

The Real Endgame

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Rene Chun is a New York-based journalist. He has written for *The New York Times*, *Esquire*, *GQ*, *Details* and numerous other publications. Chess people may recognize his byline from the *Atlantic Monthly* article titled: "Bobby Fischer's Pathetic Endgame" (December 2002 issue). He also wrote a salon.com article last year, which chronicled Fischer's legal plight in Japan ("Bobby Fischer's Strangest Endgame"). His current project is *American Genius*, the first full-length Bobby Fischer biography, which will be published by Viking in the United States and Random House (Yellow Jersey imprint) in the U.K.



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by Rene Chun

When chess insiders, journalists and political bloggers discuss the most recent development in the Bobby Fischer saga, the same hoary cliché is trumpeted time and again: "ENDGAME." The consensus is that after many false starts, the long-awaited third act of Fischer's on-going reality series in Tokyo is about to commence. The fascinating thing is that the point spread on *Fischer vs. The United States of America* has narrowed appreciably in the last several days. The excitement peaked on Saturday, when Reykjavik officials announced that the much-ballyhooed foreigner's passport was finally en route to Tokyo via diplomatic pouch. There was even an unconfirmed report that a delegation of Icelanders were flying to Japan to personally escort Fischer back to their chess-friendly Shangri-La in the North Atlantic. While the "Free Bobby!" contingent celebrated in their gin mills, the number crunchers in Vegas were forced to run the extradition odds once more. When the new figures were posted on the tote board, suddenly things didn't look so grim for the world's only Grandmaster fugitive. Indeed, the smart money is now betting that Fischer will pull off the biggest swindle in chess history. But a word of caution for those tempted to place a wager on Bobby beating the Feds at 2 to 1 odds: hold on to your wallet. You want inside information? Three words: Internal Revenue Service.

Robert James Fischer is about to learn the heartbreaking lesson that was so mercilessly beat into the thick skull of Al Capone: Forget about police officers, the FBI and even the President of the United States, with his officious and menacing Executive Orders. The only thing a lawless American citizen really need fear is the I.R.S. Capone, who was prosecuted in 1931 for four years of delinquent taxes, received an 11-year prison sentence and was fined \$80,000. "This is preposterous," the Chicago mobster fumed at one point during the courtroom proceedings. "You can't tax illegal money!" Of course, Scarface was wrong about that. In point of fact, all income is taxable, even income earned through illegitimate means. Such a tax provision may seem criminal to some, but, irregardless, it is the law. The I.R.S. definition of "gross income" is as broad as it gets: "[A]ll income from whatever source derived" (memo to John Bosnitch: see Section 61 of the Internal Revenue Code and 16th Amendment of the United States Constitution before scheduling press conference).

This latest U.S. government assault on Bobby Fischer is still in the preliminary stages but it is stealthily moving forward and the I.R.S. Criminal Investigation Division special agents ("CI" in

Beltway vernacular) are already hard at work. To date, a grand jury has been selected, interviews have taken place and subpoenas have been issued. The first court date for Fischer's I.R.S. case is slated for April 5, 2005, in room 601 of the Nix Federal Courthouse in Philadelphia. Why is the City of Brotherly Love the lucky recipient of this potential tourist bonanza? Because the I.R.S. Service Center there is where expatriates are directed to file their 2555s. For domestic drones, a Form—2555 is for U.S. citizens who earn income abroad but maintain no current American residence. In other words, people just like Bobby Fischer.

Fischer wouldn't know a 2555 from a 1040. He stopped filing income tax forms in 1976. Failing to pay one's taxes is foolish enough, but Fischer has actually bragged about this transgression to reporters. Perhaps a diligent CI read the transcript from Fischer's infamous September 1, 1992 press conference, in which after spitting on President Bush Sr.'s hallowed Executive Order, he practically dared the I.R.S. to indict him. Then there was the January 27, 1999 Philippine radio interview, wherein the irascible Brooklyn native nonchalantly mentioned that he had "about three and a half million dollars in Switzerland." Although he didn't recite his secret account number over the air, he did give a nice plug to his savings & loan of choice: the United Bank of Switzerland. After adding that he banked at the UBS Zurich branch, he elaborated a bit on his investment portfolio. He sounded like Thurston Howell III trying to impress Luvy on a first date:

"Plus, plus, of course a lot of its tied up in stocks and bonds, gold, metal, I've got platinum, the whole bit. But, I've always kept a lot of freestanding cash in, like, the equivalent of a money market. I've got about nine hundred thousand dollars in the money market, available twenty-four hours."

It is very likely that the I.R.S. now knows more about the aforementioned UBS account than even Fischer himself does. Between the Patriot Act and the recent treaties signed with Switzerland and other tax haven countries, it's easier than ever for the U.S. government to find out exactly where an American fugitive on the lam parks his off-shore slush fund. A CI may, at this very moment, be pouring over a voluminous computer print-out documenting Fischer's entire banking history, including the interest yield of various accounts, high-tech vs. blue chip, ATM withdrawals and whether or not he has free checking.

An I.R.S. criminal investigation targeting Fischer is an ominous sign. What makes it so troubling is that the case has been designated as "criminal" rather than civil. If the I.R.S. wins a civil judgement, the defendant generally only loses money. Being found guilty in a criminal case, however, means a loss of both money *and* freedom—five years for each criminal count. Which, in Fischer's case, could add up to an agonizingly long stretch in a federal penitentiary. The statute of limitations on an IRC 7201 (Internal Revenue Code; "Attempt to Evade or Defeat Tax") is six years, which many would assume places Fischer in the clear. But obviously, the I.R.S. believes that Fischer's tax liability is not limited to his \$3.65 million payday in 1992. Fischer has not helped his cause, what with all his crowing about owning various stocks & bonds, money markets and precious metals. Those investments are generating income, taxable income, income that Fischer has made the conscious decision not to declare each and every year. So much for the six-year statute. And, if the I.R.S. is on the right track here, so much for the theory that Jezdimir Vasiljevic didn't pay Bobby off in full for the Spassky II match.

CI agents are not to be trifled with. The best criminal defense attorneys in the country, the men who command seven-figure retainers for representing C.E.O. robber barons, have the utmost regard for these worthy adversaries, referring to them respectfully as "accountants with convictions." One man who is intimately familiar with their ingenious and relentless legal machinations is Patrick Cotter, a partner in the Chicago law firm of Arnstein & Lehr. After being briefed on the details of the case, Cotter was not optimistic about Fischer's prospects. He believes there is a better than reasonable chance that the 11th World Chess Champion will be indicted and extradited to the United States. It should come as no surprise that the I.R.S. often succeeds in prosecuting citizens when other government agencies fail. Unlike arguing the legality or illegality of a deportation case in court, tax evasion doesn't have a lot of gray area or room for debate—one

either paid one's taxes or one didn't.

Here is the dire scenario Cotter envisions: Once Fischer arrives in America (in chains), he will be incarcerated in Philadelphia and held without bond, because he is the very definition of a flight risk. Then he will find himself in a courtroom, where his defense will be repeatedly pummeled into submission, like a veal chop in an Italian kitchen. When all is said and done, he will be presented with an astronomical bill by the Feds for delinquent taxes. And then, he will start serving some very hard time indeed: no fermented soy bean treats on the sly, no phone-in Bombo Radyo interviews, no yelling in the cell block about radiation poisoning or the ungodly 4:30 dinner service or the hum of the ventilation system or cigarette smoke or the 24/7 glare of the naked light bulb in the hall or his insomnia or his headaches or anything else that upsets his delicately calibrated nervous system.

"This case isn't about some eager beaver U.S. attorney in Philadelphia looking to further his career," says Cotter matter-of-factly. "It's about the I.R.S. being pretty confident that they have enough evidence to take Fischer down. Otherwise they wouldn't bother. The expense, both in time and money, is simply too great to justify anything less than a decent probability of conviction." Cottler stresses that "strategic prosecutions" like this are the kind of cases CI guys salivate over. "Because the target in question is the most famous chess player in the world, a conviction sends a strong message to tax cheats living outside the United States: If we can get Bobby Fischer, we can get you too. So be a good citizen and pay your taxes." To quote the world's greatest chess player, the CI special agents "like to see 'em squirm."

Even if Fischer somehow manages to avoid deportation, he can be tried en absentia and, with a series of computer key strokes, that juicy UBS account so chuck-full of Swiss Francs will vanish into the digital ether without a trace. The money due to the I.R.S. on the 1992 prize money alone, including back taxes owed, a 75% fine on those back taxes, compound interest and a 25% late payment penalty, comes to well over \$6 million. If things play out according to the harrowing I.R.S. shooting script, Fischer may find himself embarking on a new but eerily familiar phase of his life: *The Wilderness Years (Part II)*. That is, if he ever does get out of his present digs, better known as the East Japan Immigration Bureau Detention Center. It is not inconceivable that this whole extradition battle is nothing but a well-orchestrated sham. Fischer could be exactly where the U.S. government wants him right now, serving out what amounts to a de facto prison sentence (seven months and counting) in a country where he is out of sight and out of mind.

This is not to suggest that Bobby won't escape from his Tokyo detention cell. He may indeed beat the deportation rap and find himself soaking his aging, broken down body in a thermal spa in Reykjavik within the week. Or he could be shipped back to America, go on trial and win a decision. A fancy lawyer like Allan Dershowitz might be able to make a compelling case on Court TV that Bush's '92 Executive Order was unconstitutional. But the IRS won't care about any of that. They will pursue Fischer and his money relentlessly and prosecute him with extreme prejudice. In fact, they may be pursuing this tax evasion case not because they know that Fischer is coming back to the States, but because they know that he isn't.

Fischer is ignorant of all of this. When asked why he didn't inform his friend about the recently laid I.R.S. trap, one inner-circle member sheepishly replied, "Bobby doesn't like to hear bad news. I didn't want to be the first one to tell him that the tax people are trying to take all his money. He'd probably think that I was somehow involved, and he'd never talk to me again." When exactly Fischer will be informed of this vital news bulletin is uncertain. As the previous anonymous source indicates, nobody in Fischer's Tokyo support group will want to be the bearer of such a noxious message. They will be clenching teeth and squinting through the palms of their hands as they draw straws to choose the sacrificial lamb. And when he does find out, how will he react? If the so-called Bekins Heist was "probably the greatest crime in the history of the world," how will this I.R.S. assessment rank in Bobby's pantheon of thievery?

This won't trigger the mother of all Fischer rants, as many might suspect. He'll be far too

distraught to vent and rave. If the I.R.S. prevails in this case, America's most wanted GM will simply be struck mute. This just might kill Bobby Fischer—kill his spirit, kill his psyche, kill his will. It just might kill him physically too.

Many on-line news junkies have claimed that Washington has called for Fischer's head just to make an example of him. It would appear that those people were correct. Paranoia? Yes, absolutely. But not without good reason, eh Bobby? Does anyone doubt that the current Bush administration doesn't have the political will to prosecute Fischer to the fullest extent of the law? Voicing one's pleasure concerning the collapse of the Twin Towers during a live radio broadcast certainly dispels the age-old saw that "any publicity is good publicity." The Neo-Cons may get so wound up about this that they declare Fischer an enemy combatant and try him behind closed doors by a military tribunal. One would be well advised to remember that the Executive Order Fischer personally desecrated over 12 years ago was signed by George H.W. Bush. The boys in Crawford have a reputation for holding a grudge and have memories as long as a Texas beauty queens in stilettos. Saddam Hussein knows only too well that the President in the White House will not hesitate to tackle the unfinished business his father left behind.

This isn't the way the life of Robert James Fischer was supposed to end. It hardly seems fair. While the chess genius continues to languish behind bars in a cramped Japanese detention cell, another fugitive American, wanted by U.S. authorities for the past several decades, has miraculously been forgiven. Charles Jenkins, Kim Jong Ill's favorite propaganda puppet and a traitor whose crimes against his country are far greater than anything Fischer has ever perpetrated, is now a free man. After quietly serving 23 days of a laughable and blatantly token 30-day sentence, the 64-year-old Army Sergeant and convicted war deserter, is now being celebrated by the Japanese as a Cold War hero. Those who are old enough will recall that almost a quarter century ago, Bobby Fischer was hailed as the Cold War hero too. He was welcomed back from Reykjavik in 1972 with confetti and cheers. Mayor Lindsay gave a speech at City Hall. Nixon and Kissinger sent congratulatory telegrams. But something along the way went terribly wrong. And now this. Are you ready Bobby? The real endgame is about to begin.

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