



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

RACHELL ODIASE
a/k/a "Rachel Odiase"

Defendant.

16-cr-587 (SHS)

OPINION

SIDNEY H. STEIN, U.S. District Judge.

On March 8, 2018, a jury convicted Rachell Odiase of the felonies of money laundering, conspiracy to commit money laundering, and engaging in a monetary transaction in property derived from specified unlawful activity pursuant to 18 U.S.C. §§ 1956(a)(1)(B)(i), 1956(h), and 1957, respectively; she was acquitted of identity theft and conspiracy to commit wire fraud. During the trial, the jury heard evidence that Odiase was involved in a fraud whereby someone posed as a law enforcement official and repeatedly pressed an elderly victim to transfer large sums of cash by presenting a wholly fabricated story about her grandchild being in serious legal peril having been discovered with drugs in his apartment. (Trial Tr. ("Tr.") 28-30.) The victim transferred \$300,000; \$50,000 of that sum was deposited into Odiase's bank account by a participant in the scheme; and Odiase transferred that \$50,000 out of her account and into an account at a different bank which was also in her name. According to Odiase, she believed at all relevant times that the \$50,000 was proceeds from the sale of her inventory of goods to a foreign buyer.

Odiase has now moved for a new trial pursuant to Federal Rule of Criminal Procedure 33. (ECF No. 119.) She contends that she is entitled to a new trial because (1) the evidence presented at trial was insufficient to convict her; (2) the Court erred by allowing the jury to watch only government-selected excerpts of a video recording of Odiase's police

interview, rather than allowing Odiase to play the entire video to the jury; and (3) the government improperly shifted onto Odiase the burden to prove her own innocence.

The grant of a new trial is within the “broad discretion” of the Court and is reserved for only “the most extraordinary circumstances.” *United States v. Ferguson*, 246 F.3d 129, 133-34 (2d Cir. 2001) (quoting *United States v. Sanchez*, 969 F.2d 1409, 1413 (2d Cir. 1992)); *United States v. White*, No. 10-Cr-516, 2011 WL 2207566, at *4 (S.D.N.Y. May 31, 2011). In order to succeed on her motion, Odiase must demonstrate that it would be “manifest injustice” to let the guilty verdict stand. *Ferguson*, 246 F.3d at 134; *White*, 2011 WL 2207566, at *4. Because the Court perceives no error, let alone one amounting to manifest injustice, Odiase’s motion for a new trial is denied.¹

I. THERE IS NO LACK OF SUFFICIENT EVIDENCE TO SUPPORT THE COUNTS OF CONVICTION

Odiase first contends she is entitled to a new trial because the evidence was insufficient to find her guilty of any of the three counts on which she was convicted. Odiase’s motion seeking a new trial is expressly grounded in Federal Rule of Criminal Procedure 33, although her papers cite language and authorities applicable to a Rule 29 motion for judgment of acquittal. *See* Fed. R. Crim. P. 29(a). In its opposition brief, the government treats the portion of Odiase’s motion that contends the evidence was insufficient as pursuant to Rule 29. Like Odiase, the Court will treat her motion as pursuant to Rule 33, but look to Rule 29 law to decide whether the evidence was in fact sufficient to convict Odiase. The Court finds that the evidence was sufficient, and it would not be manifest injustice to let the guilty verdict stand. Indeed, there was more than adequate evidence supporting each count of conviction.

In considering a challenge to the sufficiency of the evidence to sustain a conviction, the Court “review[s] all of the evidence presented at trial ‘in the light most favorable to the government, crediting every inference that the jury might have drawn in favor of the government.’” *United States v. Walker*,

¹ The Court denied Odiase’s motion from the bench on June 1, 2018, and memorializes the reasons for that decision in this written Opinion.

191 F.3d 326, 333 (2d Cir. 1999) (quoting *United States v. Hernandez*, 85 F.3d 1023, 1030 (2d Cir. 1996)); see *United States v. Espaillet*, 380 F.3d 713, 718 (2d Cir. 2004). Mindful that “courts must be careful to avoid usurping the role of the jury,” *Espaillet*, 380 F.3d at 718 (quoting *United States v. Jackson*, 335 F.3d 170, 180 (2d Cir. 2003)), the Court will not disturb the conviction “so long as ‘any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *Walker*, 191 F.3d at 333 (internal quotation marks omitted) (quoting *United States v. Tocco*, 135 F.3d 116, 123 (2d Cir. 1998)).

To convict Odiase of the three counts of conviction, the Court instructed the jury as to the essential elements that it needed to find beyond a reasonable doubt. Those elements included (1) that Odiase “knew that the property involved in the financial transaction” – the \$50,000 – “represented the proceeds of some form of unlawful activity,” and (2) that Odiase “knew that the financial transaction” – the transfer of the \$50,000 from one bank account into another – “was designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of those proceeds.” (Trial Tr. (“Tr.”) 495-96, 502-03.) The latter element “requires proof that the purpose or intended aim of the transaction was to conceal or disguise a specified attribute of the funds.” *United States v. Huezo*, 546 F.3d 174, 179 (2d Cir. 2008).

Odiase contends that the evidence presented to the jury was insufficient as a matter of law to establish either of those two elements.

With respect to the first challenged element – knowledge – Odiase offers a two-part argument. Relying on the jury’s not-guilty verdict on the conspiracy to commit wire fraud count, Odiase first argues that the jury must have found that, as of the time the \$50,000 was deposited into her account, Odiase lacked knowledge that the funds were the proceeds of the fraud; and to the extent that the jury found otherwise, such a finding was inconsistent with its not-guilty verdict on the conspiracy to commit wire fraud count. From there, Odiase infers that the jury must have found that she acquired the requisite knowledge at some point between the deposit and her transfer of the funds into a different bank account, and she contends that the evidence presented at trial was insufficient to support such a finding.

As an initial matter, even if Odiase were correct that the jury's verdicts were inconsistent, that generally would not by itself be a basis for granting her motion. See *United States v. Acosta*, 17 F.3d 538, 544-45 (2d Cir. 1994). Here, however, the Court agrees with the government that the verdicts can be harmonized, and therefore a new trial is not warranted on that basis. See *Ali v. Kipp*, No. 16-4225-cv, 2018 WL 2305810, at *6 (2d Cir. May 22, 2018). "Consistent with [the Court's] instruction[s]" on the counts of conviction, "a reasonable juror could conclude that, at the time [the \$50,000 was deposited], the defendant knew that the money came from *some* form of criminal activity, even if there was not sufficient evidence to conclude, beyond a reasonable doubt, that the defendant participated in a conspiracy to commit wire fraud." (Gov't's Mem. of Law in Opp'n to Def.'s Mot. at 16, ECF No. 125 (emphasis added).)

More fundamentally, the Court finds that there was ample circumstantial evidence from which the jury could infer that Odiase knew the \$50,000 represented the proceeds of some form of unlawful activity, at least as of the date she transferred the funds to a different account, and quite likely earlier. The same circumstantial evidence was sufficient to enable a jury to infer that Odiase knew that the transfer of the funds between bank accounts "was designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of those proceeds." (Tr. 495-96, 502-03.)

The circumstantial evidence included evidence of what the government contended were extended and repeated false exculpatory statements that Odiase made during her police interview. The interview, which was videotaped, lasted one hour and forty minutes. (Tr. 110.) During that interview, Odiase repeatedly offered an improbable explanation regarding the source of the \$50,000, contending that it was proceeds from the sale of her goods to "Frank" – a foreign buyer about whom she otherwise knew essentially nothing except his name and his willingness to pay her \$50,000. (See GX-501.) As the Court instructed at the end of the trial, the jury was entitled to find that Odiase "gave a false statement in order to avert suspicion from herself," and, if it did, the jury could, but was not required to, infer that Odiase believed that she was guilty. (Tr. 474.)

The circumstantial evidence also included bank records reflecting that the \$50,000 transaction into Odiase's account and the \$50,000 transaction between Odiase's two accounts were exponentially larger than any other single transaction in either account, which otherwise had sparse activity. (GX 301-03, 312, 401-03, 406.) From this – crediting every inference in the government's favor – the jury could reasonably have inferred that the accounts were used to house proceeds from unlawful activity.

Naturally, Odiase's transfer of the funds between her two accounts was also evidence supporting the jury's verdict. Odiase now contends (and counsel argued to the jury) that, because both accounts were in her own name, the transfer could not have been effected with the intent to conceal or disguise the nature, location, source, ownership, or control of those proceeds.

The jury was entitled to find otherwise. Specifically, it was entitled to find – especially in light of the other circumstantial evidence – that Odiase transferred the funds in order to elongate the trail from, and thereby help conceal, “a specified attribute of the funds” – their source. *Huezo*, 546 F.3d at 179. That inference would have been an especially logical one given that the jury was not presented with evidence of any other purpose for the transfer.² That Odiase might have been more cunning in her efforts to conceal the source of the funds – perhaps by putting the funds into an account with someone else's name – does not preclude such a finding.

Reviewing “all of the evidence presented at trial ‘in the light most favorable to the government,’” and “crediting every inference that the jury might have drawn in favor of the government,” the Court comfortably finds that a “rational trier of fact could have found [all of] the essential elements of the [three counts of conviction] beyond a reasonable doubt.” *Walker*, 191 F.3d at 333 (quoting *Hernandez*, 85 F.3d at 1030, and *Tocco*, 135 F.3d at 123).

² In this respect, Odiase's case is different from one where ill-gotten gains are used to make “an ordinary purchase,” *United States v. Stephenson*, 183 F.3d 110, 121 (2d Cir. 1999), and from the circumstances present in *United States v. Rodriguez*, a case that Odiase relies heavily upon, *see* No. 16-4177, 2018 WL 1836236 (2d Cir. Apr. 18, 2018).

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