

UNITED STATES COURT OF APPEALS **FILED** United States Court of Appeals
TENTH CIRCUIT Tenth Circuit

SEP 04 1991

ROBERT L. HOECKER
Clerk

JOSEPH P. GORMAN,
Petitioner-Appellant,
v.
RICHARD THORNBURGH, Attorney
General of the United States,
Respondent-Appellee.

No. 91-1026
(D.C. No. 90-M-1776)
(D. Colo.)

ORDER AND JUDGMENT*

Before MCKAY, SEYMOUR, and EBEL, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. Therefore, the case is ordered submitted without oral argument.

Petitioner, Joseph P. Gorman, was convicted of conspiracy to commit tax fraud under 18 U.S.C. § 371. Gorman received a five year sentence and is currently on parole. He filed a petition for habeas corpus relief with the United States District Court for the District of Colorado on October 5, 1990. Gorman appeals the

* This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

district court's denial of his petition for habeas relief.

Although he is not currently in prison, petitioner is on parole and is reporting regularly to a probation officer. Therefore, we will address the merits of his petition.

Gorman raises several issues: (1) Gorman claims that he was wrongly prosecuted under 18 U.S.C. § 301 because the United States does not have jurisdiction over criminal acts committed in the State of Colorado; (2) he claims that the IRS is not an agency of the United States, and that, therefore, his conviction was somehow illegitimate; (3) he argues that the IRS did not have the power to investigate whether he committed the offense; and finally (4) he claims that the United States Court of Appeals for the Eighth Circuit erred in retrying issues raised before this court and in allowing certain evidence to be used against him. The district court properly held that Gorman's first three claims are entirely without merit. The fourth claim was not raised before the district court; therefore, we dismiss it. See Chase v. Crisp, 523 F.2d 595, 596 (10th Cir. 1975), cert. denied, 424 U.S. 497 (1976). Finally, Gorman claims that the United States unconstitutionally singled him out for prosecution because of his tax-protester beliefs. This circuit has previously considered a similar argument and found it to be without merit. United States v. Amon, 669 F.2d 1351 (10th Cir. 1982). We find that case to be controlling on this issue. Judge McKay dissents for the reasons expressed in his dissent in that case.

In all respects, the district court is **AFFIRMED**.
The mandate shall issue forthwith.

Entered for the Court:

David M. Ebel
Circuit Judge