

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 16-11358

D.C. Docket No. 1:14-cr-00039-WLS-TQL-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

EDDIE LEE PERRY,
CHAD RAGIN,

Defendants - Appellants.

Appeals from the United States District Court
for the Middle District of Georgia

(September 29, 2021)

Before GRANT and MARCUS, Circuit Judges, and AXON,* District Judge.

MARCUS, Circuit Judge:

In 2014, Eddie Lee Perry and Chad Ragin along with seven other co-defendants were indicted by a federal grand jury on numerous charges related to their involvement in a substantial multi-year, multi-state drug distribution organization operating primarily in southern Georgia. The core charge was that Perry, Ragin, and the others conspired to possess with intent to distribute in excess of five kilograms of cocaine and in excess of 280 grams of cocaine base. The charged conspiracy ran from January 2010 until the end of 2013. As part of an extended investigation, and with a series of court-ordered wiretaps in hand, the government intercepted thousands of cellular phone calls involving Perry, Ragin, and the other conspirators. Many of these conversations involved coded discussions about drugs. Some of the calls expressly referenced “coke jewel,” “powder,” and something “for the nose.” During the trial, the government introduced 100 of the calls through the testimony of its case agent, DEA task force officer Kevin Lee. The government also presented testimony from sixteen other witnesses and introduced Rule 404(b) evidence of other crimes, wrongs, and acts

* Honorable Annemarie Axon, United States District Judge for the Northern District of Alabama, sitting by designation.

against both Perry and Ragin. After seven days of trial, the jury convicted Perry and Ragin on all counts.

In this consolidated appeal, Perry presents multiple challenges to his convictions, while Ragin attacks his sentence on several grounds. Perry focuses primarily on agent Lee's testimony, arguing that the district court erroneously admitted it because Lee was not properly qualified as an expert, and that, in any event, the opinion testimony improperly blurred the line between expert and lay witness testimony and drew impermissible inferences for the jury. But after a thorough review of an extensive trial record, we are satisfied that Lee was properly qualified as an expert in interpreting code words for drugs, and that Perry has failed to establish that he was substantially prejudiced by any offending comments Lee offered. Similarly, we conclude that Ragin's challenges to his sentence are without merit. We affirm.

I.

In early 2013, Drug Enforcement Administration and local law enforcement agencies in southwest Georgia and Miami, Florida jointly began an extensive investigation involving a large cocaine distribution scheme. As part of this inquiry, between April and June 2013, the agents obtained three 30-day court-authorized interceptions of calls on a cell phone used by Perry. During this period, the agents intercepted thousands of calls, including many discussing drug production and sales. Information drawn from the Perry wiretaps led to court-authorized spinoff wiretaps, including one in December 2013, which focused on Roger Ross, who was Perry's source of cocaine.

Many of the calls ranged from discussions about cooking cocaine to setting up potential sales. Three calls from April 13, 2013 are illustrative. The day started with a call between Perry and Odell Cleveland (a named co-conspirator). Among other things, Perry told Cleveland that he had "that Lulu for your ass," using the code word "Lulu" for powder cocaine. Perry then called Joseph Davenport (also a named co-conspirator) and told him that they needed to meet. Shortly thereafter, Perry spoke to Ross, his Miami supplier, and said that the powder cocaine was "good" and "dropping dem draws quick." At trial, Kevin Lee -- who was the narcotics and vice commander of the Thomas County Sheriff's Office, a task force officer working with the DEA, and the chief investigator in this case -- testified that "dropping dem draws quick" meant it was "easy to convert [] from powder

cocaine into crack cocaine.” Ross then asked Perry if he wanted “some more” and Perry said yes. Perry also told Ross that “Ole Bro Bro he fixing to come get at me . . . so Imma need.” Agent Lee testified that “Ole Bro Bro” referred to Joseph Davenport (a named co-conspirator and co-defendant) and that Perry was telling Ross he would need more cocaine in the future. On the same call, Ross told Perry that he was going to “have nephew do that and . . . hit ya up . . . later on.” Agent Lee offered that “nephew” referred to Ross’s cousin¹ and courier, Chad Ragin, who would deliver more cocaine.

The intercepted telephone calls also led to the arrests of several co-conspirators and the seizure of drugs and money. Thus, for example, on May 4, 2013, the wiretap surveillance team intercepted a phone call between Perry and Davenport. The two co-conspirators discussed their progress getting “one” from an unnamed man, which they could sell and charge “14 to make [] a dollar a piece.” Agent Lee testified that the men were discussing buying one ounce of powder cocaine from Vert Washington (another co-conspirator) and selling it for \$1,400, in order to make \$100 each. On May 16, agent Lee received a call from an informant, who led Lee to a convenience store parking lot where Davenport and Washington were sitting in a vehicle. When agent Lee arrived, after obtaining

¹ In a written statement following his arrest, Ragin refers to Ross as his cousin. However, at several points in the taped conversations and at trial, Ragin is referred to as Ross’s nephew.

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