UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-60173-CR-WILLIAMS (GRAHAM)

UNITED STATES OF AMERICA

Plaintiff,

v.

CAROLYN DENISE WADE and

TRACY D. WADE,

Defendants,

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MOTION FOR JUDGMENT OF ACQUITTAL AFTER JURY VERDICT

Defendants, Carolyn Denise Wade and Tracy D. Wade, through undersigned counsel, pursuant to Fed. R. Crim. P 29(c)(1), respectfully moves for a judgment of acquittal after jury verdict. In support thereof, Mr. Shazier states:

Background

On October 23, 2024, after a nine-day trial, Mrs. Wade and Mr. Wade were found guilty of conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349; substantive counts of wire fraud, in violation of 18 U.S.C. § 1343; conspiracy to commit an offense against the United States, in violation of 18 U.S.C, 371; and substantive counts of making false statements to the Small Business Administration, in violation of 15 U.S.C. § 645(a).

The government alleged that the Wades received Paycheck Protection Program (PPP) loans during the COVID pandemic by including false information in their PPP loan applications. The applications were completed online. The defense contended that the applications were completed by co-conspirator Haydee Granados, and Ms. Granados completed the applications without Mrs. Wade's or Mr. Wade's knowledge. The defense further contended that the Wades did not see the false information in the application when the applications were electronically signed.

During the trial, Haydee Granados testified that she completed or attempted to complete PPP loan applications for eighteen other individuals. Ms. Granados also testified to obtaining loans for several of her friends and relatives. Ms. Granados claimed that everyone for whom she applied for a loan knew that she was including a fake Internal Revenue Service (IRS) Schedule C form. The gross income listed on the fake schedule C was used in the PPP loan application.

Two of the individuals for whom Granados applied for PPP loans testified as defense witnesses. These two individuals testified that they had no knowledge that Ms. Granados had included a fake IRS Schedule C form in their PPP applications. Additionally, Mr. Wade testified that he had no knowledge that Ms. Granados had prepared had included a fake schedule C, and he did not see the application when prompted to electronically sign is PPP loan application.

The government introduced evidence that Mr. Wade and Mrs. Wade had logged into the PPP loan processing portal of the technology company that helped the Small Business Administration facilitate PPP loan applications on several occasions. In its closing argument, the government stated Mr. and Mrs. Wade must have seen the false information on the applications at some point. The jury found Mrs. Wade and Mr. Wade guilty of each count in the indictment.

Argument and Memorandum of Law

Under Federal Rule of Criminal Procedure 29(c)(1), a defendant may move for a judgement of acquittal or renew such motion within 14 days after a guilty verdict.

In considering a motion for the entry of a judgment of acquittal, a district court must view the evidence in the light most favorable to the government, and determine whether a reasonable jury could have found the defendant guilty beyond a reasonable doubt. *United States v. Miranda*, 425 F.3d 953, 959 (11th Cir. 2005). The Court is required to affirm the conviction unless, under no construction of the evidence could the jury find the defendant guilty beyond a reasonable doubt. *United States v. Joseph*, 709 F.3d 1082, 1093 (11th Cir. 2013)

Credibility issues are for the determination of the jury. However, defendants may not be convicted if the evidence is insufficient to persuade a rational factfinder beyond a reasonable doubt that the defendant is guilty. *United States v. Chancey*, 715 F.2d 543, 546 (11th Cir. 1983).

Mrs. Wade and Mr. Wade contend that the evidence presented at trial was insufficient to persuade any rational factfinder of their guilt beyond a reasonable doubt. Accordingly, the Court should grant the instant motion. With respect to the conspiracy counts, there was insufficient evidence to prove that the Wades willfully joined in either conspiracy. As to the wire fraud counts, the evidence was insufficient to prove that the Wades knowing devised and participated in a scheme to defraud or acted with intent to defraud. As to the false statements to the SBA, the evidence was insufficient to prove that the Wades knowingly made any false statement.

Ms. Granados had entered into a plea agreement with the government and had a motive to fabricate her testimony. The two defense witnesses testified that they had no knowledge that Ms. Granados has included false loan applications in their PPP loan applications. While the government introduced evidence that Mrs. Wade and Mr. Wade accessed the loan processing portal on numerous occasions, there was no testimony or evidence as to what was done with respect to the applications other than the date the applications were signed.

In sum, even after viewing the evidence in a light most favorable to the government, there exist a reasonable doubt to Mrs. Wade's and Mr. Wade's guilt. If there is a lack of substantial evidence, viewed in the Government's favor, from which a reasonable factfinder could find guilt beyond a reasonable doubt, the conviction must be reversed. *United States v. Willner*, 795 F.3d 1297, 1307 (11th Cir. 2015).

Conclusion

Based upon the foregoing facts, arguments and citations to authorities, Mr. Shazier respectfully requests that the Court grant this motion for judgement of acquittal after jury verdict pursuant to Fed. R. Crim. P. 29(c)(1).

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CERTIFICATE OF SERVICE

I HEREBY certify that on **November 6, 2024**, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted,

/s/ ***Daryl E. Wilcox***

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