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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
MICHAEL A. BIGLEY; CAROLYN E.)
BIGLEY; ROBERT B. KELSO; RAEOLA D.)
KELSO; and ISA MINISTRIES,)
)
Defendants.)

No. 2:14-cv-0729-HRH

ORDER

Motion to Take Judicial Notice¹

Defendant Michael Bigley moves the court to take judicial notice pursuant to Rule 201, Federal Rules of Evidence. The motions are opposed by the plaintiff,² and defendant Michael Bigley has replied.³ A hearing has been requested on the motions. The request for a hearing is denied.

Mr. Bigley makes a two-level challenge to this court’s jurisdiction under 26 U.S.C. § 7403. Michael Bigley’s motions to take judicial notice in substance seek a determination from this court that the United States District Court for the District of

¹Docket Nos. 123 and 124.

²Docket No. 125.

³Docket No. 126.

Arizona is not an Article III court and that Title 26 of the United States Code has not been enacted into positive law. Mr. Bigley's arguments are based upon acts of Congress, not the specific facts of this case.

The instant motions are procedurally deficient. Michael Bigley is not seeking judicial notice of "adjudicative" facts; rather, he raises questions as to "legislative" facts. Rule 201(a), Federal Rules of Evidence, provides: "[t]his rule governs judicial notice of an adjudicative fact only, not a legislative fact."

Adjudicative facts are simply the facts of the particular case. Legislative facts, on the other hand, are those which have relevance to legal reasoning and the law-making process, whether in the formulation of a legal principle or ruling by a judge or court or in the enactment of a legislative body.

Fed. R. Evid. 201 advisory committee note 1972. The court does not resolve issues as to legislative facts on motion to take judicial notice.

With respect to the substance of Bigley's motions, the court has already ruled that "[t]he United States District Court for the District of Arizona is an Article III court[.]"⁴

Michael Bigley's motions to take judicial notice⁵ are denied.

DATED at Anchorage, Alaska, this 18th day of December, 2015.

/s/ H. Russel Holland

United States District Judge

⁴Order at 3 (Apr. 24, 2015), Docket No. 78.

⁵Docket Nos. 123 and 124.