

followers that he would be back once the government changed. If he remains on release, he may well continue his illicit efforts.

Second, I find that delay is one of the purposes for Shroust's appeal. Following his conviction on April 21, 2017, Shroust requested a competency hearing which delayed sentencing. In addition, he filed three motions to set over his sentencing dates and I granted each of those. At his sentencing on October 22, 2018, Shroust requested a delay in the date he was to report to prison. Thereafter, he filed four additional motions to delay reporting to prison. Shroust was convicted more than 21 months ago. I agree with the government's sentiment that where justice is delayed, justice is denied. General deterrence is a crucial factor in tax cases where our system is based on voluntary compliance of the citizens.

Third, I find the appeal does not raise a substantial question of law or fact. The multiple efforts by the government to bring Shroust to justice were neither vindictive nor based on bad motives. Shroust had been plying his trade for over 10 years, had an international following, produced several books and DVDs to promote this tax dodging scheme. The investigation of the case was complex. And, during the course of its investigation, the government discovered additional information that warranted the filing of a superseding indictment. As to Shroust's 6th Amendment claim, I held a *Faretta* hearing and found Shroust's decision to forgo counsel valid. He knowingly and intelligently waived his 6th Amendment right to counsel in order to conduct his own defense. He fully understood the nature of the charges against him, knew the possible penalties he was facing and, most importantly, was aware of the dangers and disadvantages of self-representation. When I said Shroust was not competent, I meant that he did not have a thorough knowledge of the legal system, the rules of evidence and criminal procedure – all the knowledge and experience his stand-by lawyer possessed and was willing to employ to defend Shroust.

Because Shroust is not able to satisfy the first three conditions required in *Wheeler*, I do not address the fourth. This was not a close case—there was overwhelming evidence of Shroust's guilt. Even

if he were to prevail on an issue on appeal, it is unlikely to result in reversal or an order for a new trial of all counts on which imprisonment has been imposed.

For the foregoing reasons, I deny Shroust's Motion to Continue Release Pending Appeal.

It is so ordered.

Dated this 30th day of January, 2019.



Robert E. Jones, United States District Court