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IN THE SUPREME COURT OF THE UNITED STATES

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UNITED STATES, :  
Petitioner :  
v. : No. 00-1831  
SANDRA L. CRAFT :  
- - - - -X

Washington, D.C.  
Monday, January 14, 2002

The above-entitled matter came on for oral  
argument before the Supreme Court of the United States at  
10:01 a.m.

APPEARANCES:

KENT L. JONES, ESQ., Assistant to the Solicitor General,  
Department of Justice, Washington, D.C.; on behalf of  
the Petitioner.  
JEFFREY S. SUTTON, ESQ., Columbus, Ohio; on behalf of the  
Respondent.

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1 P R O C E E D I N G S

2 (10:01 a.m.)

3 CHIEF JUSTICE REHNQUIST: We'll hear argument  
4 now in Number 00-1831, United States v. Sandra Craft.

5 Mr. Jones.

6 ORAL ARGUMENT OF KENT L. JONES

7 ON BEHALF OF THE PETITIONER

8 MR. JONES: Mr. Chief Justice, and may it please  
9 the Court:

10 The question in this case is whether the Federal  
11 tax lien that applies by operation of law to all property  
12 and rights to property of a delinquent taxpayer attaches  
13 to the interest of that taxpayer in a tenancy by the  
14 entirety. The taxpayer in this case was an attorney who,  
15 for 10 years, failed to file a Federal income tax return  
16 and accumulated a Federal tax obligation of approximately  
17 half a million dollars.

18 At the time the taxes were assessed and the  
19 notice of tax lien was filed, the taxpayer owned a real  
20 property in a joint tenancy by the entirety with his wife.  
21 He then conveyed his interest in that property to his wife  
22 for \$1, and when his wife then sought to sell the property  
23 the tax lien appeared in the title record.

24 QUESTION: Now, tell us about the fraudulent  
25 conveyance proceeding. Does the fraudulent conveyance

1 holding, or finding, make no difference one way or the  
2 other? If it was a fraudulent conveyance the husband has  
3 the property -- you can -- well, if it was a fraudulent  
4 conveyance, you can pursue the property, and if it wasn't,  
5 the lien is still there anyway under your theory. Is that  
6 the way it works?

7 MR. JONES: I think that we would say that the  
8 lien, the question of the validity of the lien is the  
9 first question. If the lien is valid you don't need to  
10 address the fraudulent conveyance question. Indeed, we  
11 haven't presented the fraudulent --

12 QUESTION: Right.

13 MR. JONES: -- conveyance question in this case.  
14 If the lien were not valid, it would still be  
15 possible to go after property in certain circumstances if  
16 there had been a fraudulent conveyance, but on this record  
17 we're not challenging the determination that as a matter  
18 of State law there was not a fraudulent conveyance, except  
19 for this fraudulent enhancement portion that the court  
20 awarded.

21 QUESTION: Mr. Jones, as part of the background,  
22 how did it come about that it's only the taxpayer who has  
23 the liability? Did she file separate returns, or was she  
24 an innocent spouse?

25 MR. JONES: In this case, the taxpayer is the

1 husband. The husband was an attorney, and he filed no  
2 return, and when -- there's two ways for this issue to  
3 come up. Either spouse may file either no return, or file  
4 only a separate return. It's only when they file a joint  
5 return that they are jointly and severally liable for the  
6 tax obligation, so if, as in this case, the taxpayer  
7 simply files no return at all, then the obligation is  
8 exclusively that -- the tax obligation is that of the  
9 nonfiler, in this case the husband.

10 Indeed, Judge Ryan pointed out in his separate  
11 opinion that the decision of this Court, of the court of  
12 appeals is very amenable to abuse, because on this theory  
13 both spouses can earn income, neither of them can file a  
14 return, or they can both file a separate return, and then  
15 they can put all of their real and personal property in a  
16 tenancy by the entirety, including stocks and bonds in  
17 States like Michigan and Maryland, and claim a complete  
18 exemption of all of their property from Federal tax  
19 obligations.

20 Now, in --

21 QUESTION: -- some penalties for failing to file  
22 a return?

23 MR. JONES: There are some penalties, but the  
24 penalties, like taxes, have to be enforced against the  
25 property of the taxpayer, and if the taxpayer is allowed

1 to exempt all of its property in this fashion, then  
2 there's literally no way that the taxes can be enforced  
3 through civil procedures.

4 QUESTION: What about criminal procedures? Are  
5 there any criminal procedures for --

6 MR. JONES: I --

7 QUESTION: -- failure, continued failure to  
8 file --

9 MR. JONES: Of course, if you file a return,  
10 then you're not exposing yourself to any criminal  
11 obligations, and if you don't file a return, it would  
12 be -- I'm not familiar with a statute that makes that a  
13 crime by itself. Now, it may be that it's a crime in  
14 connection with some intent to conceal, but just the fact  
15 that you didn't file -- I'm not -- frankly, I'm not --  
16 even though I come before the Court on tax cases, I'm not  
17 an expert on criminal tax matters, but it's my impression  
18 that that would not by itself be a crime.

19 Now, the Federal tax --

20 QUESTION: We'd better not let the word get out.  
21 I thought that it was a crime, but I'll check.

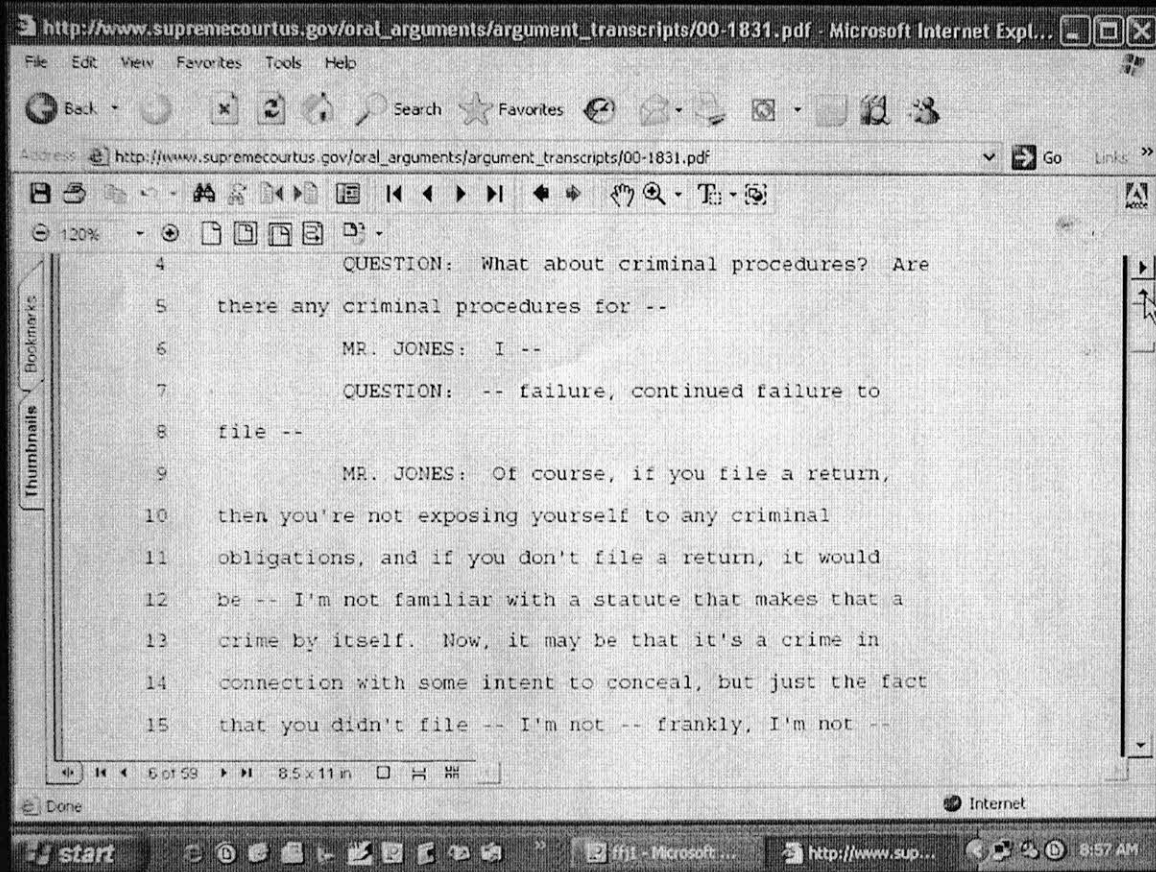
22 (Laughter.)

23 MR. JONES: All right, well, I stand --

24 QUESTION: We'll keep it just among ourselves.

25 MR. JONES: I will defer all questions on title

## Screen Shot 1 of 2



## Screen Shot 2 of 2

