

February 2, 2008

## Wesley Snipes Cleared of Serious Tax Charges

By [DAVID CAY JOHNSTON](#)

OCALA, Fla. — A federal jury returned a mixed verdict against the actor [Wesley Snipes](#) on Friday, acquitting him of the most serious tax charges he faced, but convicting him on three of six lesser charges. The case was the most prominent tax prosecution since the billionaire hotelier [Leona Helmsley](#) was convicted of tax fraud in 1989.

Mr. Snipes, who has built a worldwide following acting in films like the “Blade” vampire trilogy, must pay up to \$17 million in back taxes plus penalties and interest.

He had become an unlikely public face for the tax denier movement, whose members maintain that Americans are not obligated to pay income taxes and that the government extracts taxes from its citizens illegally.

The jury found Mr. Snipes not guilty on two felony charges of fraud and conspiracy. He was also acquitted on three misdemeanor charges of failing to file tax returns or to pay taxes from 2002 to 2004. But the jury found him guilty of failing to file returns or pay taxes from 1999 through 2001. He faces up to three years in prison. If convicted of the felonies, he would have faced up to 16 years.

JJ MacNab, a Maryland insurance analyst who attended the trial and is writing a book about tax deniers, said “the verdict shows that promoters face serious jail time” but clients who follow their advice will face a lesser but still serious risk of imprisonment.

Mr. Snipes’s two co-defendants — Eddie Ray Kahn, a promoter of tax denial, and Douglas Rosile, a former accountant — were convicted on the fraud and conspiracy charges.

It was the fourth major case in which the Justice Department failed to win convictions in cases against prominent tax deniers. The verdict drew whoops of joy outside the federal courthouse here from fellow tax deniers who immediately proclaimed it another victory that would draw more people to their cause.

The courts have declared the tax denier arguments are frivolous. Even Mr. Snipes’s defense lawyers, who called the denier claims “dead wrong” in their closing arguments to the jury, reiterated that statement after the verdict.

Mr. Snipes will pay all of his income taxes plus penalties and interest, said Robert E. Barnes and Robert G. Bernhoft, who defended him.

“He will make full amends and pay everything,” Mr. Barnes said.

Mr. Bernhoft said Congress should repeal criminal tax laws and treat tax evasion as a civil matter.

Robert E. O’Neill, the United States attorney here, said current law “is entirely subjective” on criminal intent because juries must decide whether a defendant “sincerely believes” he was not required to pay taxes.

The Justice Department has told Congress there is no need to revise the tax laws on intent. But when Mr. O'Neill was asked whether the laws should be changed, he said, "Absolutely."

The defense, prosecution and Ms. MacNab all said the verdict showed that the jury recognized the promoters as criminals and saw Mr. Snipes as their victim. They also agreed that the reason the jury acquitted Mr. Snipes of not filing his tax returns in 2002 through 2004 was because he had been told he was the target of a criminal investigation and jurors believed that he was exercising his right to remain silent. The jury convicted him of failing to file his tax returns before he knew was a suspect.

Even as Congress has reduced income tax rates, the tax denier movement has spread, fueled by high payroll taxes, political attacks on the [Internal Revenue Service](#) and anger among people who have not benefited from strong overall economic growth.

Instead of prosecuting all offenders, the Justice Department brings cases against well-known individuals, hoping that widespread news coverage will encourage compliance, a policy known as general deterrence. The Snipes prosecution, like the three earlier cases that resulted in full acquittals, appears to have backfired.

The Justice Department has for months declined requests to provide an official who would discuss its tax prosecution policies on the record.

Tax deniers assert variously that the tax laws are valid but do not apply to them, that no law makes anyone liable for taxes and that the government tricks people into paying. Promoters of tax denial claim that people can legally stop paying income taxes by executing certain documents, or by not signing others, like tax returns. Courts have rejected all these arguments.

Mr. Snipes, 45, was indicted in October 2006 for filing a false claim for a \$7 million refund (of taxes paid in 1997, before he stopped paying taxes), and conspiracy with his two co-defendants to defraud the government through that claim, which was not paid.

Since 1986, Mr. Snipes has appeared in more than 50 films, earning at least \$103 million, court papers showed, including more than \$58 million in the years covered by the indictment, 1999 through 2004.

Mr. Snipes has built a huge following, especially overseas, with his portrayals of intrepid detectives and fearless vampire slayers and his occasional comedic roles. In addition to the "Blade" series, he starred in movies like the action film "Drop Zone," the political intrigue "The Art of War," and, with [Sean Connery](#), the corporate crime thriller "Rising Sun."

The defense rested on Monday without calling any witnesses. Mr. Snipes declined to answer questions outside the courthouse on Friday, where a gaggle of reporters was surrounded by dozens of fans from this central Florida city.

In closing arguments on Tuesday, lawyers for Mr. Snipes sought to portray him as a well-intended victim of bad advice by his co-defendants. They called his tax theories "kooky" and "crazy," but said acting on these views did not make him a criminal because he disclosed his actions.

The Supreme Court has ruled that tax deniers can demonstrate the absence of criminal intent by asserting that they "sincerely believe" that they are not required to pay taxes, although they cannot escape the levies.

Prosecutors argued that Mr. Snipes showed criminal intent when he sent the government three bogus checks to pay \$14 million in taxes and an amended tax return that was subtly altered with software to insert the word “no” before “penalty of perjury.”

Defense lawyers said Mr. Snipes did not file tax returns after his indictment because the I.R.S., by making him the target of a criminal investigation, “forced” him to exercise his right to remain silent.

After his indictment, however, Mr. Snipes sent the government a series of rambling letters describing his tax theories and warning that “pursuit of such a high-profile target will open the door to your increased collateral risk.”

Mr. O’Neill, the lead prosecutor, called the filings “gibberish” whose purpose was to thwart law enforcement.

In one 600-page document, Mr. Snipes said he was legally a “nontaxpayer” and the tax laws did not apply to him because he was not a resident of the District of Columbia, was not a federal official and was not engaged in any trade or business, all common tax denier arguments.

Mr. Snipes also complained that the I.R.S. violated his 14th Amendment rights to equal protection because it would not help him establish what he said was his rightful status as a legal nontaxpayer.

Mr. Snipes joined the tax denier movement after becoming upset when told that his 1999 income tax would be more than \$2 million, Carmen Baker, his former assistant, testified.

A mutual acquaintance introduced Mr. Snipes to one of his co-defendants, Mr. Kahn. Mr. Kahn operated a Christian ministry, the Guiding Light of God Ministries, and a central Florida company called the American Rights Litigators that helped tax deniers avoid paying.

Mr. Kahn, who was imprisoned for tax crimes in 1985 to 1987, fled to Panama after the 2006 indictment. He was extradited to stand trial on the latest charges but refused to attend the proceedings, remaining in his jail cell, after telling Judge William T. Hodges that the court had no authority over him.

Mr. Snipes and Mr. Rosile are free on bail.

[Copyright 2008 The New York Times Company](#)

[Privacy Policy](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)