IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

UNITED STATES OF AMERICA, Appellee, v. MICHAEL WAYNE PARSONS, Appellant.	18-1043 RESPONSE OF THE UNITED STATES TO DEFENDANT'S INTERLOCUTORY APPEAL

INTRODUCTION

The Defendant, Michael Wayne Parsons, has filed an interlocutory appeal of an Order, (filing 37), issued by the United States District Court for the District of Nebraska which denied several of his motions to include a motion to dismiss, to recuse the assigned Magistrate Judge and to stay an order requiring him to submit to testing for tuberculosis while in detention. Parsons is *pro se* although standby counsel, (the Federal Public Defender for the District of Nebraska), has been appointed.

Parsons is named in a one-count indictment charging him with being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Prior to his initial appearance the government filed a motion to have the court compel Parsons to submit to tuberculosis testing as required by the policies and procedures of the United States Marshals Service. The defendant had previously refused to submit to

NO LAW! A POLICY BY A CORPORATION POSING AS A GOVERNMENT AGENCY.

such testing and, to date, still has not submitted to such testing. In addition to opposing the government's motion, the defendant moved to dismiss all charges contending he is a Tsilhqotin Tribal member and an "ambassador" of the made-up Country of Chilcotin and, as a consequence, is protected by diplomatic immunity as set forth in the Vienna Convention on Diplomatic Relations. He also moved to have the Magistrate Judge recused on the grounds she was alleged to be biased against him.

AREN'T ALL COUNTRIES MADE UP? NOTICE HE OMITS REFERENCE TO THE TSILHQOT'IN NATION.

Both the Magistrate Judge and the District Court ruled against Parsons. The Court found there was no evidence he was an ambassador entitled to diplomatic immunity. He has now filed an interlocutory appeal seeking to have this Court "dismiss or transfer this matter to the Article III Section 2 Constitutional Common Law Court of Original Jurisdiction in all Cases Affecting Ambassadors." (Petition by Special Appearance, page 1).

THE COURT IGNORED THE EVIDENCE!

I. FACTS AND PROCEDURAL HISTORY

On April 19, 2017, the Grand Jury in the District of Nebraska returned a one-count Indictment against Michael Wayne Parsons. The Indictment charges Parsons with being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). (DCD 1). At the time of his indictment Parsons was in the custody of state authorities in Tennessee. On September 12, 2017, a Writ of Habeas Corpus ad Prosequendum was issued by the court directing that Parsons be taken into

custody and brought to the District of Nebraska to answer charges. (DCD 8). On December 5, 2015, the government filed a Motion to Compel, (DCD 13), seeking to have Parsons ordered to submit to tuberculosis testing as required by the policies and procedures of the United States Marshals Service.

FALSE! IT WAS FILED 12/18/2017

On December 18, 2017, Parsons made his initial appearance, refused to acknowledge his identity, and claimed he was entitled to diplomatic immunity. (DCD 15). The court appointed the Federal Public Defender to represent Parsons, (DCD 19), however, at the request of the defendant, the Federal Public Defender's appointment was later changed to that of stand-by counsel. (DCD 20).

FALSE! I CLARIFIED WHO I AM AND THAT I AM NOT THAT ALL CAPITOL LETER ENTITY MVP.

FALSE! THE PUBLIC DEFENDER ADVISED HE WAS APPOINTED PRIOR TO MY SPECIAL APPEARANCE AND IMMEDIATELY WITHDREW ON HIS OWN SITING A CONFLICT OF INTEREST.

On December 20, 2017, an identity hearing was held and it was determined that the defendant was indeed Michael Wayne Parsons. (DCD 22). The court also took up the matter of the government's Motion to Compel and received evidence and argument from both the government and the defendant. In support of his argument that he was an "ambassador" Parson introduced several pieces of documentary evidence. He introduced a letter addressed to the United Nations and signed by "Hereditary Grand Chief Stanley Stump, Sr." announcing the new Country of Chilcotin carved out of the Province of British Columbia, Canada, on June 20, 2016. (Ex. 103). Parsons also introduced a document entitled "Tsilhqot'in Nation's Letter of Appointment to Tribal Membership" which purported to make him an "Associate Justice of the Universal Supreme Court of

AGAIN, HEARINGS HELD WITHOUT ADVANCED NOTICE TO ME.

THIS CONTRADICTS HIS STATEMENT ON PAGE 2 PARAGRAPH 2. "THE COURT FOUND NO EVIDENCE I AM AMBASSADOR.

FALSE! THE TSILHQOT'IN NATION HAS BEEN THERE LONG BEFORE BRITISH COLUMBIA CANADA WAS "MADE UP"

the Tsilhqot'in" and to confer "full diplomatic immunity" upon him. (Ex. 107). He also introduced a letter from Hereditary Grand Chief Stump, dated April 24, 2017, which stated Parsons holds the position of "ambassador." (Ex. 112). In support of his claim to be an ambassador, he also introduced an identification card, (Ex. 111), which represented he was an ambassador.

With two exceptions, all the documents introduced by Parsons originated either with him, his associates, or representatives of the so-called Chilcotin National Congress. One of the exceptions was a birth certificate, (Ex. 110), which showed he was born in Tennessee. Second, he introduced a single document, (Ex. 113), which bore the letterhead of the U.S. Department of State. That document does not indicate the United States Department of State recognizes Parsons as an ambassador. Rather, it was, on its face, a simple confirmation that Parsons had submitted an online application for a Nonimmigrant Visa. The document indicated that Parsons had identified himself as an "Ambassador or Public Minister" of the Country of Chilcotin. Nothing in Exhibit 113, or any other document, showed his application had been acted upon or, more importantly, that the Department of State recognized Parsons as an ambassador. Not surprisingly, the Magistrate Judge refused to dismiss the charges. The Magistrate Judge also refused to recuse herself from further involvement in Parson's case. (DCD 34).

* FALSE! I DID NOT CREATE ANY OF THEM. MY SIGNATOR IS NOT ON ANYTHING.

Parsons objected to the Magistrate Judge's ruling. (DCD 36). On December 29, 2017, the District Court overruled Parson's objections. (DCD 37). In overruling the defendant's objections the District Court addressed Parson's claim that he was an ambassador entitled to diplomatic immunity.

> The defendant also questions the Court's jurisdiction over him, purporting to be a foreign ambassador, and asserting diplomatic immunity pursuant to the Vienna Convention on Diplomatic Relations, Art. 31, Dec. 13, 1972, 23 U.S.T. 3227. But diplomatic status cannot be unilaterally established; rather, it depends on recognition by the Department of State. *See United States v. Lumumba*, 741 F.2d 12, 15 (2d Cir. 1984), *aff'd,* 794 F.2d 806 (2d Cir. 1986); *Mazengo v. Mzengi,* 542 F.Supp. 2d 96, 99-100 (D.D.C. 2008); *see generally The Schooner Exch. v. McFaddon,* 11 U.S. 116, 138 (1812). The defendant has given the Court no evidence, or any reason to believe, that his supposed diplomatic status has been recognized by the State Department.

★ FALSE! I STED VCDR 18, APRIL 1961, ENACTED INTO FORCE 24 APRIL 1964. U.N. TREATY SERIES, VOL. 500, p95. ART. 29, 31, 37 WHICH STATES IMMUNITY IS EFFECTIVE FROM THE MOMENT NOTIFICATION IS MADE TO THE MINISTRY FOR FOREIGN AFFAIRS, AKA STATE DEPT.

(Order, n. 3, DCD 37).

On January 3, 2018, the defendant filed the instant interlocutory appeal of the District Court's rulings. (DCD 38). The United States is moving this Court to dismiss the defendant's appeal.

II. STANDARD OF REVIEW

An "appellee may file a motion to dismiss a docketed appeal on the ground the appeal is not within the court's jurisdiction." However, such a motion to dismiss "must be filed within14 days after the court has docketed the appeal." (Rule 47A, United States Court of Appeals for the Eighth Circuit, Local Rules). A district court's "determination of disputed factual issues" is reviewed for clear

error. Comparts Boar Store, Inc., v. United States, 829 F.3d 600, 604 (8th Cir. 2016).

III. ARGUMENT

This Court has "jurisdiction of appeals from all final decisions of the district courts of the United States." 28 U.S.C. § 1291. Interlocutory appeals, especially in criminal cases, are disfavored. Abney v. United States, 431 U.S. 651, 656 (1977). Such appeals are available only in limited circumstances as set forth by statute, (28 U.S.C. § 1292), or recognized by case law.

The United States Supreme Court has recognized a limited class of district court orders that may be taken up on interlocutory appeal by a defendant. Specifically, the Supreme Court has established the collateral-order doctrine in criminal cases. Flanagan v. United States, 465 U.S. 259 (1984). Defense interlocutory appeals have been limited to denials of bail, motions to dismiss based on double jeopardy, and motions to assert immunity under the Speech or Debate Clause of the Constitution. See, United States v. Hollywood Motor Car Co., 458 U.S. 263, 265–66 (1982).

Parsons, of course, does not raise any such claims. His claim to entitlement to dismissal is predicated upon his supposed status as an ambassador of the recently created Country of Chilcotin. Even assuming such a claim could be raised by interlocutory appeal, such an appeal is not appropriate on these facts.

Richardson v. United States, 468 U.S. 317 (1984) instructs that "the appealability of a … claim depends upon its being at least colorable." (Richardson involved a double jeopardy claim). A colorable claim "presupposes that there is some possible validity to a claim." Id. at 326 n. 6. A claim is not colorable if "no set of facts will support the assertion of [the petitioner's] claim of double-jeopardy." Id.

Similarly, in United States v. Shelby, 604 F.3d 881, 885 (5th Cir. 2010), the Fifth Circuit Court of Appeals held that a colorable, non-frivolous claim is a prerequisite to jurisdiction under 28 U.S.C. § 1291 to hear a pretrial double-jeopardy appeal. In United States v. Abboud, 273 F.3d 763, 769 (8th Cir. 2001), this Court observed "the Abbouds have not raised colorable claims of double jeopardy . . . for th[is] reason we lack jurisdiction over these interlocutory appeals and they are dismissed."

While the cases cited in the previous paragraph all dealt with double-jeopardy claims, the point is still compelling. An interlocutory appeal should not be allowed to derail a criminal prosecution for months unless the claim is at least plausible on its face. In this case, Mr. Parson's arguments are simply frivolous. He claims to be an ambassador of a newly created country carved out of western Canada. He offered no evidence in support of his claim other than documents authored by him or his compatriots. The only purportedly "official" document was

★ THE PURPOSE OF AN INTERLOCUTORY APPEAL IS TO PREVENT A MISCARRIAGE OF JUSTICE AS IS THE CASE HERE,

★ DIPLOMATIC IMMUNITY AND FREEDOM OF RELIGION ARE NOT FRIVOLOUS. LET ALONE I AM NOT THE DEFENDANT.

★ FALSE! THE COUNTRY OF CHILCOTIN IS OF THE TSILHQOT'IN NATION, NOT CANADA.

★ NOTHING WAS AUTHORED BY ME AND HE OFFERS NO EVIDENCE TO THE CONTRARY. MINE IS THE ONLY EVIDENCE IN THE RECORD.

Exhibit 113 which was a printout from a Department of State website showing he had submitted an online application for a nonimmigrant visa. There was no showing made that the application was even granted. This court has the authority pursuant to Rule 47A to dismiss this appeal on the grounds the court does not have jurisdiction or because the appeal "is frivolous and entirely without merit." (Rule 47A, United States Court of Appeals for the Eighth Circuit, Local Rules).

The United States respectfully submits that Parsons has made NO showing that he is entitled to the protection of diplomatic immunity. Representatives of the "Country of Chilcotin" are not allowed to unilaterally declare themselves immune based upon frivolous claims of sovereignty. United States v. Lumumba, 578 F.Supp. 100, 103 (S.D. NY 1983), (defendant claimed he was Vice President and Minister of Justice of the "Republic of New Africa" whose territory was claimed to span much of the American south). Claims of diplomatic status must be supported by a showing that the United States, specifically the Department of State, has recognized such status. Id., ("The status of others as diplomatic agents hinges on the receiving State accepting the head of the mission. In the United States, recognition by the Department of State is necessary to establish diplomatic status"); *See also:* United States v. Al-Hamdi, 356 F.3d 564, 573 (4th Cir. 2004), (State Department certification is conclusive evidence of the diplomatic status of a person).

FALSE! THE WORD CONFIRMATION MEANS AUTHORIZED.

FALSE! I HAVE NOT ONLY PROVEN I AM ENTITLED VIA LETTER OF HEREDITARY GRAND CHIEF STANLEY STUMP SR. BUT ALSO PROOF OF NOTIFICATION TO THE STATE DEPARTMENT AND AUTHORIZATION THERETO FOR AN A-1 VISA.

CLEARLY THE RACIST AND PREJUDICIAL ATTITUDE OF THE AUSA. REEKS OF IGNORANCE OF THE MONTEVIDEO CONVENTION ON RIGHTS AND DUTIES OF STATES, THE DECLARATION OF INDEPENDANCE AND THE DEFINITION OF THE WORD SOVEREIGNTY. NOT TO MENTION CANADAS RECOGNITION OF THE TSILHQOT'IN NATION IN THE (2014) TSILHQOT'IN NATION V. BRITISH COLUMBIA CANADA SCC 44

CONCLUSION

Parsons has not offered any competent evidence to establish he is an ambassador of the Country of Chilcotin or any other country. His appeal simply raises sovereign citizen arguments dressed up in other clothing. There is no basis under statute or case law allowing an interlocutory appeal on these facts. For all the reasons above, the United States respectfully submits that this Court should dismiss the defendant's appeal.

UNITED STATES OF AMERICA,
Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system which sent notification of said filing to the following: John Vanderslice, Assistant Federal Public Defender; and notification by U.S. Mail to:

Michael Parsons
30237-047
CJ-SALINE, Saline County Law
Enforcement Center

P.O. Box 911
Inmate Mail
Wilber, NE 68465

s/Jan W. Sharp
JAN W. SHARP (#16934)
Assistant United States Attorney

CERTIFICATION OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g)(1), I hereby certify that this response complies with the type-volume limitation provided in Rule 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) and relying on the word processor word count feature, this document contains 2,109 words. The motion was created using Microsoft Word 2016, Times New Roman 14.

s/Jan W. Sharp
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