

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-60173-CR-KMW(s) (GRAHAM)

UNITED STATES OF AMERICA

vs.

**CAROLYN DENISE WADE and
TRACY D. WADE,**

Defendants.

**UNITED STATES' RESPONSE TO DEFENDANT CAROLYN DENISE WADE'S
OBJECTIONS TO THE PRESENTENCE INVESTIGATION REPORT**

Introduction

The United States of America, by and through its undersigned counsel, hereby responds to the objections to the Presentence Investigation Report ("PSR") as to Defendant Carolyn Denise Wade ("Defendant"). The U.S. Probation Office disclosed the PSR to the parties via CM/ECF on December 17, 2024 (DE 209). Defendant filed her objections to the PSR on January 10, 2025 (DE 214) (the "Objections" or "Obj.").

Responses

Offense Conduct

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial all of the facts set forth in the Offense Conduct section of the PSR (¶¶ 7-50).¹ Accordingly, the Court should overrule Defendant's objection to "the paragraphs in the Offense Conduct Section of the

¹ The United States summarized the record evidence in its response in opposition to Defendants' post-verdict motion for judgment of acquittal, filed on November 20, 2024, and respectfully refers the Court to this summary. See DE 207 at 4-11.

PSIR that assert [sic] she agreed with Haydee Rivero to defraud the United States, and any paragraph that asserts that Haydee Rivero committed fraudulent acts at Ms. Wade's direction."

Obj. at 1-2.

Paragraphs 25

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 25 of the PSR, including that Defendant agreed with Haydee Rivero and others to obtain Paycheck Protection Program (PPP) loans from the SBA based on materially false and fraudulent information. Accordingly, the Court should overrule Defendant's objection to paragraph 25 of the PSR.

Paragraph 26

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 26 of the PSR, including that Defendant agreed with Haydee Rivero and others to knowingly and with the intent to defraud devise a scheme and artifice to defraud to obtain money and property by means of false pretenses, representations or promises, and that such money and property was the proceeds of such PPP loans. Accordingly, the Court should overrule Defendant's objection to paragraph 26 of the PSR.

Paragraph 27

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 27 of the PSR, including that Haydee Rivero, at the direction and with

the knowledge of her co-conspirators, including Defendant, created false and fictitious IRS Schedule C forms for PPP loan applications. Accordingly, the Court should overrule Defendant's objection to paragraph 27 of the PSR.

Paragraph 38

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 38 of the PSR, including that Haydee Rivero, acting at the direction and with the knowledge of Defendant, created a false and fictitious IRS Schedule C for the tax year 2019. Accordingly, the Court should overrule Defendant's objection to paragraph 38 of the PSR.

Paragraph 43

Based upon the evidence in the record, paragraph 43 of the PSR accurately reflects that Haydee Rivero received \$1,000 from Defendant, via Zelle transfer, on June 7, 2021. Accordingly, the Court should overrule Defendant's objection to paragraph 43.

Paragraph 46

Paragraph 46 of the PSR accurately reflects the facts established through the trial testimony of Haydee Rivero regarding the names of individuals who received PPP loans based on a fake Schedule C form created by Ms. Rivero. Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the jury credited Ms. Rivero's testimony. Accordingly, the Court should overrule Defendant's objection to paragraph 46 of the PSR.

Paragraph 51

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 51 of the PSR, including that Defendant and Tracy Wade conspired with Haydee Rivero to apply for two PPP loans (loan numbers 6697269001 and 6261949003), each in the amount of \$20,833. Accordingly, the Court should overrule Defendant's objection to paragraph 51 of the PSR.

Paragraph 60

Paragraph 60 correctly calculates the specific offense characteristic for a loss of at least \$41,666, resulting in an increase of the offense level by six levels pursuant to § 2B.1(b)(1)(D). A district court may hold participants in a conspiracy responsible for the losses resulting from the reasonably foreseeable acts of co-conspirators in furtherance of the conspiracy. *United States v. Moran*, 778 F.3d 942, 974 (11th Cir. 2015). In this case, in addition to the loss resulting from Defendant's fraudulently obtained PPP loan (\$20,833), the loss resulting from co-conspirator Tracy Wade's fraudulently obtained PPP loan (\$20,833) was in furtherance of the conspiracy and foreseeable to Defendant based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, and specifically Count 1 (conspiracy to commit wire fraud) and Count 4 (conspiracy to commit offenses against the United States). Accordingly, the Court should overrule Defendant's objection to paragraph 60 of the PSR and find that the total offense level for Defendant is 11, consistent with paragraph 67 of the PSR.

Paragraph 77

The United States takes no position on Defendant's objection to paragraph 77 of the PSR.

Conclusion

The United States respectfully requests that the Court overrule Defendant's objections to the PSR as set forth above. The United States will address the sentencing factors under Title 18, United States Code, Section 3553(a) and make a sentencing recommendation as to Defendant in a sentencing memorandum to be filed with the Court.

Respectfully submitted,

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