing him to self surrender on January 7, 2019. # 182 Defendant's appeal of his conviction and sentence is before the Court of Appeals in CA No. 18-30228. In the Court of Appeals case, defendant filed a motion for release pending appeal. In accordance with Fed. R. App. P. 9, the court's orders # 180 and # 181 directing defendant to surrender to FCI Sheridan on January 7, 2019 are stayed until the Court of Appeals rules on defendant's motion for release pending appeal. In the event the Court of Appeals denies defendant's motion for release pending appeal, defendant shall surrender to FCI Sheridan on the first Monday following the denial. Signed on 12/21/2018 by Judge Robert E. Jones. (sss) (Entered: 12/21/2018) |
| 01/28/2019 | 184 Order of USCA-9th Circuit as to Winston Shrout regarding Notice of Appeal 163 USCA # 18-30228. This appeal is remanded to the district court for the limited purpose of enabling that court to state, orally or in writing, the reasons for its order denying appellant's motion for bail pending appeal. See 18 U.S.C. § 3143(b); Fed. R. App. P. 9(b); United States v. Wheeler, 795 F.2d 839, 841 (9th Cir. 1986) (order). The district court shall provide the oral or written statement within 10 days after the date of this order. See Wheeler, 795 F.2d at 841. Appellant may file a supplemental memorandum in support of the motion for bail pending appeal within 10 days after the filing date of the district court's statement. Appellee may file its response within 10 days after service of appellant's supplemental memorandum. Appellant's optional reply is due within 7 days after service of the governments response. The previously established briefing schedule remains in effect. The Clerk shall serve this order on the district judge. (jtj) (Entered: 01/28/2019) |
| 01/30/2019 | 185 ORDER in response to 1/25/2019 Order of USCA 9th Circuit 184 (USCA # 18-30228) as to Winston Shrout. Reasons for Denial of # 181 of Defendant's Motion to Continue Release Pending Appeal # 179 . Signed on 1/30/2019 by Judge Robert E. Jones. (sss) (Entered: 01/30/2019) |
| 03/04/2019 | 186 Order of USCA-9th Circuit as to Winston Shrout regarding Notice of Appeal 163 USCA # 18-30228. In reviewing the district court's denial of release pending appeal, we review factual determinations for clear error and legal determinations de novo. United States v. Garcia, 340 F.3d 1013, 1015 (9th Cir. 2003). The district court did not err in finding that appellant has not shown, by clear and convincing evidence, that appellant is not likely to pose a danger to the safety of any other person or the community if released. See 18 U.S.C. § 3143(b); United States v. Handy, 761 F.2d 1279, 1283 (9th Cir. 1985). Accordingly, appellant's motion for bail pending appeal (Docket Entry No. 6) is denied. Appellant's motion to extend time to file the opening brief (Docket Entry No. 18) is granted. The opening brief and excerpts of record are due March 18, 2019; the answering brief is due April 17, 2019; and the optional reply brief is due within 21 days after service of the answering brief. (jtj) (Entered: 03/04/2019) |

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