

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DIVISION OF THE
WESTERN DISTRICT OF MISSOURI.

UNITED STATES OF AMERICA, Plaintiff,

vs

T. J. PENDERGAST, R. E. O'MALLEY, A. L. McCORMACK, Defendants.

No. 14,912.

PLEA IN BAR OF DEFENDANT, T. J. PENDERGAST

Comes now the defendant, T. J. Pendergast, and shows to the Court that all of the alleged overt acts done by any of the alleged conspirators for the purpose of effectuating, or tending to effectuate, the purposes and objects of the alleged conspiracy were done more than three years prior to the return of the indictment herein and hence prosecution, trial and punishment of this defendant are barred by the statute of limitations, Section 582 of Title 18, U. S. C. A., which provides as follows:

"No person shall be prosecuted, tried or punished for any offense not capital, except as provided in Section 584 of this Title, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed ***."

Defendant further says that no overt act to effectuate, or tend to effectuate, the purposes and objects of the alleged conspiracy are pleaded in the indictment as having occurred within the three-year period prior to the return of the indictment herein; that the alleged testimony, acts and conduct of A. L. McCormack and R. E. O'Malley, set forth in the indictment under the headings as Overt Acts IX and X, had no reference to the alleged conspiracy or connection therewith, but, on the contrary, had to do with an investigation by a Grand Jury of alleged income tax evasion and were wholly disassociated with the alleged conspiracy or any overt act alleged to have been done in furtherance thereof.

Defendant further says that the decree of the three-judge Court approving the stipulation of settlement of the insurance litigation pending in the three-judge Court was entered February 1st, 1936, and that on the entry of said decree the purposes and objects of said alleged conspiracy were completed and said conspiracy at an end.

WHEREFORE, defendant prays that prosecution under said indictment be barred

and that he be, therefore, discharged.

John G. Madden

RR Brewster

Attorneys for Defendant, T. J. Pendergast

STATE OF MISSOURI)

) SS:

COUNTY OF JACKSON)

T. J. PENDERGAST, of lawful age, upon oath states that he is one of the defendants in the above entitled cause; that he has read the above and foregoing Plea in Bar and that the facts set out therein are true.

T. J. Pendergast

Subscribed and sworn to before me this 6th day of September, 1940. My commission expires March 26th, 1944.

Ella M. Sprague

Notary Public, said County and State.

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U. S. OF AMERICA, Pltf.,

vs

T. J. PENDERGAST, R. E. O'MALLEY, A. L. McCORMACK, Defts.

PLEA IN BAR OF DEPENDANT, T. J. PENDERGAST

John G. Madden, R. R. Brewster, Attys for deft, T.J.Pendergast

Filed Nov. 18-1940

A. L. Arnold, Clerk

By HC Spaulding, DC