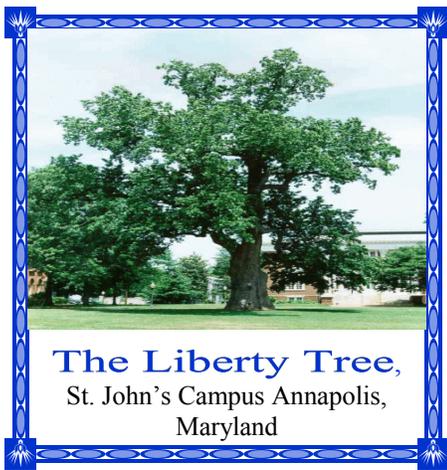


# LIBERTY TREE

Vol. 9, No. 11 — October, 2007

## When is it over?



By John Baptist Kotmair, Jr.

I have noted some confusion about the ramifications of the IRS/DOJ injunction attack on the Save-A-Patriot Fellowship and me. I'd like to clear up some things, but first, to recap and bring you up to date:

As reported and outlined in the August 2007 Liberty Tree, there is no real case against either defendant, just unsubstantiated allegations unsupported by evidence. Under these circumstances, the injunction suit was only able to proceed because the presiding District Court Judge, William M. Nickerson, violated the Federal Rules of Civil Procedure by granting the DOJ's motion for summary judgment when there were actual issues of material fact in controversy. According to the rules, such disputes over the facts require a trial, where evidence is submitted through the testimony of individuals, something the government is not willing or able to do.

The defendants filed three motions to the District Court after its decision: a motion for modification of the injunction order, a motion for new trial,<sup>1</sup> and a motion for a stay pending an appeal. To our surprise, the court granted only the motion to stay.

The appeal brief was submitted to the Fourth Circuit Court of Appeals in Richmond, Virginia. The DOJ responded, and in their response brief they lied outright about the facts of the case. Save-A-Patriot Fellowship replied with a motion to strike the DOJ's response, laying out the facts in such detail that it would be impossible for judges James Harvie Wilkinson III, William Byrd Traxler, Jr. and Allyson Kay

Duncan to rule without showing that the government was lying.

When the court's ruling was received, there was no written memorandum. It appears to us that all three judges agreed with our conclusion, that they could not answer our points without exposing the wrong deeds of the government employees involved in this outrageous travesty of justice. So instead, they said essentially one word — "AFFIRMED" — meaning that they upheld the lower court's violation of the federal rules. Just one criminal act covering up another, which history tells us is always the reaction of tyrants.

This left us only one course of action, to move for a review of the order by the judges of the entire Fourth Circuit, and so a motion for an *en banc* review was submitted. Surely, there had to be *some* judges not willing to violate the law and throw away the

First Amendment! But we were proved wrong again. They just don't give a hoot about the law, free speech, or association, so they answered with one more word — "DENIED." If we were to be allowed to ex-

ercise our rights to free speech and association, others may learn about the written law and such scams as the Federal Reserve may come to an end, and that might cause these judges some personal discomfort.

At present we have a motion before the Fourth Circuit for a stay to allow us to request a Writ of *Certiorari* for the United States Supreme Court. As of

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1. A motion for trial is titled this way, even if there is no 'old' trial.

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this date, the court has not ruled on that motion. According to the rules, if the Fourth Circuit denies the motion, we have to go back to the District Court with a motion to stay before we can ask a Supreme Court Justice for a stay. Please pray for the Lord to convict the hearts of these judges, for all things are possible with Him.

### **WILL THE FELLOWSHIP CLOSE THE DOORS?**

Contrary to what some are saying, the Fellowship will not shut its doors even if we lose in every court. The injunction does not order the Fellowship to cease operation. In a very vague order, it orders us to stop violating the law without telling us what law or laws we are violating. So if we find ourselves in such a position, to avoid being found in contempt of the order, we will ask the District Court to tell us: what are the *exact* acts that we must cease committing?

There are, however, a couple of acts clearly named within the order: the Membership Assistance Program (MAP) is one; the court apparently agreeing with the government's claim that such an activity incites violation of the federal tax laws. (Of course, the court never said *which* tax laws are being violated.) The injunction just prevents SAPF HQ from sending an assessment claim to the membership and asking them to pay the claim. It does not and cannot stop individual members from helping other members whose plight is reported in the monthly Liberty Tree! If the individual members believe in Christian charity, they have every right to act accordingly.

The judge also ordered that the Fiduciary stop taking power-of-attorney and representing members before the IRS. This order is also in violation of due process, as the Treasury regulations require a hearing before a representative's number can be taken away. The Fiduciary has been demanding such a hearing for approximately fifteen years, knowing that the IRS has no evidence of wrongdoing. Although the order may also prevent SAPF caseworkers from preparing documents investigating IRS assessments, it does not and cannot prevent the caseworkers from pointing out the pertinent parts of the IRS regulations that are to be used in such investigations, nor can it prevent individual members themselves from preparing documents investigating IRS assessments.

Remember, the injunction order *does not* prevent caseworkers from preparing Privacy Act requests for

members' use, and it cannot prevent the preparation of documents to State agencies or State power-of-attorney work.

The "major trump card" the IRS, DOJ and Judges believe they have is that the membership list is to be surrendered to them. Keep in mind that the IRS doesn't really want the membership list, since it already knows who the members are. This is only a "major trump card" for them if present members respond by quitting Save-A-Patriot and other Patriots are scared off from becoming members. You see, the enemies of our Republic are counting on the fact that the injunction will have the desired result — undermining the efforts of the Fellowship — by causing just such reactions. Hopefully, Patriots will be sharp enough not to fall for such a ploy.

Actually, even if enforced, the injunction order will do very little to hamper the Fellowship's effectiveness, despite the hopes of the seditious tyrants. As stated for years, because of sedition in the courts, upholding the misapplication of law, the stated main objective of the Fellowship is to educate Americans to our Constitutional heritage, and what the written law actually says. Therefore, since the injunction order will not shut it down, the Fellowship remains very capable of going forward with the radio network. Under the umbrella of protection afforded by the federal district court's ruling in 1996 — declaring it to be an unincorporated First Amendment association — Save-A-Patriot Fellowship is an excellent vehicle for operating the Liberty Works Radio Network.

With this in mind, the DVD to promote Liberty Works Radio Network is completed, and will be ready for distribution in the middle of November 2007. Additionally, more Patriot organizations are starting to realize the value of an over-the-airwaves news talk radio network, and have agreed to disseminate the DVD to that end.

Yes, the horse is out of the barn, and those seditionists in government are desperately trying to shut the door, but it is too late.

So, **when is it over? NEVER!** Unless you fall for the tyrants' ploy!!

**... we will ask the District Court to tell us: what are the *exact* acts that we must cease committing?**





## JOHN KOTMAIR TO SPEAK IN DALLAS AT: FREEDOM LAW SCHOOL'S JUSTICE, PEACE & FREEDOM CONFERENCE NOVEMBER 16<sup>th</sup>, 17<sup>th</sup> & 18<sup>th</sup>

Event will be held at the Crowne Plaza, North Dallas. Other speakers include Steve Hempfling, Robert Lawrence, Sherry Jackson, Joe Banister, Dave vonKleist, Peymon Mottahedeh, Dave Wellington, and more.

To register, go to [www.livefreenow.org/2007frprereg.cfm](http://www.livefreenow.org/2007frprereg.cfm), or call (410) 857-4441 for more information.

### Ignorant jury convicts Sherry Peel Jackson

In Atlanta, on October 30, 2007, former IRS agent Sherry Jackson was found guilty of four counts of “willful failure to file” by a jury seemingly *not* her peers in knowledge or courage. Jackson, who over the last seven years has been outspoken about her finding no law making U.S. citizens liable for a tax on their domestic income, was found guilty after just a two-day trial and less than an hour of jury “deliberation.”

This case is a bit unusual, from all reports, because of the strategy employed by the government to discredit Jackson. The U.S. Attorney introduced just three witnesses for its case-in-chief. The first, an IRS agent who trained with Jackson many years ago, testified about that initial training, but admitted that agents get very little training beyond that. The second, a CPA involved in a business with Jackson, testified as to how much money Jackson received on an accounting contract, and a DOJ fraud investigator also testified as to the income Jackson allegedly made. According to one report, their testimony was lackluster and defense Attorney Larry Becraft was able to cross-examine them effectively.

In her defense, Jackson took the stand and presented how and why she came to believe that she was not required to pay taxes on her gross receipts and that the income tax is an excise tax that does not apply to her. As her testimony progressed, however, “the judge began to tighten the reins on Larry’s examination. She would not allow Sherry to discuss particular cases or holdings, permitting her only to discuss general groups of cases and their general import,” reports Attorney Tommy Cryer of

*Please note: This commentary is derived from reports found at [www.triallogs.com](http://www.triallogs.com)*

Truth Attack. Jackson also testified that she had contacted some of her friends at the IRS, including one man also from her church, and asked them to help her find the applicable provisions of law. None of them could help answer her questions on the law.

On cross examination, the U.S. Attorney aggressively attacked her account. Then he produced several rebuttal witnesses to assassinate her character. Three were IRS employees and one is retired from the IRS, so they have their own IRS careers and pensions on the line. They “acted as though they hardly knew Sherry and all denied having even discussed the subject with her,” reported observer Fred Marshall. Cryer reports that one witness purportedly accused Jackson of lying about a meeting because he “did not recall” the meeting; thin evidence indeed.

Evidently, the prosecutor was “very effective in portraying Sherry as a liar whose testimony ... all of it ... was not to be believed ... a greedy woman whose main interest was making money and not paying taxes on it,” writes Marshall. In the end, the jury believed the rebuttal witnesses, apparently without giving due consideration to how many of them were IRS employees with possibly much to lose if they testify truthfully.

Jackson has yet to be sentenced as of this writing. Please see the email interchange between John B. Kotmair, Jr. and Sherry Peel Jackson in this edition for what you can do to help in the immediate future.

But to *prevent* more victims of such ignorance, we must educate the ‘masses’ about the misapplication of the Internal Revenue Code and the principle of jury nullification. And the only way to do that is through our own media, broadcasting 24/7 across the country — **Liberty Works Radio Network**. Please make every effort to promote the Network and to sign up associate members. The time is late, the hour is now — the vehicle against such tyranny is the Radio Network!!



# Happy Thanksgiving!

*The Save-A-Patriot Fellowship invites you to our annual  
Thanksgiving Dinner!*

**\*\*\*\*\*Saturday, November 24th, 2007, 7:30 PM\*\*\*\*\***

**12 Carroll Street, Westminster.**

**Bring a covered dish; the Fellowship will supply the turkey.**

## A plea from Sherry Peel Jackson

On Tuesday, October 30, 2007, Fiduciary John Kotmair sent an email to Sherry Jackson, and received the following reply. Please do what you can in supporting Sherry, who has taken a bold stand for the truth and has been unjustly convicted of a tax "crime."

### John Kotmair's email:

Sherry:

I pray that the Lord will see you through this time of tribulation for you and your family. I admire you for taking the stand for truth and justice. Remember His promise to see us through such trials.

I am working [feverishly] to get the radio network up and spread across this Republic, and if the Lord Blesses this effort, I will personally start a campaign to right this injustice by seeking a pardon. You will not be forgotten if I have anything to do about it.

John Kotmair

### Sherry Jackson's reply:

John:

I am still in shock but we must move on. I was told by a friend that has a sister that works in the courts that people can flood the judge with letters about me and how they feel about me in order to try and get a reduced sentence. I don't know if it is true or not, but if you want to write the judge please just talk about how you feel about me and my beliefs. **Please don't put any arguments or negative comments in the letter. This will surely hurt me if you do that.** [emphasis added]. ...

Here is the letter that my friend wrote this morning:

Dear Friends of Sherry Jackson,

As you know, Sherry has spent the last several years of her life trying to expose what she believes to be fraudulent taxation of our government. Yesterday, October 30, 2007, Sherry had her day in court. To her great misfortune, the government found someone to lie on the witness stand and testify against Sherry in the most damaging way possible.

For those of us who really know Sherry and the integrity of her character, we know that she is a person who goes by the books. She is nothing less than an up-standing citizen and friend who has been here for all of us.

The damaging dishonest testimony could cost Sherry jail time. It is imperative that you stand behind this woman and make no excuses for your ability to help. The best thing that you can do for Sherry right now is to write a letter to the Judge deciding her sentencing, and appeal for mercy on Sherry's behalf. Let the Judge know that you know Sherry's character and that any stiff sentencing will be a travesty of justice. Sherry's children are in their last years of high school and they need their mother more than ever. Sherry deserves your help now! The letters must reach the judge before they call Sherry back for sentencing. Write the letter today! Send it overnight mail if you're able. Get the judge's attention.

Write your letters to:

The Honorable Orinda Evans  
United States District Courthouse  
75 Spring Street, Room 1988  
Atlanta, GA 30303

Thank you. God bless.

