PART 1 OF 2

received
11.02.17

17 October 2001

Strictly Confidential / Stillpoint

Telefax : 202 622 2151

CONFIRMING
LEO EMIL WANTA

United States of America
U. S. Department of the Treasury
Attention : The Honorable, Paul O' Neill
Office of the Secretary
740 15 th Street
Washington, DC, USA 20220.0000

Ref: SA 32 NV
SA 233 MS
S – 31 - IANO

In the matter of : Information and Delivery of enclosed Rough Draft Affidavits in current U. S. District Court action, among other legal remedies.

Dear Secretary O'Neill:

Your approval with U. S. Department of the Treasury notification to :

RAIC William LeCates
1415 Murfreesboro Road
Nashville, Tn, USA 37217.0000

IANO / Don Meiger
423 Canal Street
New Orleans, La, USA 70130.2336

Please have Bill and Don contact asap the Law Offices of ...

Jan Morton Heger, Esquire
Attention - Thomas Henry, Legal Assistant
Telefon : 402 933 6421

Thank you for your sensitive and confidential handling of this pending subject matter.

Sincerely yours,

Lee E Wanta

cc : The Honorable, Dick Cheney
The Honorable, Colin Powell
SAC Jeb McGruder
SAC Gary Small
Gulf States, et al - Sector 5, Will Associates Groupe [NYC-JFK], et al

via telefax : 202 456 6670

RICO STATUTES - HATCH ACT
PRESS RELEASE / PART VII

CORPORATE STATE OF WISCONSIN LAWLESSLY KIDNAP SOMALI AMBASSADOR LEO EMIL WANTA

07 Nov 01

cc : U. S. President George W Bush

Diplomatic Mail / Sensitive
Ministry of Foreign Affairs

The Honourable, Dick Cheney
Office of the Vice President
The White House
1600 Pennsylvania Avenue, N. W.
Washington, DC, USA 20501.0001
Telecopier : USA 202 456 6670

In Re : Frank B Ingram, Security Identification No. SA 32 NV (U. S. Treasury); Rick Reynolds, Security Identification No. SA 233 MS (U. S. Treasury); and Ambassador Leo E Wanta, a.k.a. Lee E Wanta, an American INTEL Operative, Ministry of Foreign Affairs, DPP Nos. 04362 and 12535

Dear Vice President Dick Cheney:

Over the past several months I have approved several communications being sent to your attention by attorneys representing my interests. Additionally, since the September 11 th event, several INTEL-op associates have forwarded at my direction certain intelligence gathering information OBL/UBL and other "cell groupes" in the Philippines, HK, Indonesia, etc. As I know you are aware I had prior dealings with several organizations and groupes with contacts in the Middle East and S. E. Asia.

I assume for a variety of motives and reasons, certain of these prior INTEL contacts searched me out and found an avenue to provide me with information which, of course, I directed to your and other concerned parties attention. In a recent communication, I read that certain valuable and treasured assets are being organized to pledge as collateral security for financial dealings, which I assume is being executed to implement a financial programme similar to my prior USG directives.

I am of the opinion based on contacts from financial sources and other information which I deem credible that assets are still available to me which could be appropriately placed and dealt with in an expedited manner. The mechanism I am suggesting would appear to be a more plausible than collateralization of loans. I am further under the opinion that with your participation and programme monitoring and an implementation of certain and prior Presidential Executive directives, which were productive in the past and much can be accomplished in a very short period of time. This objective should be able to be accomplished without talking history or bringing up the past.

As I am sure that that good offices are aware of the present lawless predicament in the State of Wisconsin (USA) which would need to be disposed of to allow me to march forward. My present and aggressive legal team are presently challenging the merits of the underlying Wisconsin Department of Revenue lawless action in a manner that they and others believe; that this case could be disposed of without any reference to political agendas or political interference.

LEE

2/

I appreciate that my file is most probably stuffed with paperwork that could lead one to believe that the only way to deal with my Wisconsin non-residency personal income tax case was in a political issue .. blame .. and ...point confrontation. I accept that I probably created this impression based on my International and USG INTEL dealings. I only can offer that I took action and did many things that were reactionary to the situation as I perceived and to protect my family and personal safety. [See Amend. 14 Repatriation clauses .. as to Rule of Law and USA Tax Regulations as to Austrian / USG residency and USG Employment / Residency Agreements and Contractual Agreements]

Having Said That, my present legal team takes an approach which I concur with and accept as a stepping point to get on with the future. Having spent the last several years becoming re-acquainted with my children, and learning to grow with my grandchildren, as I have encountered a great many living experiences. I am most concerned for our Great Nation and the world.. as well as my family like all fellow Americans.. what they will be facing in the future. I would appreciate and be honoured to be an active USG participant in a part of the American Team Effort, which I strongly believe could make a contribution to both the short and long term neutralizing and control of the current Evil attacking the American Freedoms we cherish deeply. I strongly believe that my INTEL / International financial management and underwriting experiences.. although to some may seem dated.. are not so dated and in fact may add the missing pieces or new ideas on where to look and how to strike from a variety of operating fronts.

I am very positive that with a limited effort and participation by concerned parties, that would not cause a noticeable deviation from your present strategies, that my situation can and could be dealt with in a manner where everyone wins. I look forward to an open and frank discussion at your earliest convenience.

Thank you for your rapid response to this timely situation.

Sincerely yours,

Lee E. Wanta

Ambassador Leo E Wanta, DPP No. 04362 and 12535

cc: The Honourable, Paul O'Neill
Office of the Secretary
U. S. Department of the Treasury

The Honourable, George W Bush
Office of the President
The White House / Executive Offices

LEW:fi

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Updated : 31 January 2002 for Corporate Distribution

New Republic/USA Financial Group, Ltd. Gesellschaft (Austria)
Madame Eva S Teleki, Chairperson
Dr Olga Sarantopoulos, Managing Partner
Mr Jack Richards, Directeur
Reverend Father John A. O'Brien, PhD, Directeur

Mr Jan Morton Heger, Esq.
Mr Thomas Eugene Henry, Esq

Via Telecopier : USA 949.713.7230/949.831.6319 E-Mail: philajd@yahoo.com

Law Offices of Patricia Cameron
Attn: Attorney Patricia Cameron

In Re: Ambassador Leo E. Wanta tentative offers of settlement and legal actions in the State of Wisconsin (USA)

Dear Patricia:

During the past several years I have appreciated your personal and legal efforts that you have implemented and facilitated with other interested parties to amicably attempt to reach a settlement of my scripted lawless civil and legal predicaments with concerned parties, as well as disinterested/misinformed parties.

Presently I have been faced with several personal and corporate issues in my professional and investigative life that are making me re-evaluate and re-structure; what may now be in my best personal and business/INTEL interests. With those thoughts in mind, I am giving the following personal instructions to be implemented into your continuing legal assistance of my personal and business/corporate/INTEL matters:

HAVING SAID THAT:

1. I hereby cancel any direct or implied authority that I may have given you to negotiate or discuss settlement with any third parties, unless in the future you first discuss with me and obtain my prior written permission to pursue the same,

2. In regard to legal matters presently being considered by the Tax Appeals Commission in the State of Wisconsin (USA), I do not want any issues concerning this action/case discussed with any third party, unless I give my prior written permission to discuss the same with any third party. If there are additional papers or filings to be submitted on my behalf to the State of

Wisconsin (USA) Tax Appeals Commission, I will expect receiving a copy of the same for my review and approval before the same is filed,

3. At your earliest convenience I would like to have a written summary of the status of my civil/criminal case before their Tax Appeals Commission. Please include in this legal summary the details of any further activity that you would recommend and a timing of events; i.e. anticipated schedule for hearings, etc.,

4. At your earliest convenience I would appreciate having a written summary of the nature and scope of any discussions or communications that you are having with any and all parties, in regard to final settlement of my personal and legal disputes and issues of contention arising from my personal and business / employment situations. In this regard I would like to have the date of your last discussions and/or communications, the names of the parties that you are dealing with and a current status report. As advised above there is no need to have additional communications, discussions or negotiations with any third parties, unless my prior written approval is obtained.

In the past I have given Power(s) of Attorney and Letters of Authorization allowing yourself and others to pursue total investigations of one or more financial records or business transactions in which I have a certain corporate/business/INTEL interests.

This letter shall serve as a cancellation of any such Power(s) of Attorney or Letters of Authorization. I would appreciate and expect to have all original financial and corporate documents, original Power(s) of Attorney and Letters of Authorization returned to me, as soon as possible. This confirming letter shall serve as a cancellation of any and all authority to deal on my behalf in regard to such financial and corporate matters. If you have made contacts in regard to such matters, I would appreciate having a written debriefing of who you talked to, when you had the last conversation and a summary of your opinion in regard to these ongoing legal and financial matters.

Your earliest attention to this matter would be most appreciated. It would be most appreciated if you would accept my best wishes and desires and cooperate fully in implementing my instructions and fulfilling my necessary requests. I assure you I have thought long and hard at reaching my present position. I have not reached this decision to change my course of global actions easily.

If you are not comfortable in accepting this directive and change in my ideas, I would respectfully request a return of all my files and documents along with your final billing. I know you are aware I am unable at the present time to make any payment on your billings.

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I will on the other hand make every effort to satisfy the reasonable terms and conditions of obligations owed to you arising from your professional assistance to me in my legal, personal and corporate difficulties… at such time as I am able.

Thank you as always for your personal and legal efforts and attempts to assist me.

Sincerely yours,

Via e-mail of the Corporate Distribution

Ambassador Leo E. Wanta
Lee E. Wanta (Legal Name at Birth)

P.S. Please send me the latest Neil Schmidt correspondence and details of the state's latest purpose of their canceling the scheduled court conference.

End/S-31-IANO

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THOMAS E. HENRY

1125 South 79th Street
Omaha, Nebraska 68124
Phone: 402-933-6421
E-mail: agprochina@cox.net

February 2, 2002
The Office of Senator Bob Graham **Please forward for the Senators immediate attention**
United States Senate
Sent via facsimile: 202-224-2237

Re: Frank B. Ingram, Security Identification Number SA32NV (US Treasury); Rick Reynolds, Security Identification Number SA233MS (US Treasury) and Ambassador Leo E. Wanta, a.k.a. Lee E. Wanta, an American Operative, Ministry of Foreign Affairs, DPP#-04362 & 12535, United States Department of the Treasury, Internal Affairs New Orleans Sector V, S-31-IANO

Dear Senator Graham:

The information I am bringing to your attention is pertinent to your intelligence committee work. It is my understanding that consideration is being given to bring Ambassador Wanta before your committee. It is also my understanding that an attempt is being made to corroborate certain information received from Ambassador Wanta prior to bringing him before your committee. I hope it is not to over reaching for me to ask you to consider that the information provided in this letter may be more pertinent to the corroboration of Ambassador Wanta information than what you may or not receive from various USG agencies. In fact it is my belief that the information contained herein is absolutely relevant to matters that should be looked into by your committee.

The particular issues I would request you consider are references in many communications from Ambassador Leo Wanta concerning "canisters" of biological weapons and "U Boxes" that pertain to dirty uranium weapons of mass destruction. I can provide additional documentation that this information was forwarded to the White House, NSA and other USG agencies. Without question this information was forwarded with implied warnings of danger far in advance of 9/11.

I now direct your attention to the hand written note that is attached to this letter. This is a copy of a court exhibit in a Toronto Ontario Canada court proceeding. The case concerns an American citizen Delmart Edward "Mike" Vreeland and the hand written notes were prepared by this individual. The notes were prepared on or about August 11th or 12th 2001. Well in advance of 9/11. There is no question in the Canadian court proceedings that these notes were placed in the custody of the Canadian jail facility that was holding Mr. Vreeland in advance of 9/11.

My particular interest is asking that attention be given to the three areas on the attached hand written note where I have made a circle, marked with an * and I placed my TEH. I have marked each area circled with a 1, 2 and 3. I recognize difficult to read. 1 is a note about "canisters" and "u-ranium". 2 is a reference to M16 and Key West Florida (although not noted it is assumed M16 refers to M16 rifles). 3 is reference to Dr. Haider "-cell" and "Bio". I can assure you that Ambassador Wanta does not know Mr. Vreeland. I also ask that you note at the top of the hand written memo there is a list of buildings. Note the same buildings as 9/11.

The circled areas contain references to matters that were also the subject matter and specifically referenced in communications from Ambassador Wanta intel-op associates both before and

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subsequent to 9/11. Is all this just a coincidence? Are both Ambassador Wanta and Mr. Vreeland psychics of extraordinary clairvoyance? Is it a mere coincidence that both individuals claim to have association with certain USG agencies and both have information that is pertinent to the crisis facing America? Is it mere coincidence that both individuals association with USG agencies is ignored and denied? To all of these questions I answer, "I do not think so".

There are other individuals similar to Ambassador Wanta and Mr. Vreeland that for reasons I wish I understood were in essence exiled and in my opinion "framed" for questionable legal matters during the course of the last administration. Even if I am wrong that they were framed does it not seem to be a very strange coincidence that two individuals have information concerning 9/11 and terrorist activity and no one has the courage to step to the plate and at least question why information from these men was and are being ignored. Maybe more important is why is there no investigation being conducted into the failure to investigate the information provided by these individuals. Maybe more important than any prior comments is why was information known to exist in advance of 9/11 ignored by USG agencies. Even if the information was not ignored it has become painfully apparent that the information was not evaluated correctly and/or not considered appropriately. With the apparent and imminent ongoing threat to each citizen of our great country does it not make sense that the people who rightfully or wrongfully made a decision to ignore such information may also continue to make poor or miscalculated decisions in evaluating intel information. The people whose information was ignored are not the real "bad guys" and our Congress and leaders owe to each citizen to put politics on the back burner and use each and every avenue and corridor available to assure that additional groups of 3,000 US citizens are not victims of making bad or misinformed judgment. I do not recall that the Watergate cover up resulted in 3,000 deaths. May God bless and forgive this great nation if the deaths of the 3000 are a cover up of ignored information for political reasons or a cover up of an even more serious violation of misplaced voter confidence.

In the interest and concern for the safety and well being of your constituents are you not interested in learning the full scope of the information "known to" and "available from" people such as Ambassador Wanta and Mr. Vreeland. If Ambassador Wanta and Mr. Vreeland are who they say they are and worked in the capacity they say they worked (information is available to confirm both rhetorical questions) is no one interested in why each individual is in essence looked upon as either crazy, a liar, an enemy or an alien.

It seems foolish and inherently a matter of gross negligence not to tap every possible resource that may educate, enhance, and/or facilitate an expanded understanding and historical insight into the enemy threatening our great nation. I assume you have gathered information from your fellow Senators that traveled to Afghanistan for I assume reasons to be educated on a variety of issues including the terrorist threats. Potentially information is available from sources more close to home that may be more pertinent than an observation of military arsenal tests on uninhabited mountains. I am hopeful that you can find reason and friends within the Senate that have a desire to look at the obvious "why's and why not's" of this tragic event. Hopefully the corroboration you are looking for does not end up being a tragedy caused by one of the **"known to be missing canisters and/or U Boxes".**

Sincerely yours,

Thomas Henry

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STATE OF WISCONSIN

TAX APPEALS COMMISSION

LEO E. WANTA,

Petitioner,

vs.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

DOCKET NO. 96-I-888

ORDER

This matter comes before the Commission on each party's motion for summary judgment. Pursuant to the Commission's Scheduling Order of July 2, 2001, the final brief in this protracted briefing schedule—petitioner's reply brief with respect to his motion for summary judgment—is due on February 8, 2002. Yesterday, February 4, 2002, petitioner's counsel Patricia Cameron notified the Commission that she had been asked by petitioner to withdraw as his representative in this case. In her letter notifying the Commission of her withdrawal, Attorney Cameron wrote that she "assume[s] another attorney will be entering within a short period of time."

To facilitate future consideration of the motions that have been filed, the Commission hereby

ORDERS

1. The briefing schedule in this matter is suspended.

2. The Commission will convene a **telephone status conference on March 20, 2002, at 10:30 a.m.** (Central Standard Time).

3. Petitioner shall inform the Commission of the **telephone number** at which he can be reached to participate in the March 20, 2002 telephone status conference.

4. If petitioner retains a new representative, the representative shall promptly file with the Commission and serve on respondent a notice of appearance, and shall provide the Commission with a telephone number where the representative can be reached to participate in the March 20, 2002 telephone status conference. In the event a new representative has a conflict with the scheduled telephone status conference, the representative shall promptly notify the Commission.

Dated at Madison, Wisconsin, this 7th day of February, 2002.

WISCONSIN TAX APPEALS COMMISSION

Don M. Millis, Acting Chairperson
122 West Washington Ave., #800
Madison, WI 53703
(608) 266-1391

pc: Leo E. Wanta
Attorney Neal E. Schmidt
Attorney Patricia Cameron

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THOMAS E. HENRY

1125 South 79th Street
Omaha, Nebraska 68124
Phone: 402-933-6421
E-mail: agprochina@cox.net

February 8, 2002

Mr. Don M. Millis, Acting Chairperson
Wisconsin Tax Appeals Commission
122 West Washington Ave., #800
Madison, WI 53703

One page sent Via Fax: 608-261-7060

Re: Ambassador Leo Wanta, Leo E. Wanta, Docket No. 96-I-888

Dear Mr. Millis:

Please be advised that I am associated with attorneys that are participating in various legal matters concerning Ambassador Wanta. This morning I was sent a copy of an Order signed by you dated February 7, 2002. This Order addressed several issues. I am specifically contacting you concerning the withdrawal of Attorney Cameron.

To prevent any misunderstanding and provide a clear and accurate record in this matter I would like to advise you that Petitioner did not ask Attorney Cameron to withdraw from the referenced matter. It was to our surprise that Attorney Cameron had withdrawn. Attempts are being made to have communication with Attorney Cameron and determine the reason for the action she has taken.

It is appreciated that the withdrawal of Attorney Cameron is an issue between attorney and client and further issues dealing with this situation are not the Tax Appeals Commission concerns. Petitioner is concerned about the delay in the proceedings that result from this situation. Petitioner has asked that I communicate with you and advise that action is being implemented to provide you with information regarding substitution of counsel at the earliest possible time.

Immediately upon receipt of your Order attempts were made to contact Attorney Cameron to no avail. Associates of Petitioner have made arrangement to pay attorney fees of more than a small amount of money. We are presently giving notice for return of all files and documents. If for some reason documents are not forthcoming from the attorney would it be feasible for us to make arrangement with parties to come to the office of the Tax Appeals Commission and make copies of relevant documents. I am sure that with the volume of pages completing this task at your office would amount to a large amount of money. If an alternative accommodation can be made to allow us to make copies in the interest of economics it would be most appreciated.

Thank you in advance for your considerate attention to the subject of this letter. At your earliest convenience I would like to have your response concerning copying of file materials.

Sincerely,

Thomas Henry
Legal advisor to Ambassador Wanta

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Distribution : New Republic/USA Financial Group, Ltd. Gesellschaft (Austria)
Madame Eva S Teleki, Chairperson
Dr Olga Sarantopoulos, Managing Directeur
Mr Jack Richards, Directeur – Finance Committee
Reverend Father John A O'Brien, PhD, Directeur – Finance Committee

Mr Jan Morton Heger, Esq.
Mr Thomas Eugene Henry, Esq.
Mr Gerald Salchert, Corporate Legal Advisor

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08 February 2002

Law Offices of Patricia Cameron
5454 Senegal Street
Oceanside, California, USA 92057.0000
e-mail : philajd@yahoo.com
telefax : 949.713.7230

In the matter of : Your unexpected resignation and your unilateral withdrawal of legal representation without notice – nor purpose -, among other things

Dear Patricia:

Today, I received a written correspondence from ..

State of Wisconsin
Tax Appeals Commission

Docket No. 96-I-888

Leo E Wanta, Petitioner,

ORDER

vs.

Wisconsin Department of Revenue, Respondents

Authored by : Don M Millis, Acting Chairperson
Dated : 7th day of February, 2002

Subject matter –

Original Commission's Scheduling Order of July 2, 2002

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Final brief with respect to Motion for Summary Judgment, due on February 8, 2002

February 4, 2002 – Patricia Cameron notified Commission " THAT SHE HAD BEEN ASKED BY PETITIONER TO WITHDRAW AS HIS REPRESENTATIVE IN THIS CASE."

" IN HER LETTER NOTIFYING THE COMMISSION OF HER WITHDRAWAL, ATTORNEY CAMERON WROTE THAT SHE ""ASSUME[S] ANOTHER ATTORNEY WILL BE ENTERING WITHIN A SHORT PERIOD OF TIME."

First : This petitioner, Ambassador Leo E Wanta, NEVER asked, nor written to you, Attorney Patricia Cameron TO WITHDRAW as my representative.. this is a gross misrepresentation.

Second : "Who" assumed a new attorney would be entering within a short period of time, since this lawful petitioner knows absolutely nothing about this unexpected attorney's lawless (ref: recent U. S. Supreme Court ruling) resignation and withdrawal, and certain misrepresentations to the State Tax Appeals Commission; nor have I received any copy of any legal resignation as issued unilaterally to the State of Wisconsin (USA) exclusively; as I have NEVER asked you, nor your Legal Firm to withdraw at anytime.

After speaking with Jerry Salchert, I understand that you have been paid approximately US$65,000.00, and now you have requested an additional US$20,000.00 to proceed with the State of Wisconsin – Tax Appeals Commission. I am not aware of this full situation, but do believe that an itemized billing will be prepared for the use of the US$65,000.00, and that an estimated budget for the latest US$20,000.00 was not considered by you in your unilateral withdrawal of this ongoing legal situation within the State of Wisconsin (USA).

As I have previously advised, I am very concerned that I am your legal client and it appears there are communications with third parties and despite my e-mails, telefon messages and other attempts to contact you and your law firm , and it now appears that you can not contact me directly. YES, I did receive one (1) telefon message via voice-mail concerning you being very upset – with certain U. S. Federal Court legal actions as presented to you – which I clearly authorized and reviewed. Additionally, I received one (1) telefon call where you advised me of your personal concerns that my current U. S. Federal Court activities / actions was causing certain interested people within the State of Wisconsin (USA) to withdraw.. what you believed was an imminent settlement in my favour, as verified; if I act accordingly. I never heard back from you, nor your law firm.

I hope that you are not upset that I responsibly requested that you send me any and all legal documents with court exhibits for my review prior to filing; and you are aware that I asked you – as well as Jerry Salchert has – that you send me the latest Tax Appeal Commission documents, including those state documents just received from State

Attorney Neil Schmidt, your banking/banque correspondence, visitations and current account status, among other pertinent information, and to date I have received absolutely nothing; however, in the past the court and state documents you did file with the State of Wisconsin (USA), and later mailed only to Jerry Salchert did not contain the final legal verbiage, nor were they endorsed by you, or your law firm for my perusal and personal understanding, allowing any of my personal and legal corrections/summations, if any.

Having Said That, you and your law firm have put my back against the Judicial Wall. In the past I was not sure what course of legal action I would have taken to understand the lawless conduct of state agent provocateurs to illegally COLLECT non-residency and bogus civil/corporate tax assessments/tax liabilities by state extortion, kidnapping, drugging, lawless extradition from Switzerland, New York, Wisconsin, Oklahoma, and back to the State of Wisconsin (USA), inter alia, ... all for the civil tax assessment of USDollars 0.15 [fifteen cents] for 1986-1989 inland revenue periods [per state exhibits/documentations in your immediate possession and perusal]; clearly as I am not legally liable for any State of Wisconsin (USA) personal/ corporate tax liabilities. TODAY, to my advantage one, two or more alternatives are readily available to me and great progress is being made to my benefit on several fronts.

I understand that Jerry Salchert has or will be contacting you and your law firm to make arrangements to forward all of my records, files, documents, writings, contracts/ agreements, memorandum of understandings, power(s) of attorney, banque/banking documentation, etc., that pertain to my alleged civil/criminal tax case and other matters – such as corporate documents, banking information and related documents, tax records, court exhibits and documentation – pursuant to our specific instructions.

Since you are no longer – due to your unilateral resignation/withdrawal within the client/ attorney relationship, I now need to advise you and your law firm, that I grant you and your law firm no permission to maintain any copies of any documents – personal and corporate. It makes no difference from where of / from whom you and your law firm received said documents. If you or your law firm received any exhibits and/or documents from Dr Gregory Sali, Jerry Salchert, Jack Richards, Jan Morton Heger, Bill Ian Jurow, Washington, DC, State of Wisconsin, Peking/Beijing, Madame Eva S Teleki, Bierut, Banks/Banques, Attorneys-Barristers-Solicitors, Brokers/Agents, Friends/Associates, et al, that I expect you and your law firm's immediate and full compliance with my legal requests.

Thank you for your assistance in this urgent and political/sensitive matter.

Sincerely yours,

Via e-mail signature

Ambassador Leo E Wanta, Diplomatic Passports No. 04362 and 12535
LEW:fi

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No. 02- 1544

IN THE

Supreme Court of the United States

AMBASSADOR LEO WANTA, SOMALIA AMBASSADOR TO CANADA AND SWITZERLAND, ddp#-04362 & 12535, aka LEE E. WANTA, aka LEO E. WANTA,

Petitioner,

v.

SECRETARY RICHARD G. CHANDLER, WISCONSIN DEPARTMENT OF REVENUE; *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

THOMAS E. HENRY
1125 South 79th Street
Omaha, NE 68124
(402) 933-6421

STEVEN D. GOODWIN
GOODWIN, SUTTON & DUVAL, PLC
Old City Hall, Suite 350
1001 East Broad Street
Richmond, VA 23219
(804) 643-0000

Counsel for Petitioner

179221

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

Facsimile transmission to: 011 331 645 49640

Paris Europe Import-Export S.a R.L.
40, Av. Pierre Brossoletee
91380 Chilly-Mazanine

March 15, 1995

Ref: Ambassador Leo E. Wanta
Somali gold bullion

Dear Sirs:

Please be advised that Ameritrust continues to hold 167 metric tons of gold bullion at UBS and USD243 M in trust. Ambassador Wanta, as chairman-designate of Somali Central Bank wishes to be urgently contacted regarding disposition of the above.

Ambassador Wanta urgently needs to know the whereabouts of Mr. Haji Mohamed Hashi Heyle, Mrs. Erika Ruffo and Mr. Pierreluigi Ruffo.

Please contact Ambassador Wanta in the United States via 414 999-2157 (telephone) or 414 999-2114(fax).

Yours truly,

Gerald J. Salchert
(for Ambassador Leo E. Wanta)

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Item 2, p3

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* Exhibit B3 *

June 3rd 1992

AFFIDAVIT
AND
COMPLAINT CERTIFICATION

THE UNDERSIGNED, being first duly sworn and being of sound mind and body makes the following statements, declarations and representations knowing that the same are given under penalty of "Perjury":

1. I am more than eighteen (18) years of age and I am the same individual named as the Plaintiff in the Complaint for Specific Performance and Alternatively for Breach of Contract to which this Affidavit is being attached as Exhibit A. It is understood that the subject Complaint along with this Exhibit A will be filed in the United States District Court for the Eastern District of Virginia.

2. This Affidavit is being prepared with my full understanding that it will be offered to the Court as part of the case filing and the Court will consider the statements, declarations and representations contained herein in the same manner as if I was being "sworn in" to testify personally before the Court.

3. I have had an opportunity to participate in the preparation of the Complaint to which this Affidavit is attached. I am fully advised by counsel and aware that this Affidavit will be attached as Exhibit A to the Complaint and filed on my behalf with the Court and offered to the Court for consideration.

4. At all times pertinent to the causes of action set forth in the Complaint I was and am an agent, employee, fiduciary and/or quasi independent contract agent/employee of the United States Government. The work with the United States Government included relationships with one or more agencies including but not limited to The United States Treasury, United States Department of Justice, Central Intelligence Agency, the Executive offices of the President and Vice President and other bureaus, agencies and affiliate organizations of the named parties.

5. During the course of my affiliation/association with the United States Government I organized and operated several Title 18 United States Code Section 6 Government proprietary corporations.

6. In April and May of 1992 I completed negotiations with the United States Government that resulted in the formation, adoption and execution on or about May 1, 1992 of a document that

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is generally and commonly referred to as the 1992 KOK/WANTA/USG TAX TREATY. This is the same document that is referred to in the subject Complaint as the Tax Treaty Agreement. I am personally aware of the location of said Agreement and have requested counsel to file this Complaint without a copy of said Agreement attached. I have further instructed counsel to request the Court to facilitate production of said Tax Treaty in a manner that considers the implication of the applicable provisions of the National Security Act of 1947.

7. I am familiar with all matters stated in Complaint to which this Affidavit is attached as Exhibit A and do hereby confirm that the claims and assertions made therein are true and accurate to the best of my knowledge and belief.

IN WITNESS WEREOF, I hereby execute and confirm the truth and veracity of the matters set forth in this Affidavit consisting of two (2) pages this 30th day of ~~September~~ August 2002.

Ambassador Leo E. Wanta, aka Lee E. Wanta, aka Leo E. Wanta

NOTARY CERTIFICATION

State of Wisconsin)

) ss.

County of Chippewa)

On this 30th day of ~~September~~ August a person identifying himself as Ambassador Leo E. Wanta with identification showing a picture of the same person appearing before me, showing a name of Leo E. Wanta, after being first duly sworn, executed the above document consisting of two (2) pages and placed his initials on the first page and in my presence placed his signature on the second page.

My commission expires: 7-23-06

Terri M. Hutson

Notary Public signature/seal

TERRI M. HUTSON NOTARY PUBLIC STATE OF WISCONSIN

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PUBLISHED OPINION

COURT OF APPEALS

DECISION

DATED AND FILED

NOTICE

February 4, 1999

Marilyn L. Graves

Clerk, Court of Appeals

of Wisconsin

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No. 98-0318-CR
STATE OF WISCONSIN **IN COURT OF APPEALS**

DISTRICT IV

State of Wisconsin,

Plaintiff-Respondent,

v.

Leo E. Wanta,

Defendant-Appellant.

APPEAL from a judgment and orders of the circuit court for Dane County: MICHAEL B. TORPHY, Judge. *Affirmed.*

Before Vergeront, Roggensack and Deininger, JJ.

ROGGENSACK, J.Leo Wanta appeals from his conviction of two counts of intentionally filing

false and fraudulent Wisconsin individual income tax returns with intent to evade the income tax due in violation of §71.83(2)(b)1., Stats., and four counts of intentionally concealing property upon which levy was authorized with the intent to evade the collection of taxes in violation of §71.83(2)(b)3. Wanta claims that his conviction should be overturned for the following reasons: (1) Section 971.14(4)(b), Stats., unconstitutionally requires proof of incompetence by clear and convincing evidence when an accused claims he is competent; (2) the evidence does not support his convictions; (3) venue was improperly maintained in Dane County; (4) the circuit court failed to give the jury sufficient instructions to afford him a fair trial; (5) he was denied the effective assistance of counsel; (6) he was denied counsel of his choice; and (7) he has paid the amount owed. We conclude that no appealable error was committed and therefore, we affirm.

BACKGROUND

In 1988, Wanta allegedly kept money he received in the name of a corporation he controlled, New Republic/USA Financial Group, Ltd. (New Republic), and made payments from the corporate accounts for his own benefit. The Department of Revenue (DOR) suspected that Wanta used the New Republic name to avoid collection of outstanding tax warrants against him for the back taxes of Falls Vending Company, a company with which Wanta had been associated in the early 1980's.

DOR received Wanta's 1988 and 1989 state tax returns in June 1991. The 1988 return contained no entry for federal adjusted gross income. Wanta attached federal form 4868 to his state return. On line one of form 4868, Wanta entered a "0" to indicate his federal tax liability for 1988. Wanta's 1989 state tax return contained a dash on the line designated as federal adjusted gross income. Wanta and his wife signed all of the returns, indicating that the information was "true, correct and complete."

On May 8, 1992, the State charged Wanta with two counts of filing false tax returns to evade 1988 and 1989 taxes and with four counts of concealing property upon which levy was authorized. Prior to the preliminary hearing, because the issue of Wanta's competency had been raised, the court ordered a competency evaluation which was completed by Dr. Parikh. At the first competency hearing held on March 10, 1994, Wanta asserted that he was competent. Dr. Parikh's report, which concluded that Wanta was competent, was presented, and both Wanta's attorney and the State waived the presentation of additional evidence regarding competency. The circuit court found Wanta competent to stand trial.

On June 22, 1994, two weeks prior to the then scheduled trial date, Wanta's second attorney, John Chavez, filed a motion to withdraw as counsel. The court denied the motion, reasoning that it would not release Chavez until the court was certain that successor counsel had been secured.

On June 24, 1994, the court ordered a second competency evaluation, after Chavez filed a motion asserting that Wanta was unable to assist in his own defense. At the second competency hearing on July 13, 1994, Dr. David Mays concluded that Wanta was incompetent. Dr. Mays noted Wanta's grandiose and unbelievable claims and doubted whether Wanta could "transcend his delusional disorder to the extent that he is able to work with his attorney to provide a plausible defense to present in court." Because Wanta again asserted that he was competent, the court noted that the State bore the burden of proving his incompetence by clear and convincing evidence. The next day the court found Wanta incompetent and ordered him committed to the Wisconsin Department of Health and Social Services (DHSS)[1], pursuant to §971.14(5), Stats.

On November 4, 1994, the court held a third hearing on competency, at which Wanta again

claimed he was competent; Dr. Mays again testified that in his opinion Wanta was not competent. The court again found Wanta incompetent and continued his commitment. On February 3, 1995, the court held a fourth competency hearing. Prior to the hearing, the court, counsel for the State and counsel for Wanta all had received a report from Dr. Lee, who had recently examined Wanta. Both the State and Wanta's attorney waived the opportunity to present additional evidence. Wanta continued to maintain he was competent. Relying on an evaluation letter from Dr. Lee, who was of the opinion that Wanta could appreciate the charges against him; assist in his own defense; and if found guilty, understand the consequences, the court found Wanta competent to proceed to trial, thereby releasing him from commitment to DHSS.

On May 2, 1995, the court heard another motion to withdraw filed by Chavez and a motion from Attorney Steven Epstein conditionally requesting to be substituted as Wanta's counsel, if the court would reschedule the trial date to give Epstein time to prepare. The court denied both motions.

On May 8, 1995, Wanta's four-day trial commenced. DOR agent Dennis Ullman testified for the State. Using a simple method of showing actual payments to or on behalf of Wanta from a New Republic bank account, Ullman demonstrated that Wanta had taxable income in 1988 and 1989. Wanta was the only defense witness. He testified that he never intentionally filed fraudulent tax returns; that he had no income between 1986 and 1989, but survived by borrowing and selling personal property; that money received and vehicles purchased were for his business; that he was not a resident of Wisconsin in 1989; and that he was not liable for the Falls Vending taxes because he was not the owner of the company. Wanta's testimony also included grandiose and unbelievable claims.

The jury convicted Wanta on all six counts. On September 20, 1995, Wanta's new attorney, Epstein, again expressed concern about Wanta's competency, even though Wanta still asserted that he was competent. The court ordered a fifth competency evaluation. On October 27, 1995, a competency hearing was held and the court admitted the reports of Doctors Van Rybroek, Friedman and Treffert. No other evidence was presented. On October 30, 1995, the court issued an opinion concluding that Wanta was competent.

On November 20, 1995, the court sentenced Wanta to two years in prison on Counts 3 through 6, to run consecutively, for a total of eight years and imposed a six-year consecutive probation sentence on Counts 1 and 2. On June 3, 1996, the court ordered Wanta to reimburse the State Public Defender $4,167.64 for the cost of legal representation. The court also ordered Wanta to pay restitution of $24,900.91, which did not include Wanta's payment of $14,129 applied to a civil fraud penalty. On January 23, 1998, the court reduced the total restitution to $14,128.10 because the original amount erroneously included interest. The court denied Wanta's postconviction motions, and this appeal followed.

DISCUSSION

Standard of Review.

This case presents several questions reviewed under various standards. We review challenges to the sufficiency of the evidence necessary to support a verdict *de novo*, applying the same standards as the circuit court. *Lily R.A.P. v. Michael J.W.*, 210 Wis.2d 132, 140, 565 N.W.2d 179, 183 (Ct. App. 1997). We will not reverse a conviction unless, considering all credible evidence and reasonable inferences therefrom in the light most favorable to the State, there is no credible evidence to sustain a finding of guilt beyond a reasonable doubt. *See* §805.14(1), Stats.

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In contrast, we review challenges to the constitutionality of a statute without deference to the decision of the circuit court. *State v. Smith*, 215 Wis.2d 84, 90, 572 N.W.2d 496, 497 (Ct. App. 1997).

Whether counsel's actions constitute ineffective assistance is a mixed question of law and fact. *State ex rel. Flores v. State*, 183 Wis.2d 587, 609, 516 N.W.2d 362, 368-69 (1994) (citing *Strickland v. Washington*, 466 U.S. 668, 698 (1984)). The circuit court's findings of fact will not be reversed, unless they are clearly erroneous. *State v. Pitsch*, 124 Wis.2d 628, 634, 369 N.W.2d 711, 714-15 (1985); §805.17(2), Stats. However, ultimately whether counsel's conduct violated Wanta's right to effective assistance of counsel is a legal determination, which this court decides without deference to the circuit court. *State v. (Oliver) Johnson*, 133 Wis.2d 207, 216, 395 N.W.2d 176, 181 (1986).

Whether a factual basis exists for appointing new counsel is within the discretion of the circuit court. *State v. Kazee*, 146 Wis.2d 366, 371, 432 N.W.2d 93, 96 (1988). It is also within the circuit court's discretion to order restitution. *State v. Monosso*, 103 Wis.2d 368, 378, 308 N.W.2d 891, 896 (Ct. App. 1981). When we review a discretionary decision, we examine the record to determine if the circuit court logically interpreted the facts, applied the proper legal standard, and used a demonstrated rational process to reach a conclusion that a reasonable judge could reach. *State v. Keith*, 216 Wis.2d 61, 69, 573 N.W.2d 888, 892-93 (Ct. App. 1997).

Competency.

Wanta contends that when a defendant claims to be competent at the start of an evidentiary hearing held to determine his competence to stand trial, §971.14(4)(b), Stats.,[2] violates due process and equal protection because it requires proof by clear and convincing evidence that the defendant is incompetent. He contends that this burden of proof, even though it is allocated to the State and not to the defendant, is contrary to the holding in *Cooper v. Oklahoma*, 517 U.S. 348 (1996), because it allows defendants who are more likely than not incompetent to stand trial.

Wanta does not argue that there was proof offered at the February3rd hearing which would have supported a finding that he was more likely than not incompetent, nor does he contest that the only evidence offered at the February 3rd hearing supported the circuit court's finding of competency. Therefore, based on his contentions and the evidence before the court, we interpret Wanta's challenge to the constitutionality of §971.14(4)(b), Stats., as a facial challenge wherein he seeks to strike down all possible applications of the statute when a defendant's competency has been called into question in the course of a criminal proceeding, and the defendant claims to be competent. *See Bowen v. Kendrick*, 487 U.S. 589, 600 (1988). In a facial challenge to the constitutionality of a statute, the challenger must establish, beyond a reasonable doubt, that there are no possible applications or interpretations of the statute which would be constitutional. *United States v. Salerno*, 481 U.S. 739, 745 (1987); *State v. Carpenter*, 197 Wis.2d 252, 263, 541 N.W.2d 105, 109 (1995).

Wanta's equal protection challenge requires him to show that those similarly situated are treated differently. *State v. Post*, 197 Wis.2d 279, 318, 541 N.W.2d 115, 128-29 (1995). Generally, the Equal Protection Clause of the United States Constitution[3] prohibits discrimination based on certain invidious classifications, but it does not, in and of itself, create substantive rights. *Lutz v.*

City of York, 899 F.2d 255, 265 (3rd Cir. 1990). The classification Wanta sets out is not a suspect classification, such as one based on race, but rather, it is one which he contends disfavors defendants in competency proceedings who maintain they are competent, as compared with defendants in competency proceedings who do not.

Wanta also contends that a defendant in a criminal trial has a fundamental right not to be tried when incompetent. We agree. Under *Cooper* and state statutes, a defendant cannot be tried unless he "`has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding ... [and] a rational as well as factual understanding of the proceedings against him.'" *Cooper*, 517 U.S. at 354 (citations omitted); §971.13(1), Stats.[4] While the prohibition against trying an incompetent defendant is deeply rooted in our common-law heritage, making competence to stand trial in a criminal proceeding a fundamental right requiring due process protections, it is not the only fundamental right at issue in a competency proceeding. A defendant who is adjudicated incompetent to stand trial may be deprived of his liberty.[5] A deprivation of liberty for any purpose impinges on a fundamental right. *Post*, 197 Wis.2d at 302, 541 N.W.2d at 122 (citations omitted); *Addington v. Texas*, 441 U.S. 418, 425 (1979).

When a defendant in a competency proceedings asserts his fundamental right to liberty, the trial is to the court and the State has the burden of proving incompetency by clear and convincing evidence before it can deprive a defendant of his liberty. Section 971.14(4)(b), Stats. By comparison, in a civil commitment proceeding, one has the right to a jury trial and the petitioner bears the burden of proving by clear and convincing evidence all the elements necessary to commitment. Sections 51.20(11) and 51.20(13)(e), Stats. It is no accident that the burden of proof required to deny one's liberty is the same. The legislative history surrounding Wisconsin's competency statute shows that in drafting §971.14(4)(b), the legislature recognized and attempted to protect two competing fundamental rights of a defendant, which are both at risk when a defendant's competency is called into question during a criminal proceeding: (1) the fundamental right not to be prosecuted when incompetent; and (2) the fundamental right not to be deprived of liberty without due process of law. Judicial Council Committee Note, 1987 A.B. 71.[6] Therefore, although we examine §971.14(4)(b) under the strict scrutiny standard Wanta requests, we do so with consideration for both fundamental rights. *See Doering v. WEA Ins. Group*, 193 Wis.2d 118, 130, 532 N.W.2d 432, 436 (1995); *see also Post*, 197 Wis.2d at 319, 541 N.W.2d at 129.

There is no fundamental right to specify the exact procedures which a State must use during a competency proceeding. *Cooper*, 517 U.S. at 355. Therefore, it is within a State's purview to establish the specific procedures to be used, so long as they are "sufficiently protective" of the right not to be criminally tried while incompetent. *Id.* at 367-68. One such procedure is the allocation of the burden of proof. *Id.* For example, a State may presume that a defendant is competent and require him to prove incompetence by a preponderance of the evidence. *Medina v. California*, 505 U.S. 437, 449 (1992). In *Cooper*, the Supreme Court held that a State may not require a defendant who claims he is incompetent to prove his incompetency by clear and convincing evidence because to do so would permit a State to "proceed with a criminal trial after the defendant has demonstrated that he is more likely than not incompetent." *Cooper*, 517 U.S. at 355.

As a procedural device, the function of the burden of proof is to:

> `instruct the factfinder concerning the degree of confidence our society thinks [it] should have in the correctness of factual conclusions for a particular type of adjudication.' ... The standard

> serves to allocate the risk of error between the litigants and to indicate the relative importance attached to the ultimate decision.

Addington, 441 U.S. at 423 (quoting *In re Winship*, 397 U.S. 358, 370 (1970) (Harlan, J., concurring)). Like the statutes at issue in *Medina* and *Cooper*, the Wisconsin competency statute regulates procedural burdens.

> If a defendant maintains he is incompetent or stands mute, the State bears the burden of proving competency by the greater weight of the evidence, and if a defendant maintains he is competent, the State bears the burden of proving he is incompetent by clear and convincing evidence. We note that if the State were to have the burden of proving a defendant incompetent by only the greater weight of the evidence, when he chooses to assert his fundamental right to liberty, the risk of depriving a competent defendant of his fundamental right to liberty would be increased. *Addington*, 441 U.S. at 423. Therefore, for the class of defendants who are competent and assert their fundamental right to liberty, the burden established by §971.14(4)(b), Stats., is clearly constitutional.
>
> Wanta would have us ignore the fundamental rights of this class of defendants because he contends the burden of proof which was established specifically to protect their fundamental rights unduly increases the risk that an incompetent defendant who claims to be competent will be subject to criminal prosecution. However, his argument ignores all of the other protections §971.14(4)(b), Stats., provides to an incompetent defendant, such as: (1) the presumption of incompetence if a defendant either stands mute or asserts his incompetence; (2) the placement of the burden of proof on the State; and (3) the favorable burden of proof for that class of defendants. He also contends that in *Cooper*, the court rejected the argument that the heightened burden of proof was necessary to avoid the injustice of involuntary commitment after a finding of incompetency to stand trial. However, in *Cooper* the court did not weigh the fundamental right to liberty of one who asserts that right against the fundamental right not to be tried while incompetent, although it did cite, with approval, Wisconsin's allocation of the burden of proof to the State. *Cooper*, 517 U.S. at 362 n.18. Therefore, *Cooper* is not dispositive of the constitutional issues Wanta raises.
>
> Notwithstanding *Cooper*, we acknowledge the tension within the statute that Wanta identifies. However, the clear and convincing burden of proof set out in §971.14(4)(b), Stats., cannot be examined in isolation. Rather, it is part of a statutory scheme addressing the competency of defendants in criminal prosecutions. The statute is narrowly tailored to achieve the State's interest in prosecuting competent criminal defendants and in restoring the competency of those who are incompetent as soon as practicable, while being sufficiently protective of a defendant's fundamental right to liberty, when he asserts his competency and an incompetent defendant's fundamental right not to be tried while incompetent. *See Post*, 197 Wis.2d at 302, 541 N.W.2d at 122; *see also State ex rel. Matalik v. Schubert*, 57 Wis.2d 315, 324, 204 N.W.2d 13, 17 (1973). Therefore, we conclude that Wanta has not met his burden to prove beyond a reasonable doubt that §971.14(4)(b), violates either equal protection or due process.

Sufficiency of the Evidence.

> Wanta contends that the evidence was not sufficient to prove that he: (1) made false statements on his tax returns, and (2) concealed property to evade levy for taxes due.

1. False statements on tax returns.

To support a charge of filing false income tax returns in violation of §71.83(2)(b)1., Stats., the State had to prove that Wanta intended to report zero income on his tax returns and that Wanta had income in 1988 and 1989, thereby making the statements on his tax returns false.

Wanta claims that the blank spaces and dashes on the lines for "Federal adjusted gross income" on his 1988 and 1989 tax returns were unresponsive answers on their face, but were untrue only by negative implication; and therefore, they were not intentionally false statements. In support of this argument, Wanta cites *United States v. Reynolds*, 919 F.2d 435 (7th Cir. 1990), and *United States v. Borman*, 992 F.2d 124 (7th Cir. 1993). His reliance on those cases is misplaced. In *Reynolds*, the defendant filed form 1040EZ and in *Borman*, the defendant filed form 1040A. In each case, the court concluded that the statements on the forms were not false because the forms did not require disclosure of the types of income that the defendants failed to disclose. Therefore, the charges of filing false income tax returns were not warranted. *Reynolds*, 919 F.2d at 437; *Borman*, 992 F.2d at 126. Because the defendants filed the wrong forms thereby concealing certain taxable income, the government could have filed charges of tax evasion or failure to supply information required by law. *Reynolds*, 919 F.2d at 437. However, unlike the returns that the defendants filed in *Reynolds* and *Borman*, the tax returns that Wanta filed required disclosure of all income; therefore, his representation that he had no income was false, in violation of §71.83(2)(b)1., Stats.

Furthermore, the jury could reasonably infer that Wanta had reported zero income on his 1988 and 1989 tax returns. Wanta attached federal form 4868 to the 1988 state form, and Wanta had typed a "0" on the line for "Total tax liability for 1988" on the federal form. Wanta and his wife signed both the state and federal forms indicating that the form and all attachments were "true, correct and complete." Wanta also stated his intentions on several occasions. When Ullman interviewed Wanta in June 1991 about his failure to report any income for 1988 and 1989, Wanta told Ullman that the entries on his tax forms indicated that he had no income for those years. Wanta admitted the statements he made to Ullman, at trial.

Wanta also contends that the State did not prove that he received any income for 1989 because the State did not present sufficient evidence to show that the sum of his expenses and disbursements exceeded his reported income for the year. However, contrary to Wanta's assertion, the State did not use a "cash expenditure" method to prove his income in 1989. Instead, the State used a much simpler "specific items" method, whereby Ullman presented evidence that various amounts of money were paid either to Wanta or on his behalf from the New Republic bank account in 1989. Based on this evidence, the jury could have reasonably concluded that Wanta received income in 1989 and that he failed to report that income on his 1989 state income tax return.

2. Concealed property.

The State established that Wanta knew DOR was attempting to find assets against which to levy and that Wanta attempted to conceal such assets from DOR. Tax agent Dennis Wogsland testified that in 1988 he called Wanta and also stopped at his house to discuss payment of Wanta's delinquent taxes. At that time, Wogsland determined that he could not seize Wanta's truck because the truck was registered in the name of Wanta's son.

Shortly after Wogsland's visit, Wanta began to make purchases in the name of New Republic. In December 1988, Wanta purchased bedroom furniture from Big Sur waterbeds, with a New Republic check and an invoice made out to New Republic. The State presented evidence and

argued that the Big Sur sales clerk must have been specifically instructed to show New Republic as the purchaser because the check that Wanta used to pay for the furniture did not include New Republic's address and the invoice did. Therefore, argued the State, the clerk could not have simply copied New Republic's address from the check. And, in January 1989, Wanta purchased the pick-up truck from his son using a corporate check. The title and registration were placed in the name of New Republic. Based on this evidence, the jury could reasonably infer that Wanta knew DOR was searching for leviable assets and that he intended to conceal his ownership interest by using New Republic as purchaser and owner of the property.

Venue.

Wanta argues that the State did not establish facts sufficient to warrant venue in Dane County on the charges of concealing property to avoid levy because it failed to present evidence that any of the property at issue was ever located in Dane County. Wanta claims that he raised this issue on his own motion before the circuit court while he was represented by counsel. While a defendant has a constitutional right to be represented at trial, he has no constitutional right to concurrent self-representation and representation by counsel. *Moore v. State*, 83 Wis.2d 285, 297-302, 265 N.W.2d 540, 544-47 (1978); *see also State v. Debra A.E.*, 188 Wis.2d 111, 138, 523 N.W.2d 727, 737 (1994). Therefore, the circuit court did not erroneously exercise its discretion by deciding not to consider Wanta's pro se objection because he was represented in the proceedings by counsel. *See Moore*, 83 Wis.2d at 301-02, 265 N.W.2d at 546-47. However, Wanta could have brought his concerns about venue and the charges brought pursuant to §71.83(2)(b)3., Stats., to the attention of circuit court through counsel. Because he did not do so, he has waived the appeal of this issue. *See Dolan v. State*, 48 Wis.2d 696, 703, 180 N.W.2d 623, 626 (1970).

Jury Instructions.

At the circuit court's jury instruction conference, Wanta failed to request jury instructions beyond those submitted by the State and the court. Additionally, he did not object to the State's proposed instructions. Therefore, we conclude Wanta has waived the appeal of this issue. *State v. Schumacher*, 144 Wis.2d 388, 409, 424 N.W.2d 672, 680 (1988).

Ineffective Assistance of Counsel.

The right to effective assistance of counsel stems from the Sixth Amendment to the United States Constitution and Article I, Section 7 of the Wisconsin Constitution, which guarantee a criminal defendant a fair trial. *See Strickland*, 466 U.S. at 684-86; *State v. Sanchez*, 201 Wis.2d 219, 227-28, 548 N.W.2d 69, 72-73 (1996). The test for ineffective assistance of counsel has two prongs: (1) a demonstration that counsel's performance was deficient, and (2) a demonstration that the deficient performance prejudiced the defendant. *Strickland*, 466 U.S. at 687. The defendant has the burden of proof on both components of the test. *Id.* at 688.

To prove deficient performance, a defendant must establish that his or her counsel "made errors so serious that counsel was not functioning as the `counsel' guaranteed the defendant by the Sixth Amendment." *State v. (Edward) Johnson*, 153 Wis.2d 121, 127, 449 N.W.2d 845, 847 (1990) (citing *Strickland*, 466 U.S. at 687). A defendant must also overcome a strong presumption that his or her counsel acted reasonably within professional norms. *Id.* To satisfy the prejudice prong, a defendant usually must show that counsel's errors were serious enough to render the resulting conviction unreliable. *Strickland*, 466 U.S. at 687.

Wanta argues that Chavez was ineffective in: (1) failing to present a defense; (2) failing to renew the competency issue; and (3) failing to renew his motion to withdraw. Contrary to Wanta's assertion, this case does not present complex tax issues. Rather, it addresses factual issues such as whether Wanta intentionally evaded paying his taxes. In regard to the issue of intent, and based on Wanta's testimony that he did not think he had any taxable income, Chavez argued that Wanta did not intentionally file a false return under §71.83(2)(b)1., Stats. Additionally, Chavez explained that he did not present the defenses that no taxes were due because Wanta was not a Wisconsin resident and because the money he spent was obtained from loans, as those defenses were not supported by credible evidence. This was a strategic decision, not ineffective assistance, as Wanta suggests. *Cf. State v. Felton*, 110 Wis.2d 485, 329 N.W.2d 161 (1983) (defense counsel ineffective for failing to consider the defense of manslaughter in a homicide case because he was unaware of the law).

Additionally, Chavez was not ineffective in failing to revisit the competency issue after the circuit court found Wanta competent to stand trial in February 1995. The record reveals no new evidence concerning Wanta's competence between February and the trial. Therefore, Chavez had no reason to doubt the most recent competency determination and absent reasonable doubt, he was not required to again raise the issue of Wanta's competency. *See (Oliver) Johnson*, 133 Wis.2d at 219-20, 395 N.W.2d at 182. Finally, Chavez was not ineffective in failing to renew his motion to withdraw. If substitute counsel became available, the court said it would reconsider its decision; however, the record does not reflect that substitute counsel was ever available in a timely fashion that would have obviated the need for further delays.

Given the limits Chavez described as having been placed on him due to Wanta's proposed defense, inconsistent testimony, and failure to cooperate in developing credible evidence, Chavez demonstrated representation which was reasonable and within professional norms. He adequately developed the most prudent defenses and did not continue to raise previously denied motions when circumstances underlying the denials had not changed. Therefore, his performance was not defective.

Substitution of Counsel.

The sixth amendment guarantee of assistance of counsel includes a qualified right to representation by counsel of the accused's choice. *State v. Miller*, 160 Wis.2d 646, 652, 467 N.W.2d 118, 119 (1991). Wanta contends that he was unconstitutionally denied his choice of counsel when the circuit court denied Chavez's June 22, 1994 motion to withdraw, Chavez's May 2, 1995 motion to withdraw, and Epstein's May 2, 1995 motion for substitution and adjournment. In evaluating whether the circuit court properly denied these motions for withdrawal and substitution of counsel, we address three considerations: (1) the adequacy of the court's inquiry into a defendant's complaint; (2) the timeliness of the motion; and (3) whether the alleged conflict between a defendant and his attorney was so great that it likely resulted in a total lack of communication that prevented an adequate defense and frustrated a fair presentation of the case. *State v. Lomax*, 146 Wis.2d 356, 359, 432 N.W.2d 89, 90 (1988).

With regard to the first consideration, there may be instances in which the court may make a decision without a full inquiry into a defendant's reasons for requesting a change of counsel. *Id.* at 361, 432 N.W.2d at 91. If a defendant repeatedly makes such requests without presenting evidence of the attorney's incompetency or conflict, the circuit court may summarily conclude without a full inquiry that the request is merely a ploy to disrupt the trial process. *Id.* With regard to the third consideration, to warrant substitution of appointed counsel, a defendant must show good cause, such as conflict of interest, a complete breakdown in communication or an

irreconcilable conflict which leads to an apparently unjust verdict. *State v. Robinson*, 145 Wis.2d 273, 279, 426 N.W.2d 606, 609 (1988). Mere disagreement over trial strategy does not constitute good cause to require the court to permit an appointed attorney to withdraw. *Id.* at 278, 426 N.W.2d at 609. In addition, the right to counsel cannot be manipulated in order to obstruct the processing of the case by the courts or to interfere with the administration of justice. *State v. Clifton*, 150 Wis.2d 673, 684, 443 N.W.2d 26, 30 (Ct. App. 1989).

When deciding whether to grant or deny a request for substitution with the associated request for continuance, the circuit court must balance a defendant's constitutional right to counsel of choice against the societal interest in prompt and efficient administration of justice. *Lomax*, 146 Wis.2d at 360, 432 N.W.2d at 91. Several factors assist in balancing the relevant interests: the length of delay requested; whether there is competent counsel presently available to try the case; whether other continuances have been requested and received by the defendant; the convenience or inconvenience to the parties, witnesses and the court; whether the delay seems to be for legitimate reasons or whether its purpose is dilatory. *Id.*

In denying Chavez's June 1994 request to withdraw as counsel, the court considered Chavez's stated reasons, as well as Wanta's claim to have private counsel, even though none appeared at the hearing. The court also considered the fact that Chavez was available and prepared to try the case. Therefore, the court's conclusion that under the circumstances it would consider a motion for withdrawal and substitution only if the Public Defender's office found new counsel for Wanta was not clearly erroneous.

In May 1995, Chavez again moved to withdraw, alleging the same conflicts as those in his earlier motion, and Attorney Epstein moved to be substituted, conditioned upon adjournment of trial. The court denied both motions, noting the history of delay in the case, the nonmandatory nature of the request for withdrawal, Wanta's prior, unfounded claims that he had secured alternative counsel, and the proximity to trial. Based on the history of the case and the fact that Wanta's position was adequately addressed by his affidavit attached to the motion to adjourn and by Epstein's comments at the hearing, the court properly exercised its discretion when it denied the motions for withdrawal and substitution.

Restitution.

The validity and reasonableness of restitution is measured by how well it serves to effectuate the objectives of probation. *Monosso*, 103 Wis.2d at 378, 308 N.W.2d at 896. Such objectives include rehabilitation, protection of the public, and making the victim whole. *Id.*; *State v. Heyn*, 155 Wis.2d 621, 629, 456 N.W.2d 157, 160 (1990). With regard to delinquent taxes, a person found guilty of tax evasion may be assessed a penalty in an amount equal to 100% of the entire underpayment. Section 71.83(1)(b)1., Stats. Payments made by a defendant, as restitution or otherwise, are first applied to penalties. Section 71.74(15), Stats.

Based on the applicable statutes and principles underlying restitution, the court properly applied Wanta's $14,129 payment to the civil fraud penalty. DOR was authorized to assess such a penalty under §71.83(1)(b)1., Stats., and it properly applied the payment to the penalty instead of the tax principle pursuant to §71.74(15), Stats. In addition, the assessment of a penalty, although not necessary to make a victim whole, furthers the objectives of rehabilitation and protection of the public by forcing a defendant to take responsibility for his actions. Therefore, the circuit court did not err when it ordered restitution of $14,128.10, the amount still owed after subtracting the $14,129 payment made by Wanta.

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CONCLUSION

For the forgoing reasons, we conclude that Wanta's convictions were based on constitutional statutes, credible evidence, proper performance of defense counsel and reasonable decisions of the circuit court.

By the Court.-Judgment and orders affirmed.

Recommended for publication in the official reports.

1 The Department of Health and Social Services is now the Department of Health and Family Services.

2 Section 971.14(4)(b), Stats., states in relevant part:

> If the defendant stands mute or claims to be incompetent, the defendant shall be found incompetent unless the state proves by the greater weight of the credible evidence that the defendant is competent. If the defendant claims to be competent, the defendant shall be found competent unless the state proves by evidence that is clear and convincing that the defendant is incompetent.

3 The Wisconsin Supreme Court has applied the same interpretation to the Equal Protection Clause found in Article I, §1 of the Wisconsin Constitution as that given to the federal constitutional provision. *State v. Post*, 197 Wis.2d 279, 318 n.21, 541 N.W.2d 115, 128 n.21 (1995).

4 Section 971.13(1), Stats., states: "No person who lacks substantial mental capacity to understand the proceedings or assist in his or her own defense may be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures."

5 A defendant who is found incompetent may be involuntarily committed, while he receives treatment and an assessment is made whether his competency can be restored. Section 971.14(5), Stats. This is precisely what happened to Wanta. And after twelve months, if a defendant's competency has not been restored, he may be subjected to a civil commitment proceeding. Section 971.14(6)(b).

6 "When the defendant claims to be competent, the state should establish incompetency by clear and convincing evidence because the determination affects the defendant's liberty interests." Judicial Council Committee Note, 1987 A.B. 71 (citing 51.20(13)(e), Stats., and *Addington v. Texas*, 441 U.S. 418 (1979)).
