25-6931

No. 25A611

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA

Respondent - Plaintiff/Appellee

v.

Paul Kenneth Cromar

Petitioner - Defendant/Appellant

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit

PETITION FOR WRIT OF CERTIORARI

Paul Kenneth Cromar #13871081
FCI – Florence
P.O. Box 6000
Florence, CO 81226

A. ISSUE QUESTIONS PRESENTED FOR REVIEW

1. In *Moore et Ux v. United States*, 602 U.S. 572 (2024), this Supreme Court held that the federal personal income tax is an indirect tax under authority of Article I, Section 8, clause 1 of the U.S. Constitution.

2. In *Moore* the court held that all direct taxes must be apportioned to the several states for payment in proportion to the last census as required under the Constitution by Article I, Section 2, clause 3 and Article I, Section 9, clause 4.

3. The federal personal income tax is not a non-apportioned direct tax on income under the 16th Amendment.

4. The case record shows the district court erroneously claimed a subject-matter jurisdiction under the 16th Amendment to enforce a non-apportioned direct tax on income against the individual person of Cromar.

5. Under the Constitution and *Moore* the federal courts lack the subject-matter jurisdiction to conduct tax trials of individuals to enforce against them the payment of a "non-apportioned direct tax" on their own income under an alleged authority of the 16th Amendment to tax directly and without limitation.

6. The Circuit Court erred in its Judgment by stating: "*since ratification of the Sixteenth Amendment, whether an income tax is a direct tax or indirect tax is immaterial.*" It further erred in asserting that: "*It is beyond dispute that 'Congress has the power to tax the income of individuals'* ", as Article I, Section 8, clause 1 does not authorize any such direct and unavoidable taxation of the citizens in the fifty states.

7. No admissible "*prima facie*" evidence of tax under IRC Sections 6201, 6020(b), and 6020(b)(2), that was "*good and sufficient*" in court "f*or all legal purposes*", was presented at trial sufficient to support a conviction of the defendant under Section 7201.

8. The *Chevron* doctrine of "*regulatory deference*" has been overturned by *Loper-Bright v. Raimondo*, 603 US 369 (2024), which means a liability for tax cannot be determined, and tax assessments cannot be made, using only regulations that operate outside of and beyond the actual authorities specified in the underlying controlling statutes of Sections 1 and 6020(b)(2).

9. No seizure of property occurred under authority of a Title 26 statute to support an alleged violation of Section 7212(b) [Count 3] because IRC Section 7403 is not a statute that authorizes a "*seizure*" of property, only the filing of a civil action.

10. The "United States" is not a statutory "*person*" under Title 18 U.S.C. Section 2510 that is eligible for restitution in a personal income tax case and is not entitled to restitution from an individual for any direct tax on their own income.

B. PARTIES INVOLVED

Petitioner-Defendant/Appellant Paul Kenneth Cromar, in *propria persona*, is a federal prison inmate, #13871081, held in Florence, Colorado, who is an American citizen who was living and working in the State of Utah before conviction.

Respondent-Plaintiff/Appellee is the United States.

No other parties are involved.

C. **TABLE OF CONTENTS**

D. TABLE OF STATUTES

The statutes referenced are in **Appendix V**

CONSTITUTIONAL AUTHORITIES

E. TABLE OF CASE AUTHORITIES

The Case Precedents Appendix ("Appx" above) is **Appendix VII**

F. OPINIONS BELOW

United States of America v. Paul Kenneth Cromar, U.S. district court for the District of Utah, Salt Lake City, No. 2:23-CR-00159-HCN-1, dated December 24, 2024.

United States of America v. Paul Kenneth Cromar, U.S. Circuit Court of Appeals for the Tenth Circuit, No. 25-4002, dated September 2, 2025.

G. JURISDICTION

The court has jurisdiction under Title 28 U.S.C. Section 1254 over the judgment of the U.S. Circuit Court of Appeals for the Tenth Circuit dated September 2, 2025.

H. STATEMENT OF THE CASE

1. This Petition arises out of the Utah district court (SLC), No.: 2:23-cr-159, where the district court conducted the criminal trial of Cromar claiming a subject matter jurisdiction of the court to enforce criminal charges against individual defendants under §7201 for attempting to evade or defeat a tax wrongfully assessed as a non-apportioned direct tax on income under an alleged authority of the 16th Amendment to tax income directly and without constitutional limitation; and under IRC Section 7212 for an attempted forcible rescue of property that was never "*seized*" under the statutes of Title 26 U.S.C., as required by §7212.

2. This court's decisions taken in *Moore et Ux v. United States,* 602 U.S. 572 (2024)[1] exposes the "*direct tax*" jurisdictional claim as erroneous, because *Moore* holds: "*Income taxes are indirect taxes*" under Article I, Section 8. Therefore, income

[1] See Appendix I – *Moore* excerpt

tax cannot be the non-apportioned direct tax declared by the court to be the jurisdictional basis for the criminal prosecution of Cromar.

3. The trial court wrongfully conducted the entire criminal trial of Cromar ***ultra vires*** because the district court fatally **lacked** the subject-matter jurisdiction necessary to enforce criminal charges for any direct tax against an individual defendant, because direct taxes must be apportioned to the *states*. Art. I, §2, cl.3, Art. I, §9, cl.4, *Moore, supra.*

4. The district court fatally **lacked** the subject-matter jurisdiction to try and convict Cromar for an alleged attempt to evade or defeat a non-apportioned direct tax on his own income because no such tax is constitutionally authorized, regardless of the 16th Amendment. But it was a "direct" tax that was the specifically claimed by the court to be the basis for the jurisdiction of the court taken. Jurisdiction was taken by the court at trial under *U.S. v. Collins,* 920 F.2d 619 (10th Cir.1990) and "*U.S. v. Balice*, 2018 Westlaw 2357750, page 3, May 23, 2018". Cromar has been wrongfully convicted by a district court that lacked the subject-matter jurisdiction to conduct a trial to enforce criminal charges against an individual defendant for any direct tax.

5. The Appellate court inexplicably ignored the fatal defect shown in the record regarding the claimed jurisdiction of the trial court, which was allegedly taken under two opinions of the courts and not under Article I, Section 8 of the Constitution. But there is no subject-matter jurisdiction of the federal courts that is granted or that can be lawfully taken under opinions, or a single statute, to enforce against individual defendants a non-apportioned direct tax on their own income as erroneously proclaimed under *Collins* and *Balice.*

6. The lower courts cannot ignore the factual record in the case and violate the Constitution by allowing the conviction by enforcing against Cromar criminal

charges based on an unavoidable, unlimited, direct tax on his income. Under the Constitution direct taxes may only be enforced against the "*several states*" (Art. 1, §2, cl. 3 & Art. 1, §9, cl. 4, *Moore, supra*)[2], and not against an individual defendant like Cromar.

7. Additionally, no restitution from an individual for an unpaid **direct** tax is allowed, for lack of apportionment of the tax to the "*several states*" for payment.

8. Finally, because *Loper-Bright,* 603 US 369 (2024) overturned the *Chevron* doctrine of *regulatory deference,* an enforceable liability for tax may no longer be alleged to exist based solely on a regulation rather than a statute. Under *Loper-Bright* the underlying statutes now control that determination of a liability for tax under Section 1461[3].

9. Additionally, after *Loper-Bright,* the making of a "*prima facie*" assessment of tax by an SFR (substitute for return) may **not** be argued under regulations alone, **outside** of the statutory authorities that control the making of enforceable SFR assessment under IRC Section 6020(b)(2).

I. ISSUE ARGUMENTS:

Issue 1. Under *Moore* the federal personal income tax is an indirect tax under authority of Article I, Section 8, clause 1 of the U.S. Constitution.

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10. In *Moore et Ux v. United States,* 602 U.S. 572, (2024)[2], the court definitively writes that "*Taxes on income are indirect taxes*" under Article I, Section 8 of the Constitution, and that "*...indirect taxes are the familiar federal taxes imposed on*

[2] See Appendix I - *Moore* excerpt
[3] See Appendix VIII – Liability statutes

activities or transactions. That category of taxes includes duties, imposts, and excise taxes, ***as well*** as *income taxes. U. S. Const., Art. I, §8, cl. 1; Amdt. 16."*

11. Thus, the income tax is an indirect tax under Article I and is **not** a direct tax under the 16th Amendment as erroneously claimed by the trial court in wrongfully convicting Cromar without the subject-matter jurisdiction to enforce a direct tax on income against an individual defendant, rather than the constitutionally required "*several states*".

Issue 2. Under *Moore* all direct taxes must be apportioned to the states for payment in proportion to the last census as required under the Constitution.

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12. With respect to direct taxation *Moore* holds: *"direct taxes are those taxes imposed on persons or property."* And that the *"Constitution requires that direct taxes be apportioned among the States"* for payment. And *"To be apportioned, direct taxes must be imposed 'in Proportion to the Census or Enumeration.' U.S. Const., Art. I, §9, cl. 4; see also §2, cl. 3. In other words, direct taxes must be apportioned among the States according to each State's population."* *Moore, supra.*

13. This is conclusive. All direct taxes must be apportioned to the "*several states*" for payment, regardless of the adoption of the 16th Amendment in 1913. The direct tax Cromar was convicted of allegedly evading and defeating, was not apportioned to the "*several states*" as constitutionally required. Cromar's conviction was therefore ***ultra vires*** for the fatal lack of a granted subject matter jurisdiction of the court to enforce direct taxation against individuals and consequently must be overturned.

Issue 3. Under *Moore* the federal personal income tax is not a direct tax on income under the 16th Amendment.

14. Under *Moore* all direct taxes must be apportioned to the "*several states*" for payment, and the federal personal income tax, being an indirect tax, is not the "*non-apportioned direct* tax *under the 16th Amendment*" claimed by the lower courts. Therefore, there is no subject matter jurisdiction of the federal courts that can lawfully be taken by them to enforce criminal charges against individual defendants wherever the charges are derived from an allegedly assessed "non-apportioned direct tax on income" that can only be enforced against the "*several states*", not individuals.

15. A subject-matter jurisdiction to enforce tax law cannot be taken by the federal courts under the 16th Amendment; - **only** under Article I, Section 8; Nor may jurisdiction be lawfully taken under authority of a statute alone (18 U.S.C. § 3231), as erroneously asserted by the Circuit Court in its *Order* [*and Judgment*], dated Sept. 2, 2025 (pg.6, prgph.2) sustaining Cromar's conviction.

16. In *Finley v. United States,* 490 U.S. 545 (1989)[4] the court provides that "*to create jurisdiction, whether original or appellate. The Constitution must have given to the court the capacity to take it,...*" and that "*To the extent that such action is not taken, the power lies dormant.*" Precedential support for this constitutional requirement exists[4]. The proper establishment of a subject-matter jurisdiction to enforce tax law requires more than just a single statute.

> "... in a long and venerable line of our cases. "Without jurisdiction the court cannot *proceed* at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause." *Ex parte McCardle,* 7 Wall. 506, 514 (1869). ... The requirement

[4] See Appendix VII – Precedents

that jurisdiction be established as a threshold matter "spring[s] from the nature and limits of the judicial power of the United States" and is "inflexible and without exception." *Mansfield, C. & L.M.R. Co.* v. *Swan,* 111 U.S. 379, 382 (1884). ... The statutory and (especially) **constitutional elements** of jurisdiction are an essential ingredient of separation and equilibration of powers, restraining the courts from acting at certain times, and even restraining them from acting **permanently** regarding certain subjects**.** See *United States* v. *Richardson,* 418 U.S. 166, 179 (1974); *Schlesinger* v. *Reservists Comm. to Stop the War,* 418 U.S. 208, 227 (1974). For a court to pronounce upon the meaning or the constitutionality of a state or federal law when it has no jurisdiction to do so is, by very definition, for a court to act ***ultra vires***. *Steel Co., aka Chicago Steel & Pickling Co. v. Citizens for a Better Environment,* No. 96-643, 90 F.3d 1237 (1998)

"Federal courts are courts of limited jurisdiction. They possess only power authorized by Constitution and statute, which is not to be expanded by judicial decree. It is to be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction." *Kokkenen v. Guardian Life Ins. Co. of America,* 511 US 375 (1994)

Issue 4. The case record shows the district court erroneously claimed a subject-matter jurisdiction under the 16th Amendment to enforce a non-apportioned direct tax on income against the individual person of Cromar.

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17. The error in the record in the district court is clear. The district court claimed in hearings that its subject-matter jurisdiction to criminally prosecute Cromar was allegedly taken under two opinions of the lower courts asserting authority under the 16th Amendment to tax income directly and without limitation, *i.e.*: *Collins* (10th Circuit (1990)), and a New Jersey district court decision invoked by the trial court as, "*United States v. Balice*, 2018 Westlaw 2357750, page 3, May 23, 2018".

18. The subject-matter jurisdiction of the district court cannot be taken to enforce an unlimited direct tax under any number of lower court Opinions, nor under any

statute(s), as that unlimited direct taxing power is constitutionally **un**granted. In all criminal tax cases, a specific constitutional power to tax must be disclosed on the record in order to fully establish the subject matter jurisdiction of the trial court.

19. The record shows that the trial court erroneously claimed a subject-matter jurisdiction to enforce a non-apportioned direct tax on income under the 16th Amendment. That was fatally erroneous because *Moore* says all direct taxes must be apportioned to the several states for payment in proportion to the census, and that "*Income taxes are indirect taxes under Article 1, Section 8*".

20. Therefore, there is no unlimited direct taxation of income that is authorized under the 16th Amendment, as was improperly asserted by the district court in claiming its alleged jurisdiction under the opinions of *Collins* and *Balice,* in order to prejudicially engineer the **ultra vires** conviction of Cromar by a wrongfully instructed jury, without the subject-matter jurisdiction to do so.

Issue 5. Under the Constitution and *Moore* the federal courts lack the subject-matter jurisdiction to conduct tax trials of individuals to enforce against them the payment of a "non-apportioned direct tax" on their own income under an alleged authority of the 16th Amendment to tax directly and without limitation.

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21. Under *Moore,* the district court fatally lacked the subject-matter jurisdiction to enforce against the individual person of Cromar, criminal charges based on an alleged, unavoidable, unlimited, non-apportioned, direct tax on his own income, which may only be enforced against the "*several states*".

22. The jurisdictional error is fatal to both the criminal conviction of Cromar in this case, and to the previous civil judgment against him in 2017 (out of which Count 3

arises in this case), because under the Constitution the income tax is an indirect tax under authority of Art. I, §8, cl. 1 of the Constitution[5].

> "Duties and imposts are terms commonly applied to levies made by governments on the importation or exportation of commodities. Excises are "taxes laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges ... the requirement to pay such taxes involves the exercise of the privilege and if business is not done in the manner described no tax is payable...it is the privilege which is the subject of the tax and not the mere buying, selling or handling of goods." Cooley, Const. Lim., 7th ed., 680." *Flint v. Stone Tracy Co.*, 220 U.S. 107, 151, 31 S.Ct. 342, 349 (1911)

> "... by the previous ruling [*Brushaber*] it was settled that the provisions of the Sixteenth Amendment conferred no new power of taxation but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged ...." *Stanton v. Baltic Mining Co.*, 240 U.S. 103, 112-113 (1916)

23. The Utah district court fatally lacked the subject-matter jurisdiction to conduct both the civil trial in 2017 and the criminal trial in 2024, to enforce claims for a "*non-apportioned direct tax on income*".

24. The lower courts have erroneously and prejudicially ignored this fatal defect and constitutional error that is plainly and clearly evidenced in this case's records in both the civil and criminal actions against Cromar, regarding the falsely claimed subject-matter jurisdiction of the district court to enforce a direct tax on income against an individual defendant.

> "Jurisdiction is fundamental and a judgment rendered **by a court** that does not have jurisdiction to hear [the action] is *void ab initio*." *In Re Application of Wyatt*, 300 P. 132; *Re Cavitt*, 118 P2d 846.

[5] See Appendix VII – Precedents.

> "Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities; they are not voidable, but simply void, and this even prior to reversal." *Williamson v. Berry*, 8 HOW. 945, 540 12 L.Ed. 1170, 1189 (1850).

25. Additional precedents addressing the court's requirement to fully establish on the record, **before** trial, the specific subject matter jurisdiction of the court taken, and the consequences incurred by a court acting without that required jurisdiction are easily found[6].

26. The district court **erroneously** claimed jurisdiction (under *Collins, Balice,* and the 16th Amendment) to tax Cromar's income directly and without limitation. It is now clear under *Moore* that the court's jurisdictional claim was erroneous because the court lacked subject-matter jurisdiction to enforce an unlimited direct tax against Cromar.

Issue 6. The Circuit Court erred in its Judgment by stating: "*since ratification of the Sixteenth Amendment, whether an income tax is a direct tax or indirect tax is immaterial.*" It further erred in asserting that: "*It is beyond dispute that 'Congress has the power to tax the income of individuals'* ", as Article I, Section 8, clause 1 does not authorize any such direct and unavoidable taxation of the citizens in the fifty states

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27. On page 6 of the *Order and Judgment*, the appellate court writes: "... *since ratification of the Sixteenth Amendment, whether an income tax is a direct tax or indirect tax is immaterial*." This is plain error because indirect taxes are avoidable by definition, while direct taxes are **un**avoidable and must be apportioned to the "*several states*" for payment, which absolutely is "*material*" to the ability of the courts

[6] See Appendix VII

to lawfully take a granted subject-matter jurisdiction over tax trials of individuals to enforce the specific type of tax alleged owed and/or evaded/defeated.

28. It is clear from this erroneous *"immaterial"* assertion, that the Circuit Court failed to acknowledge and abide by both the constitutional limitations imposed on all direct taxation and the doctrine of *stare decisis* under *Moore.*

29. The Appeals Court erred in its "*immaterial*" holding because 1) the tax is *indirect*, **not** direct; 2) a direct assessment of tax cannot be enforced against an individual person like Cromar, because 3) all direct taxes must be apportioned to the *several states* for payment, *Moore, supra.*

30. Therefore, it is very much "*material*", whether or not the federal personal income tax is assessed and enforced as a direct tax or an indirect tax, because this court holds in *Moore* that all direct taxes must be apportioned to the "*several states*" for payment, and thus no direct tax can be lawfully enforced at trial against an individual, as was unconstitutionally done to Cromar **twice,** civilly in 2017, and now criminally in 2024.

31. And, as an indirect tax, Moore holds that income taxes are "*under authority of Article I, Section 8, clause 1*", making the "income tax" a *function* of indirect taxation[7] by *Impost, Duty,* and *Excise*, and **not** a new power to tax under the 16th Amendment, **neither** directly **nor** indirectly.

32. Finally, simply having earnings (as alleged "*gross income*") is not a valid basis under the Constitution for indirect taxation by *Impost, Duty,* or *Excise*; which only tax *activities* and *transactions* involving imports and the activity of foreign[8] persons

[7] See Appendix VII – *Stratton's Independence, Ltd v. Howbert*
[8] And in foreign *places* like the U.S. possessions or a foreign country under a tax treaty.

by *Impost,* exported goods by *Duty*, and commodities, licenses, and corporate privileges by *Excise. Stone Tracy, supra.*

33. No sources of earnings of Cromar were lawfully subject to any indirect taxation by *Impost, Duty,* or *Excise*, and **none** were factually evidenced at trial; which evidence only established that money was earned by Cromar from sources within America. It did not establish that any indirect *Impost, Duty,* or *Excise* tax applied to those domestic earnings, and thus no lawful indirect tax was ever shown, neither by fact, evidence, or testimony, to be owed by Cromar, sufficient for him to have been found guilty of failing or defeating any legal tax.

34. An unconstitutional, unlimited, direct tax on income was wrongfully and erroneously assumed by both the jury and the courts to apply to Cromar's earnings. The jury was misled by the court into erroneously believing that a non-apportioned, unlimited, unavoidable, direct tax on income was authorized to be enforced against Cromar under the 16th Amendment simply as a function of his earning money, which appears to be the argument position being erroneously advanced by the lower courts in their *Orders and Judgments* sustaining the conviction of Cromar without the jurisdiction to enforce a direct tax against him (as an individual defendant), in clear violation of both the Constitution and this court's decisions in *Moore.*

35. The Circuit Court *Order and Judgment* further *erroneously* state on page 6 that: *"It is beyond dispute that "Congress has the power to tax the income of individuals." United States v. Stillhammer, 706 F.2d 1072, 1077 (10th Cir. 1983).* This proclamation of the Circuit Court, citing a 10th Circuit decision from 1983, is obviously erroneous because *Stillhammer,* like *Collins,* is also based in the erroneous assumption that the income tax is a "*non-apportioned* ***direct*** *tax on all income under the 16th Amendment*". *Stillhammer* is just as invalid (after *Moore*) as *Collins.* Both are obviously fatally erroneous because they ignore the indirect nature of the tax.

36. Additionally the Circuit Court then incredibly writes (in footnote #4) that: "*Collins was superseded on other grounds by the Paperwork Reduction Act of 1995, as noted in Lewis v. C.I.R., 523 F.3d 1272, 1276-77 (10th Cir. 2008).*"

37. The Circuit Court says "*Collins was superseded*" in 2008 as an applicable precedent, but amazingly that somehow that did not stop the plaintiff (or the court) from using *Collins* as the basis for convicting Cromar in this criminal case, nor from relying on it to foreclose on the Cromar home and property in the civil action in 2017-2018, *i.e.*: *United States v. Cromar*, 807 F. App'x 821 (10th Cir. 2020), where the court erroneously held that *Collins* did authorize a "*non-apportioned direct tax on income under the 16th Amendment*", and allowed the ***ultra vires*** foreclosure and sale of the Cromar home and property to force his individual *person* to pay a direct and unavoidable tax on his own income.

38. But now the Circuit Court says "*Collins*" had already been "*superseded*" as an authority when it was wrongfully invoked in the civil action to foreclose on the Cromar property. How can an authority that has been "*superseded*", be invoked as the subject-matter jurisdiction over a criminal trial? If jurisdiction cannot be taken under *Collins* for lack of a *direct* tax on income (because it's ***indirect***), then the records of **both** legal actions against Cromar are completely **bereft** of any showing of a subject-matter jurisdiction of the courts that could lawfully be taken.

39. The Circuit Court's errors continue on page 5: "*As we observed in Collins, "[e]fforts to argue that federal jurisdiction does not encompass prosecutions for federal tax evasion have been rejected as either 'silly' or 'frivolous' by a myriad of courts throughout the nation." 920 F.2d at 629 (collecting cases); see also United States v. Hansen, 929 F.3d 1238, 1245 (10th Cir. 2019); United States v. Gerhard, 615 F.3d 7, 25 n.9 (1st Cir. 2010); United States v. Drachenberg, 623 F.3d 122, 124 (2d Cir. 2010); United States v. Cooper, 170 F.3d 691, 691 (7th Cir. 1999).*"

40. But every single one of these opinions were written after *Collins* in 1980, and are all erroneously based on the same constitutional error (if not *Collins* itself) that was made in *Collins, i.e.*: erroneously declaring the alleged creation of an entirely new power to tax income *directly* and **without** limitation under the 16th Amendment.

41. *Moore* exposes the fatal constitutional error of the various Circuit Courts of Appeals, who have been erroneously holding since 1980 that the income tax is an unlimited, "*non-apportioned direct tax under the 16th Amendment*" (See Appendix II). Under *Moore*, all of those lower court decisions are now exposed as fatal constitutional error because income taxes are ***indirect*** taxes under Article I, Section 8, clause 1, "*under the head of excises, duties and imposts*", *Moore, supra*, and are **not** *direct* taxes under the 16th Amendment.

42. The Circuit Court then tries to explain its **error** by writing "*We reject this argument for the same reasons we explained in Cromar's civil tax case when we declined his invitation to "delve into the difficult question of the distinction between direct and indirect taxes." Cromar, 807 F. App'x at 824.*

43. But the "*distinction between direct and indirect taxes*" is not really that hard to understand or "*delve into*", so perhaps this Supreme Court should now resolve the circuit court's *difficulty* in properly applying the Constitution in federal income tax cases, because all of the other U.S. circuits have the same *difficulty* as the Tenth.

44. This Supreme Court explained in *Moore* that: "*direct taxes are those taxes imposed on persons or property.*", with the key and essential element of a direct tax being that it is unavoidable. The court further held: "*the Constitution requires that direct taxes be apportioned among the States. To be apportioned, direct taxes must be imposed 'in Proportion to the Census or Enumeration.' U.S. Const., Art. I, §9, cl. 4; see*

also §2, cl. 3.", Moore, supra. In other words, direct taxes on *persons* or *property* that are unavoidable **must** be apportioned among the States.

45. Because income taxes are indirect taxes, they are permitted without apportionment[9], but they are **not** permitted to be imposed as a **direct** tax on all earnings without limitation. And, as an indirect tax, they are also **not** permitted **without** evidenced subjectivity to some *indirect* taxation by *Impost, Duty,* or *Excise.*

46. Indirect taxation is classically indicated by the ability to either avoid the tax entirely by abstaining from the taxed activity or transactions (which is **impossible** with a direct tax on all sources of earnings necessary to live), or it is indicated by a *shifting of the burden* to pay that is provided by some mechanism within the law that *shifts the burden* from the pocket of the designated "*taxpayer*" and to the pocket of some other *person* from whom the tax was *collected.*

47. In other words, indirect taxes must be *avoidable* (in some manner) and *geographically uniform* in their operation and are imposed **only** on certain federally taxable *transactions* and *activities* subject to taxation by *Impost, Duty,* and/or *Excise.* The critical element is that *indirect* taxes are avoidable under law, either by abstaining from the taxed *activity*, or by a statutory *shifting of the burden* to pay.

48. Taxes on persons and property are *direct* because they are unavoidable. However, they require apportionment of the tax to the *several states* for payment and **cannot** be enforced against individual defendants.

49. These known distinctions between direct and indirect taxation are not that difficult to understand, or "*delve into*", because they have already been addressed in long standing precedent in the Supreme Court.

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[9] Requiring only *geographical uniformity*, *United States* v. *Ptasynski*, 462 U. S. 74, 82 (1983)

> "Ordinarily, all taxes paid primarily by persons who can shift the burden upon someone else, or who are under no legal compulsion to pay them, are considered indirect taxes;" *Pollock v. Farmer's Loan & Trust Co.*, 157 U.S. 429, 558 (1895).

50. The Circuit Court also writes on page 6: "*...in this case as 'in every federal criminal prosecution, subject-matter jurisdiction comes from 18 U.S.C. § 3231. That's the beginning and the end of the jurisdictional inquiry.' United States v. Tony, 637 F.3d 1153, 1158 (10th Cir. 2011)*".

51. This is again the plain error of *judicial legislation*, as in all federal tax cases the only beginning point of the subject-matter jurisdiction of the trial court must begin with the required disclosure of the **specific taxing power of the Constitution** relied upon to bring the criminal charges or civil claims for tax.

52. Without the full disclosure of the specific constitutional power to tax relied upon, *i.e.*: *Impost, Duty,* or *Excise*, to bring the criminal charges (or civil claims for tax), there is no valid application at all of Title 18 Section 3231, as that statute has no application with respect to individual defendants outside of the enforcement of indirect taxation. Section 3231 does not provide the subject-matter jurisdiction to enforce a "*non-apportioned direct tax on income*" against individuals, as erroneously claimed by the Circuit Court.

53. Finally, for the Circuit Court to opine on page 6 of its *Order and Judgment,* that these constitutionally mandated limitations on the powers to tax are somehow "*inapposite*" within this case involving federal taxation, is patently absurd as the Constitution and its limitations apply to all federal tax cases in all federal courts.

Issue 7. No admissible "*prima facie*" evidence of tax under IRC Sections 6201, 6020(b), and 6020(b)(2), that was "*good and sufficient*" in court "*for all legal purposes*", was presented at trial sufficient to support a conviction of the defendant under Section 7201.

54. The trial record in the district court is clear. At trial, the Plaintiff/Appellee catastrophically failed to introduce any evidence of any kind that showed that any statutory liability for tax existed in Cromar's name, or even that any lawful tax applied to Cromar's earnings and was thus owed. Finally, no evidence of a legal assessment of tax under IRC Sections 6201, 6020(b), and 6020(b)(2) was ever introduced or placed on the record at trial.

55. Instead of producing at trial any legitimate evidence of tax, or of tax being owed by lawful assessment, or even of a *statutory liability* for the court to enforce, the Plaintiff chose to introduce evidence that only showed that Cromar earned money from "sources" within America. But there was no evidence in the trial record of any "tax" imposed on those sources, nor of any statutory liability for tax in the defendant's name, because the "tax" and "liability" elements were erroneously ***assumed*** to exist by the Plaintiff, the court, and the jury, through the wrongfully believed existence of a "*non-apportioned direct tax*" on the income of all *persons* under alleged authority of the 16th Amendment.

> "If any question of fact or liability be conclusively presumed against him, this is not due process of law." Black's Law Dictionary 500 (6th ed. 1990); accord, *U.S. Department of Agriculture v. Murry*, 413 U.S. 508 (1973); *Stanley v. Illinois*, 405 U.S. 645 (1972)

56. And, the statutorily unauthorized substitution of the Form 4549s at trial (as alleged evidence of tax assessed) for the statutorily required "*prima facie*" evidence of a "*subscribed*" tax-return sworn under *jurat*, were **not** admissible at trial as *prima facie* or the "best" evidence of tax owed under IRC §§ 6201, 6020(b)(2), IR Revenue

Ruling 2005-59[10], and the decision of the Supreme Court taken in *Beard v. Commissioner,* 82 T.C. 766, 777 (1984), aff'd, 793 F.2d 139 (6th Cir. 1986)[11], where the court held:

> "In general, a document filed with the Service is treated as a return if the document: (1) contains sufficient data to calculate the tax *liability*; (2) *purports* to be a return; (3) represents an honest and reasonable attempt to satisfy the requirements of the tax law and (4) is executed under penalties of perjury. *Beard v. Commissioner,* 82 T.C. 766, 777 (1984), aff'd, 793 F.2d 139 (6th Cir. 1986) (citing *Badaracco v. Commissioner*, 464 U.S. 386, 984; *Zellerbach Paper Co v. Helvering*, 293 U.S. 172 (1934); and *Florsheim Bros. Drygoods Co. v. United States*, 280 U.S. 453 (1930))

57. The *Beard* decision simply reflects what the statute requires, which requirements were **not** satisfied by the IRS Auditor's mere testimony of amounts earned by Cromar in America. There is a statutory requirement for a *subscribed* and *sworn* tax-return to exist under the statute.

> **§ 6020 - Returns prepared for or executed by secretary**
>
> ...
>
> **(b) Execution of return by Secretary**
>
> **(1) Authority of Secretary to execute return**
> If any person fails to make any return ... the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.
>
> **(2) Status of returns**
> Any return so made and ***subscribed*** by the Secretary shall be ***prima facie*** *good and sufficient* for all legal purposes.

58. Therefore, without any "*prima facie*" evidence under IRC Section 6020(b)(2) of a "*subscribed*" tax-return assessing the tax, how is it possible to charge a defendant under Section 7201 of *failing to pay* or *evading or defeating* a tax that is not factually evidenced as being owed?

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[10] See Appendix III – IRS Revenue Ruling 2005-59, stating that Form 4549s are not tax-returns

[11] See Appendix VII – Precedents

59. IRC Section 6020(b)[12] plainly provides that if a required tax-return is not filed, then the Secretary may prepare that return; -and upon being "*subscribed*" that tax-return becomes the only evidence under the statute that "*shall be prima facie good and sufficient for all legal purposes*", *i.e.*: *as* the admissible "best" evidence of an assessment of tax. §§6201, 6020(b)(2).

60. The circuit court writes: "*In this case, the government's proof consisted of an IRS audit of Cromar's finances. The auditor gave meticulous testimony about the audit process, including his collection of bank records and other financial information and his interview of Cromar.*" So, it was only proved at trial that Cromar earned money in Utah, and not that any tax applied to his earnings or was owed by him by the proper introduction of *prima facie* evidence of a legal assessment made on a *subscribed* tax-return that was sworn under *jurat*. Neither the tax nor its alleged assessment was properly evidenced at trial but rather was improperly allowed to be assumed by the jury without the *prima facie* "best" evidence, required by statute, being present in the record.

61. The court further writes: "*The auditor explained how he used that information to calculate Cromar's 'deficiency amounts' for each tax period at issue. R. vol. 4 at 360... the auditor explained that his certification ultimately became a 'substitute for return,' which the IRS creates when the taxpayer fails to file a tax return. Id. at 378. This evidence was sufficient for a reasonable juror to find that Cromar owed a substantial tax liability.*" So the Auditor again admitted that the alleged *deficiency* was only based on Cromar's earning money in Utah and was not based on a *subscribed* tax-return, **nor** was it based on any identified indirect federal tax that applied to Cromar's activities or transactions.

62. But that is **not** the legal process required by statute to have the *prima facie* "best" evidence (of tax assessed and owed) under Sections 6201, 6020(b), 6020(b)(2),

[12] See Appendix V

which provide that without a "*subscribed*" tax return, there is no *prima facie* evidence that is admissible in court as the "best" evidence of tax owed.

63. There is no provision in the statutes for an "*auditor*" to "*explain that his certification becomes a "substitute for return"* without a *subscribed* tax-return ever being sworn to or executed as required by the statute.

64. Additionally, the lower courts both erroneously proclaimed that there is no requirement to file a tax return in order to be guilty of attempting to evade and defeat tax under Section 7201. Circuit Court *Order and Judgment,* page 9.

65. This is another erroneous holding because without the false assumption of a direct tax under the 16th Amendment, and without a sworn subscribed tax-return as required by law under Section 6020(b)(2), there is no admissible evidence of tax owed by the defendant for him to be guilty of attempting to evade and or defeat.

66. The Circuit Court further writes on page 9 of the *Order and Judgment*: "*And this court has acknowledged that the government's evidence in tax evasion cases typically is circumstantial precisely because 'direct proof is often unavailable.' United States v. Thompson, 518 F.3d 832, 850 (10th Cir. 2008)*"

67. Statutorily required evidence that is **only** *prima facie* when "*subscribed*" under sworn *jurat*, can **neither** be "*circumstantial*" **nor** assumed (without introduction at trial). This is true because there is **no** tax under the Constitution that can be assumed to apply to the earnings of an American citizen, that he/she must pay, simply because of the "*circumstance*" that the *person* earned money in America.

68. The Plaintiff **failed** at trial to show that the statutorily required "*prima facie*" and "best" evidence of a formal assessment of tax, had ever been made on a

"*subscribed*" and *sworn* tax return. Nor did they show that some activity and or transaction(s) of Cromar occurred that were subject to the payment of an applicable indirect *Impost, Duty,* or *Excise* tax. Thus, there was no admissible, *"prima facie"*, **best** evidence of any tax owed, that was "*good and sufficient for all legal purposes*" in court as evidence of assessed tax owed by Cromar, sufficient for him to have been found guilty under Section 7201 [Count 1].

69. The plaintiff United States failed at trial to produce any *prima facie,* admissible "best" evidence of a lawful assessment of tax made on a "*subscribed*" tax return Form (1040 or variant) for any tax-year, that could lawfully be considered by the jury as the required "*prima facie*" "best" evidence of tax owed, that was "*good and sufficient for all legal purposes*" as evidence, because the plaintiff failed at trial to enter into evidence any "*subscribed*" tax-return Forms that had been prepared and "*subscribed*" under a sworn *jurat* under penalty of perjury. §§ 6020(b), 6020(b)(2), 6065, and *Beard, supra.*

70. Furthermore, there was no evidence introduced at trial of any indirect tax that was applied or was owed by Cromar as an *Impost, Duty,* or *Excise*, that was shown by evidence to be imposed on Cromar's earnings, *activities*, and or *transactions* that were conducted in America by him in the subject tax-years.

71. But without the foundational evidence of some real "tax" that applied to the evidenced earnings, it is legally impossible to find Cromar guilty of attempting to evade or defeat [a] tax that has not been shown by proper evidence or law to either constitutionally exist, or to apply to Cromars earnings, regardless of the irrelevant and distracting circumstantial evidence that he earned money in America.

72. Under *Moore,* earning money is not a valid constitutional basis for the indirect taxation of income, circumstantially or otherwise. Without evidence of some applicable indirect taxing power, there can be no evading or defeating of any tax

because no assessment of tax was made under law on a "*subscribed*" and sworn tax-return, thereby establishing the specific and exact amount of *liability* for tax to be enforced, civilly or criminally.

Issue 8. The *Chevron* doctrine of "*regulatory deference*" has been overturned by *Loper-Bright* which means a liability for tax cannot be determined, and tax assessments cannot be made, using only regulations that operate outside of and beyond the actual authorities specified in the underlying controlling statutes of Sections 1 and 6020(b)(2).

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73. The Plaintiff admitted at trial that they only proved that money was earned by Cromar from within America, and did not show by *prima facie* "best" evidence under Section 6020(b)(2), that any indirect *Impost, Duty,* or *Excise* tax had been legally assessed as owed, or that a statutory liability for tax imposed by Title 26 had been lawfully determined to exist under Sections 1461 or 3403.

74. Under the *Loper-Bright v. Raimondo,* 603 US 369 (2024) decision the regulations for 26 C.F.R. § 1.1.-1 can no longer be used by the plaintiff, or relied upon by the courts, to allege that an enforceable liability for tax is created under Section 1, because the language of the underlying statute does not itself impose a liability for tax. The regulations for a statute can no longer be relied upon to effect an end result (liability for tax and a *prima facie* assessment) that is **not** provided for by the statutes themselves. At trial no evidenced, statutory liability for tax was ever identified or introduced. And without a "*subscribed*", "*prima facie*", tax return or a statutorily specified liability for tax, it is virtually impossible for Cromar to have been found guilty of evading or defeating any tax.

75. Legal determinations of a liability for tax and formal assessments of tax for non-filers are not made by testimony under regulations relying on the *Chevron*

doctrine of *regulatory deference*; nor even by "*meticulous testimony*"; but are rather lawfully made only by the identification of a specific statutory liability for tax that applies[13], and by the execution of a "*subscribed*" SFR tax return as required by law under Sections 6201, 6020(b), and 6020(b)(2), assessing the specific amount of liability for tax to be enforced. The absence of a statute specifying liability for tax is not standard[12], nor is such unspecified and unassessed liability for tax enforceable in the courts, which can only enforce that which is provided by statute.

76. The Auditor's testimony, relied upon at trial, was **not** the admissible "**best**" evidence (under the controlling statute) of tax owed that was acceptable as the *prima facie* evidence in court that is *good and sufficient for all legal purposes.* No proper, admissible, *prima facie,* "**best**" evidence of any tax assessed on a "*subscribed*" tax-return form appears in the evidentiary record to create the necessary *prima facie* evidence of an enforceable liability for tax that is needed to be *good and sufficient* as evidence of tax owed, sufficient to convict Cromar.

77. The *Loper-Bright* decision overturned **and** overruled the *Chevron* doctrine of *regulatory deference.* That precedential **reversal** applies to income tax cases, and this case, because the SFR regulations of the CFR that were utilized and relied upon in this case to allege a liability for tax under Section 1, and a formal assessment of tax under Section 6020(b)(2), improperly went far beyond the actual command of the statutes[13]. The regulations of the CFR can no longer be used to supersede, eliminate, or replace by unauthorized substitution, the clear requirements of the controlling applicable statutes, as was done in this case on these two critically important issues.

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[13] Appendix VIII – Liability Statutes

Issue 9. No *seizure* of property occurred under authority of a Title 26 statute to support an alleged violation of Section 7212(b) [Count 3] because IRC Section 7403 is not a statute that authorizes a "seizure" of property, only the filing of a civil action.

78. So that there can be no further confusion about the lack of the statutory applicability of Section 7212(b)[14] to Cromar and the facts of this case, the statute provides that it is a crime for any person to "*rescue or cause to be rescued, any property after it shall have been seized under this title*".

> **§ 7212 - Attempts to interfere with administration of internal revenue laws**
>
> ...
>
> **(b) Forcible and attempted rescue of seized property.**
>
> Any person who forcibly rescues or causes to be rescued any property after it shall have been seized under this title, or shall attempt or endeavor so to do, shall, excepting in cases otherwise provided for, for every such offense, be fined not more than $500, or not more than double the value of the property so rescued, whichever is the greater, or be imprisoned not more than 2 years.

79. In order for property to have been "*seized under this title*", it would have to have been *seized* under authority of Title 26. The only "*seizure*" statutes that exist in Title 26 are Sections 6331 and 6335, neither of which is applicable, nor evidenced in this case record, as there was no evidence introduced of any *Notice of Levy* or *Notice of Seizure* issued under those statutes of Title 26.

80. A Title 28 court ordered foreclosure under 28 U.S.C. Sections 2001 and 2002[14], which did occur in Cromar's civil case, does **not** constitute a *seizure* made under authority of the Title 26 statutes (§§ 6331, 6335)[14], to which Section 7212 may apply.

[14] See Appendix V - Statutes

81. The district and circuit courts both erred in holding that Section 7403 constitutes a Title 26 "*seizure*" statute, as that interpretation appears to be *judicial legislation,* as the statute only authorizes a "*civil action*" to be "*filed*" and does not authorize a "*seizure*" to be made as a function of filing the authorized "*civil action*".

82. Section 7403 does not authorize a "*seizure*" of property to be made, it only authorizes the filing of a "*civil action*", which is not a "*seizure*" under Title 26, but rather the mere initiation of a civil legal dispute that must be fully adjudicated before any real property may be controlled. No "*seizure*" under Title 26 occurs as a result of simply filing a civil action under authority of §7403.

83. The Circuit Court writes on page 8 of its *Order*: "*It is clear from the order of foreclosure and judicial sale that the property was seized under Section 7403 of Title 26, which empowers the IRS to seize the property of delinquent taxpayers.*" This is simply **not** true. The court prejudicially attempts to re-write the statute by *judicial legislation* and also wrongfully misrepresents the true facts of the record. Section 7403 does not authorize a *seizure,* only the filing of a "*civil action*", and *factually*, no **federal** *seizure* ever occurred as it was law enforcement personnel of the State of Utah who actually seized the Cromar home and property, and they are not authorized to act under Title 26 U.S.C.

84. A "*civil action*" is not a "*seizure*" under Title 26, and Section 7212(b) cannot be invoked or applied to the factual record in this case because no Title 26 "*seizure*" was ever made. The *opinion* that has been wrongfully invoked by the court to re-write the statute is prohibited *judicial legislation.* A strict *statutory construction* of the language of Section 7403 should control the resolution of this issue.

85. **No** "*seizure*" of the Cromar home and property ever occurred under a Title 26 statute. There was only an *Order* of the district court issued under authority of Title **28**, Sections 2001 and 2002, to *foreclose* on the home and property.

86. The Circuit Court actually admits that the case record shows there was no Title 26 seizure that ever occurred, because it writes on page 3 of its *Order* that: "*In May 2019, Gary Chapman, the IRS agent assigned ... discovered that Cromar and his wife were still living there. He enlisted the help of* ***law enforcement who removed the Cromars*** *from the property on June 25, 2019.*"

87. The admission by the Circuit Court, that it was the public "***law enforcement***" resources of the **State of Utah** that removed the Cromar's and thus factually seized the home and property at that time, is **proof** that there was no Title 26 *seizure* that occurred in this case sufficient to criminally charge Cromar under §7212(b). Only an Officer of the U.S. Treasury (I.R.S.) is authorized to conduct *seizures* of property under Title 26 law, and **not** the State of Utah's "*law enforcement*" personnel as **admitted by the court**. IRC §§ 7608, 6331, 6335[14].

88. And the foreclosure occurred **not** under authority of any Title 26 statute, as required by the charging statute (§7212(b)), but only after Utah "*law enforcement*" authorities **occupied** the house under the foreclosure *Orders* under Title 28. Chapman used that foreclosure *Order* to persuade the local Utah "*law enforcement*" authorities to remove the Cromar's from the home and occupy it as part of the ordered Title 28 *foreclosure.*

89. Section 7403(a)[14] provides that "*the Secretary, may direct a civil action to be filed in a district court of the United States*". This statute does not authorize a *seizure* to be made, because a "*civil action*" is not a "*seizure*", and no "*seizure*" may be made **before** the civil action is fully adjudicated, simply as a result of the *civil action* being authorized or filed.

> **§ 7403 - Action to enforce lien or to subject property to payment of tax**
>
> **(a) FILING.** In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the

> request of the Secretary, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under this title with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title, or interest, to the payment of such tax or liability.

90. Section 7403(c)[14] commands that the filed civil action then be ***adjudicated*** to a "*decree*" through a *determination* by the court on the *merits* of the claims before any further action like a "*seizure*" may be made. Clearly, Section 7403 itself does **not** authorize any "***seizure***" of property to be made.

91. The record in the district court is clear; **no** seizure of property ever occurred under authority of a Title 26 statute.

92. Additionally, no property can be seized from American citizens to compel them to pay an assessment of a non-apportioned *direct* tax on their own income because all direct taxes must be *apportioned* to the "*several states*" for payment. *Moore, supra.*

Issue 10. The "United States" is not a statutory "*person*" under Title 18 U.S.C. Section 2510 that is eligible for restitution in a personal income tax case and is not entitled to restitution from an individual for any direct tax on their own income.

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93. Under the Constitution no individual can be compelled to pay restitution for a **direct** tax because **all** direct taxes **must** be proportionately apportioned to the "*several states*" for payment. *Moore, supra.*

94. But the trial record clearly shows that Cromar was convicted on the erroneously alleged basis of an unlimited **direct** tax on his income, as declared by the trial court in taking jurisdiction under *Collins* and *Balice.*

95. The legal authority of the district court to order restitution should be a matter of strict *statutory construction.* Section 3563(b)(2) provides that that a defendant can be ordered to "*make restitution to a victim of the offense under section 3556*" as part of a sentence under authority of Section 3556; which in turn provides that restitution can be ordered under authority of Sections 3663A or 3663[14].

96. Those statutes provide that "*the defendant make restitution to the victim of* [his] *offense*" and that: "*For the purposes of this section, the term 'victim' means a* ***person*** *harmed as a result of the commission of an offense*".

97. The term "*person*" is defined in law for use within Title 18 at Section 2510(6)[14], which provides that "*(6) 'person' means any employee, or agent of the United States or any State or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation*".

98. The applicable definition of the term "*person*" under Title 18 who is eligible for restitution as a "*victim*", does not include the "United States" as a "*person*".

99. The "United States" is **excluded** from the statutorily defined "*person*" who is eligible for restitution. And the U.S. Department of Justice, Criminal Resource Manual, CRM 1000-1499[15] provides: "*The term "person" is defined in 18 U.S.C. §2510(6) to mean any individual person as well as natural and legal entities. It specifically includes United States and state agents. According to the legislative history, "(o)nly the governmental units themselves are* ***excluded***."

100. Under the Title 18 statutes, the term "*person*" excludes the governmental units themselves. That means that the "United States" is not a statutorily defined "*person*" who can be a "*victim*" that is eligible to receive restitution.

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[15] See Appendix VI - DOJ & CRM info on restitution

101. Additionally, the U.S. DOJ provides in a public statement[15] that: "*Some financial losses are **not** **eligible** for restitution, such as state or **federal** **taxes**, **interest, penalties or fines***; ..."

102. The United States is **not** entitled to restitution from individuals for *direct* taxes, interest, penalties, or fines because there is **no** direct tax, and there has been no "loss" of real property that has accrued to the plaintiff.

103. Thus, it was beyond the subject-matter jurisdiction of the district court to Order that restitution be paid to the United States by the individual Cromar to enforce the payment of a direct tax.

J. REASONS FOR GRANTING THE WRIT

104. Therefore, due to the constitutional and statutory foundations of this appeal addressing the fatal ***lack*** of a granted subject-matter jurisdiction of the federal courts to enforce under alleged authority of the 16th Amendment the criminal charges that were based on Cromar's alleged attempt to evade or defeat a tax assessed by the United States (IRS) as a direct and unlimited tax on income that is unavoidably enforced against individuals without an indirect basis for the taxation of their domestic activities and transactions; and based on the fatal lack of any evidenced **statutory** *liability* for tax, which was **never** assessed on a *"subscribed" "prima facie"* tax-return as the only admissible *"**best**"* evidence under Section 6020(b)(2); and because no Title 26 *seizure* factually occurred under any Title 26 statute; and because the United States is not entitled to restitution from an individual for a *direct* tax, Petitioner respectfully urges this honorable court to grant this *Petition.*

105. Defendant/Appellant Cromar **cannot** be guilty of attempting to evade or defeat a "*non-apportioned direct tax*" on his own income, which (tax) must be *apportioned* to the "*several states*" for payment, and which direct tax cannot be constitutionally enforced against his individual person, *Moore, supra.* Respectfully, his conviction should be overturned or review *de novo* of the entire case record should be initiated.

106. It was the duty of the Circuit Court to review the factual record at trial, and it was not their duty to simply try to justify the trial result with arguments that are not supported by the statutes or the record of evidenced facts and rulings. Nor may Cromar's conviction be justified and sustained under the superseded *opinions* and *judicial legislation* wrongfully invoked and utilized to manipulate the statutes in order to convict Cromar in the district court and sustain the conviction on appeal in the 10th Circuit.

K. CONCLUSION

107. Therefore, because material facts have been ignored and statutes misapplied and provisions of the Constitution have been violated, and since the opinions relied on conflict with the most recent applicable and controlling decisions of this Supreme Court, which conflict was not addressed; and because one or more questions of exceptional constitutional and national importance are involved in this case, this honorable court is respectfully urged to GRANT this *Petition for a Writ of Certiorari* and take up a review of these matters *de novo* based on the record of the district court at trial, the specific language of the applicable statutes, and the consistent decisions of this court reaffirmed in *Moore* regarding all lawful and authorized federal taxation under the U.S. Constitution, which is clearly being **violated** in this case by the Plaintiff United States and the lower courts.

L. PRAYER FOR RELIEF

108. Petitioner now prays this honorable Supreme Court will either overturn his wrongful conviction or take up a review ***de novo*** of all of the issues of: 1) the subject-matter jurisdiction of the federal courts that can be taken over income tax trials of individual citizens; 2) the case record of facts at trial; 3) the controlling statutes and their application; and 4) the erroneous holdings of the lower courts that were made in this case and wrongfully and prejudicially relied upon to first, convict Cromar, and second, to sustain that conviction on appeal in the 10th Circuit.

Respectfully submitted,

Paul Kenneth Cromar #13871-081
in *propria persona,*

M. APPENDICES Index

1. Appendix 0 – 10th Circuit Order & Judgment Appealed
2. Appendix 00 – Judgment in a Criminal Case in the Utah district court (SLC)
3. Appendix I – *Moore et Ux v. United States,* 602 U.S. 572, (2024) excerpt
4. Appendix II – Erroneous opinions of the Circuit Courts exposed under *Moore*
5. Appendix III – IRS Revenue Ruling 2005-59, stating that Form 4549s are not tax-returns
6. Appendix IV – GAO Letter admitting no tax returns are prepared in the IRS SFR program
7. Appendix V – Statutes referenced
8. Appendix VI – DOJ - no restitution for the "United States", or for unpaid "tax"
9. Appendix VII – Supporting precedents
10. Appendix VIII – Liability Statutes