

Wesley Snipes to Go on Trial in Tax Case

By DAVID CAY JOHNSTON
Published: January 14, 2008

From 1999 to 2004, the actor [Wesley Snipes](#) earned \$38 million appearing in more than half a dozen movies, including two sequels to his popular vampire thriller "Blade."



Peter Cosgrove / AP File Photo

Actor Wesley Snipes with his press assistant Judy Smith in December 2006. The 45-year-old action star is set to go on trial Monday, Jan. 14, 2008, on tax fraud and conspiracy charges.

The taxes he paid in the same period? Zero.

But unlike other celebrities who find themselves on the wrong side of the [Internal Revenue Service](#), Mr. Snipes has a flamboyant explanation: he argues that he is not actually required to pay taxes.

Mr. Snipes, who is scheduled to go on trial Monday in Ocala, Fla., has become an unlikely public face for the antitax movement, whose members maintain that Americans are not obligated to pay income taxes and that the government extracts taxes from its citizens illegally.

His trial has become the most prominent income tax prosecution since the 1989 conviction of the billionaire New York hotelier, [Leona Helmsley](#), who went to prison for improperly billing personal expenses to her business.

Tax deniers maintain that the law only appears to require payment of taxes. All their theories have been rejected by the courts, including the one invoked by Mr. Snipes, which is known as the 861 position, after a section of the federal tax code.

Adherents say a regulation applying the 861 provision does not list wages as taxable, though it does say that "compensation for services" is taxable. The courts have uniformly rejected all such theories, and eight people have been sentenced to prison after not paying taxes based on the 861 argument.

Despite the court rulings, juries have acquitted some prominent tax resisters in recent years, and failed prosecutions have encouraged others to join. Even when the government has failed to obtain convictions, it succeeded in collecting the taxes through civil enforcement.

J. J. MacNab, a Maryland insurance analyst who tracks people who deny they owe taxes and has testified before Congress about the movement, said that an acquittal of Mr. Snipes would be a severe setback for the I.R.S.

"He will get more press and attention than any other victory by the tax deniers, and the growth in new members will be exponential," she said.

Mr. Snipes, 45, is charged with two felonies: conspiracy to defraud the government and

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filing a false claim for a \$7 million refund (a claim for the year 1997, before he stopped paying taxes). He is also charged with failing to file tax returns for the six years starting in 1999. Prosecutors say they intend to show that Mr. Snipes moved tens of millions of untaxed dollars offshore and gave the government three worthless checks totaling \$14 million to cover some taxes.

In court papers and interviews, Mr. Snipes says that he is not guilty and that he acted on the advice of two tax professionals. They are being tried alongside him and are promoters of the 861 position and other tax theories.

One is Douglas Rosile, who was stripped of his accounting license in 1997. The other is Eddie Kahn, who has served prison time for tax crimes. Both are under federal court order to stop promoting tax evasion, including the 861 position.

The lawyer representing Mr. Snipes at trial is Robert Bernhoft of Milwaukee, who has been barred by court order since 1999 from selling a program under which he said people could legally stop paying income taxes.

Mr. Snipes, who grew up in the Bronx, is best known for tough-guy roles in movies like "Blade," "U.S. Marshals," and "The Passenger," but he also starred in films by [Spike Lee](#) ("Jungle Fever," "Mo' Better Blues") and [Ron Shelton](#) ("White Men Can't Jump").

His involvement with the tax resistance movement may stem from his association with the Nuwaubians, a quasi-religious sect of black Americans who promote antigovernment theories and who set up a headquarters in Georgia in the early 1990s.

In 2000, Mr. Snipes sought a federal permit for a military training compound on land next to the Nuwaubian camp; the [Bureau of Alcohol, Tobacco and Firearms](#) rejected the request.

"Snipes is already drawing whole new demographics to the movement," Ms. MacNab added. "Tax protesters used to be white, 50 or older, blue-collar, rural and often connected to racist movements, but Snipes is young, urban and famous."

She and others said the movement got a boost in 2005 when a jury acquitted Joseph Banister, a former criminal investigator for the I.R.S., who used his acquittal as proof that his views on the tax law were correct. One problem with that case was that even though his co-defendant, Al Thompson of Lake Shasta, Calif., was acquitted of conspiracy in a separate trial, Mr. Thompson is serving six years in prison for failing to withhold taxes from his employees and turn the money over.

Federal prosecutors also failed to convict a Louisiana lawyer, Tom Cryer, who, like Mr. Snipes, said he sincerely believed that he was not required to pay taxes. Another resister, Robert Lawrence of Peoria, Ill., had his case dropped in 2006 after arguing that tax forms violate the federal Paperwork Reduction Act — a strategy that had been falling out of favor among tax opponents but has since gained new adherents. Both men were still liable for the taxes after their cases.

Prosecutors also failed to convict a [FedEx](#) pilot, Vernice Kuglin of Memphis, who said she wrote the I.R.S. asking what law makes her liable for taxes, but got no response. She later signed papers conceding she owed more than \$600,000 in taxes, and last week her goods, including her 14-year-old vehicle, were auctioned in Memphis. Ms. Kuglin said that despite the court filing, she continues to believe that she does not owe taxes.

Tax specialists and lawyers say that the Snipes case hinges on whether he can persuade jurors that he sincerely believed that he did not have to pay taxes, while prosecutors will argue that he was just trying to avoid them. The [Supreme Court](#) has ruled that people can make such an argument, but two leading defense lawyers said that Mr. Snipes might have

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a hard time using it as a defense.

Michael Louis Minns, a Houston lawyer who has defended and won acquittals for tax protesters, said that the three bad checks that Mr. Snipes sent the government to cover \$14 million of taxes would seem to destroy a defense based on that argument.

“You can win acquittal with a good-faith defense that you sincerely believed you do not have to pay taxes,” Mr. Minns said. “But not if you make inconsistent claims.”

William Cohan, a lawyer in Rancho Santa Fe, Calif., who also represents tax opponents, said another hurdle is the refund claim form signed by Mr. Snipes. The signature statement, or jurat, was altered so that instead of saying it was signed under penalty of perjury, the word “no” was inserted before “penalty.”

“That’s just devastating because if you sincerely believe you are not required to pay taxes, why would you alter the jurat?” Mr. Cohan said.

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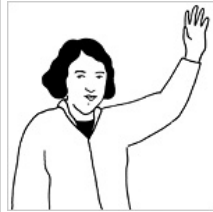
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