

CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The “Contemplation of Justice” Cheek v. United States, 498 U.S. 192 (1991)



In the course of its instructions, the trial court advised the jury that, to prove "willfulness," the Government must prove the voluntary and intentional violation of a known legal duty, a burden that could not be proved by showing mistake, ignorance, or negligence. The court further advised the jury that an objectively reasonable good-faith misunderstanding of the law would negate willfulness, but mere disagreement with the law would not. The court described Cheek's beliefs about the income tax system, [Footnote 5] and instructed the jury that, if it found that Cheek "honestly and reasonably believed that

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he was not required to pay income taxes or to file tax returns," App. 81, a not guilty verdict should be returned.

After several hours of deliberation, the jury sent a note to the judge that stated in part:

"We have a basic disagreement between some of us as to if Mr. Cheek honestly & reasonably believed that he was not required to pay income taxes."

"* * * *"

"Page 32 [the relevant jury instruction] discusses good faith misunderstanding & disagreement. Is there any additional clarification you can give us on this point?"

Id. at 85.

Thoughts, Words and Actions for Plaintiff's Quintessential Rights of the First Amendment:
Truths that manifest Life, Liberty & Pursuit of Happiness pursuant to the Free Exercise Clause

The District Judge responded with a supplemental instruction containing the following statements:

"[A] person's opinion that the tax laws violate his constitutional rights does not constitute a good

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faith misunderstanding of the law. Furthermore, a person's disagreement with the government's tax collection systems and policies does not constitute a good faith misunderstanding of the law."

Id. at 86.

At the end of the first day of deliberation, the jury sent out another note saying that it still could not reach a verdict because

"[w]e are divided on the issue as to if Mr. Cheek honestly & reasonably believed that he was not required to pay income tax."

Id. at 87. When the jury resumed its deliberations, the District Judge gave the jury an additional instruction. This instruction stated in part that "[a]n honest but unreasonable belief is not a defense, and does not negate willfulness," *id.* at 88, and that

"[a]dvice or research resulting in the conclusion that wages of a privately employed person are not income or that the tax laws are unconstitutional is not objectively reasonable, and cannot serve as the basis for a good faith misunderstanding of the law defense."

Ibid. The court also instructed the jury that "[p]ersistent refusal to acknowledge the law does not constitute a good faith misunderstanding of the law." *Ibid.* Approximately two hours later, the jury returned a verdict finding petitioner guilty on all counts. [Footnote 6]

Petitioner appealed his convictions, arguing that the District Court erred by instructing the jury that only an objectively reasonable misunderstanding of the law negates the statutory willfulness requirement. The United States Court of Appeals for the Seventh Circuit rejected that contention, and affirmed the convictions. 882 F.2d 1263 (1989). In prior cases, the Seventh Circuit had made clear that good-faith misunderstanding of the law negates willfulness only if the defendant's beliefs are objectively reasonable; in the Seventh Circuit, even actual ignorance is not a defense unless the defendant's ignorance was itself objectively reasonable. *See, e.g., United States v. Buckner*, 830 F.2d 102 (1987). In its opinion in this case, the court noted that several specified beliefs, including the beliefs that the tax laws are unconstitutional and that wages are not income, would not be objectively reasonable. [Footnote 7] Because the Seventh Circuit's

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interpretation of "willfully" as used in these statutes conflicts with the decisions of several other Courts of Appeals, *see, e.g., United States v. Whiteside*, 810 F.2d 1306, 1310-1311 (CA5 1987); *United States v. Phillips*, 775 F.2d 262, 263-264 (CA10 1985); *United States v. Aitken*, 755 F.2d 188, 191-193 (CA1 1985), we granted certiorari, 493 U.S. 1068 (1990).

The general rule that ignorance of the law or a mistake of law is no defense to criminal prosecution is deeply rooted in the American legal system. *See, e.g., 18 U. S. Smith*, 5 Wheat. 153, 18 U. S. 182 (1820) (Livingston, J., dissenting); *Barlow v. United States*, 7 Pet. 404, 32 U. S. 411 (1833); *Reynolds v. United States*, 98 U. S. 145, 98 U. S. 167 (1879); *Shevlin-Carpenter Co. v. Minnesota*, 218 U. S. 57, 218 U. S. 68 (1910); *Lambert v. California*, 355 U. S. 225, 355 U. S. 228 (1957); *Liparota v. United States*, 471 U. S. 419, 471 U. S. 441 (1985) (WHITE, J., dissenting); O. Holmes, *The Common Law* 47-48 (1881). Based on the notion that the law is definite and knowable, the common law presumed that every person knew the law. This common law rule has been applied by the Court in numerous cases construing criminal statutes. *See, e.g., United States v. International Minerals & Chemical Corp.*, 402 U. S. 558 (1971); *Hamling v. United States*, 418 U. S. 87, 418 U. S. 119-124 (1974); *Boyce Motor Lines, Inc. v. United States*, 342 U. S. 337 (1952).

The proliferation of statutes and regulations has sometimes made it difficult for the average citizen to know and comprehend

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the extent of the duties and obligations imposed by the tax laws. Congress has accordingly softened the impact of the common law presumption by making specific intent to violate the law an element of certain federal criminal tax offenses. Thus, the Court almost 60 years ago interpreted the statutory term "willfully" as used in the federal criminal tax statutes as carving out an exception to the traditional rule. This special treatment of criminal tax offenses is largely due to the complexity of the tax laws. In *United States v. Murdock*, 290 U. S. 389 (1933), the Court recognized that:

"Congress did not intend that a person, by reason of a bona fide misunderstanding as to his liability for the tax, as to his duty to make a return, or as to the adequacy of the records he maintained, should become a criminal by his mere failure to measure up to the prescribed standard of conduct."

Id. at 290 U. S. 396. The Court held that the defendant was entitled to an instruction with respect to whether he acted in good faith based on his actual belief. In *Murdock*, the Court interpreted the term "willfully" as used in the criminal tax statutes generally to mean "an act done with a bad purpose," *id.* at 290 U. S. 394, or with "an evil motive." *Id.* at 290 U. S. 395.

Subsequent decisions have refined this proposition. In *United States v. Bishop*, 412 U. S. 346 (1973), we described the term "willfully" as connoting "a voluntary, intentional violation of a known legal duty," *id.* at 412 U. S. 360, and did so with specific reference to the "bad faith or evil intent" language employed in *Murdock*. Still later, *United States v. Pomponio*, 429 U. S. 10 (1976) (per curiam), addressed a situation in which several defendants had been charged with willfully filing false tax returns. The jury was given an instruction on willfulness similar to the standard set forth in *Bishop*. In addition, it was instructed that "[g]ood motive alone is never a defense where the act done or omitted is a crime." *Id.* at 429 U. S. 11. *The defendants were convicted, but the Court of Appeals reversed, concluding that the latter instruction*

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was improper because the statute required a finding of bad purpose or evil motive. Ibid.

We reversed the Court of Appeals, stating that "the Court of Appeals incorrectly assumed that the reference to an *evil motive*' in *United States v. Bishop, supra, and prior cases,*" *ibid.*, "requires proof of any motive other than an intentional violation of a known legal duty." *Id.* at 429 U. S. 12. As

"the other Courts of Appeals that have considered the question have recognized, willfulness in this context simply means a voluntary, intentional violation of a known legal duty."

Ibid. We concluded that, after instructing the jury on willfulness, "[a]n additional instruction on good faith was unnecessary." *Id.* at 429 U. S. 13. Taken together, *Bishop* and *Pomponio* conclusively establish that the standard for the statutory willfulness requirement is the "voluntary, intentional violation of a known legal duty."

[Footnote 4]

The attorney also advised that, despite the Fifth Amendment, the filing of a tax return was required and that a person could challenge the constitutionality of the system by suing for a refund after the taxes had been withheld, or by putting himself "at risk of criminal prosecution."

[Footnote 5]

"The defendant has testified as to what he states are his interpretations of the United States Constitution, court opinions, common law and other materials he has reviewed. . . . He has also introduced materials which contain references to quotations from the United States Constitution, court opinions, statutes, and other sources."

"He testified he relied on his interpretations and on these materials in concluding that he was not a person required to file income tax returns for the year or years charged, was not required to pay income taxes, and that he could claim exempt status on his W-4 forms, and that he could claim refunds of all moneys withheld."