

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID G. PFLUM (01)

Defendant.

Case No. 14-40062-01-DDC

MEMORANDUM AND ORDER

This Order memorializes the rulings that the court issued on the government's Amended Motions in Limine and Notice Under 404(b) (Docs. 119, 143) during the hearing on January 10, 2017. The government's motions assert four arguments. The court addresses each one, in turn, below.

First, the government provides notice of its intent to offer additional evidence (similar to that charged in the Indictment) which occurred after the grand jury returned the Indictment to show defendant's proof of motive, intent, knowledge, and absence of mistake. As the court explained at the hearing, it will defer ruling on this issue until the matter is presented at trial, if it is presented at all.

Second, the government provides notice of its intent to present evidence of defendant's 2004 conviction for failure to file income tax returns and defendant's 2008 violation of the terms of his supervised release to show motive, intent, knowledge, and absence of mistake. Similar to the first request, the court will defer ruling on this issue until the matter is presented at trial, if it is presented at all.

Third, the government provides notice of its intent to introduce certain business and

public records about defendant's violation of the terms of supervised release under Fed. R. Evid. 201, 803(6), 803(8), 902(4), and 902(11). The court also will defer ruling on this issue until the matter is presented at trial, if it is presented at all.

Finally, the government seeks to exclude evidence or argument that is irrelevant to the factual determinations the jury must decide in this case, or that have no basis in law. Such evidence or argument includes:

1. the federal district judge who presided over defendant's 2004 case did not have the proper credentials or appointment papers on file, and therefore the 2004 conviction is invalid;
2. the prosecutor in this case did not have the proper credentials or appointment papers on file, and therefore this case was improperly returned by the grand jury;
3. defendant has pending FOIA requests, and the results would be relevant to his defense;
4. the Internal Revenue Code and Title 26 of the United States Code never were properly enacted;
5. defendant is not a United States Citizen, and therefore not subject to the laws of this country;
6. defendant has revoked his election to be treated as a taxpayer, and that somehow relieves him of his responsibilities under the laws of this country; and
7. the government is legally estopped from all proceedings against defendant.

The court grants the government's motion to exclude such evidence or argument from the trial. The court agrees. These arguments are irrelevant to the factual issues that the jury must determine. The court also agrees that these arguments lack any basis in law. The court thus prohibits defendant from presenting such evidence or argument at trial.

IT IS THEREFORE ORDERED THAT the government's Amended Motions in Limine and Notice Under 404(b) (Docs. 119, 143) are granted in part and denied in part, consistent with this Order.

IT IS SO ORDERED.

Dated this 13th day of January, 2017, at Topeka, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge