

WILLIAM J. BENSON, Plaintiff, v. UNITED STATES OF AMERICA, JOAN BAINBRIDGE SAFFORD, TONY MORTON, ANN MARIE KLAPRAT, and UNKNOWN CONSPIRATORS JOHN DOE 1, 2, 3, etc., Defendants.

Case No. 96 C 7886

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

969 F. Supp. 1129; 1997 U.S. Dist. LEXIS 9939

July 7, 1997, Decided

July 7, 1997, filed

DISPOSITION:

[**1] "Unknown conspirators John Doe 1,2,3, etc." dismissed as parties defendant; defendants United States of America and Tony Morton's motion for summary judgment granted.

taken from the parties' Local Rule 12(M) and 12(N) statements.

COUNSEL:

For Plaintiff: Andrew B. Spiegel, Law Office of Andrew B. Spiegel, Wheaton, Illinois.

For Defendants: Tony J. Masciopinto, United States Attorney's Office, Chicago, Illinois.

Plaintiff William J. Benson was convicted in December 1989 of tax evasion and willful failure to file tax returns, and began serving his four-year sentence [**2] on May 29, 1990. Benson was scheduled to be paroled on September 27, 1991. Shortly before that date, the Seventh Circuit Court of Appeals reversed Benson's conviction, n2 and the trial judge entered a release order releasing Benson from prison pending a new trial. The Bureau of Prisons released Benson on September 4, 1991.

JUDGES:

JAMES H. ALESIA, United States District Judge

n2 See *United States v. Benson*, 941 F.2d 598 (7th Cir. 1991).

OPINIONBY:

JAMES H. ALESIA

OPINION:

[*1130] MEMORANDUM OPINION AND ORDER

Before the court is defendants United States of America and Tony Morton's motion for summary judgment pursuant to Federal Rule of Civil Procedure 56(b). For the reasons that follow, the court grants defendants' motion.

I. BACKGROUND n1

On February 2, 1994, Benson again was tried and convicted on the same tax charges. The trial judge imposed the same four-year sentence, to be followed by five years' probation, and ordered Benson to pay the costs of his prosecution. Benson began serving his second four-year sentence on November 10, 1994. However, because of the time that he already had served, Benson was paroled on November 28, 1994. n3 It was at this time that defendant Tony Morton became Benson's parole officer. The Seventh Circuit affirmed Benson's second conviction and sentence. n4

n1 Unless otherwise indicated, the facts in the Background section are the uncontested facts

n3 Benson denies he was paroled, and asserts instead that he was placed on probation. See Pl.'s 12(N)(3) Statement P 1. Benson's contentions are