

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 12, 2022

Lyle W. Cayce  
Clerk

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No. 17-30610

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JASMINE PERRY,

*Defendant—Appellant,*

CONSOLIDATED WITH

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No. 17-30611

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

LEROY PRICE, ALONZO PETERS; CURTIS NEVILLE; SOLOMON  
DOYLE; DAMIAN BARNES; ASHTON PRICE; MCCOY WALKER;  
TERRIOUES OWNEY; EVANS LEWIS,

*Defendants—Appellants.*

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c/w No. 17-30611

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Appeals from the United States District Court  
for the Eastern District of Louisiana  
USDC Nos. 2:15-CR-154-4; 2:15-CR-154-1;  
2:15-CR-154-3; 2:15-CR-154-8; 2:15-CR-154-11;  
2:15-CR-154-13; 2:15-CR-154-2; 2:15-CR-154-5;  
2:15-CR-154-6 and 2:15-CR-154-7

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Before JONES, HIGGINSON, and DUNCAN, *Circuit Judges*.

STEPHEN A. HIGGINSON, *Circuit Judge*:

This criminal appeal arises out of a nearly six-week long trial involving ten co-defendants, all of whom are now before this Court. Defendants Jasmine Perry, Leroy Price, Alonzo Peters, Curtis Neville, Solomon Doyle, Damian Barnes, Ashton Price, McCoy Walker, Terrioues Owney, and Evans Lewis appeal their convictions for numerous crimes related to their participation in the “39ers.” We AFFIRM their convictions in part and VACATE in part.

### I. Factual Background

In April 2016, a federal grand jury returned a 47-count, superseding indictment against defendants, charging them with various crimes including violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), drug<sup>1</sup> and gun conspiracies, violations of the Violent Crimes in Aid of Racketeering Act (“VICAR”), and firearms charges. The case proceeded to a jury trial that lasted 28 days. At trial, the Government sought to prove that each defendant was a member of the “39ers”: a criminal gang made up of members from groups in New Orleans’ Third and Ninth Wards. The two groups entered into an alliance of sorts, in order to sell drugs in both

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<sup>1</sup> As relevant here, Defendants Perry, Owney, Lewis, and Doyle were not charged in the drug conspiracy because they had previously pleaded guilty to participating in a drug conspiracy in a separate case.

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areas. The Government argued on appeal that the purpose of the 39ers was to sell drugs while protecting its members, supplies and territory.

Five members of the “39ers” pleaded guilty and cooperated, testifying for the Government at trial: Darryl Franklin, Tyrone Knockum, Gregory Stewart, Washington McCaskill, and Rico Jackson. Through testimony from these cooperators, the Government sought to prove that the 39ers was an enterprise and not merely a loose association of people, that the 39ers engaged in drug-trafficking together, and that they shared a gun conspiracy. As relevant to this appeal, at trial the prosecution focused on nine incidents: (1) the murder of Kendall Faivre and the shooting of Jasmine Jones on February 22, 2010; (2) the murder of Lester Green and the shooting of Jamal Smith on May 19, 2010; (3) the murder of Donald Daniels on May 27, 2010; (4) the murder of Elton Fields on October 11, 2010; (5) the murders of Jerome Hampton and Renetta Lowe on December 20, 2010; (6) the murder of Littlejohn Haynes on February 20, 2011; (7) the assaults of Albert Hardy, Kelvin Baham, and Carrie Henry on May 22, 2011; (8) the murder of Gregory Keys and the shooting of Kendrick Smothers on May 24, 2011; and (9) the murder of Michael Marshall on September 14, 2011.

Evidence introduced by the prosecution at trial included expert testimony on ballistics, testimony from law enforcement, and Title III calls. In addition, two music videos and one song were played.

Jury deliberations began on day 25 of the trial. The verdict, returned on day 28, resulted in the following convictions:

1. Ashton Price was found guilty of the Count 1 RICO conspiracy, the Count 2 drug conspiracy, and the Count 3 firearms conspiracy. He was also convicted on counts involving the deaths and assaults of Kendall Faivre, Jasmine Jones, and Michael Marshall; however, he was

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found not guilty on counts associated with the deaths of Terrance Dennis, Anthony Charles Brown, Jr., and Rayshon Jones.

2. Leroy Price was found guilty of the Count 1 RICO conspiracy, the Count 2 drug conspiracy, the Count 3 firearms conspiracy, and the murders of Lester Green, Jamal Smith, Donald Daniels, Elton Fields, and Michael Marshall; however, he was found not guilty of causing death through the use of a firearm for each of those murders.
3. Alonzo Peters was found guilty of the Count 1 RICO conspiracy, the Count 2 drug conspiracy, and the Count 3 firearms conspiracy; however, he was found not guilty on all other charged counts.
4. Jasmine Perry was found guilty of the Count 1 RICO conspiracy, the Count 3 firearms conspiracy, and the murders of Kendall Faivre and Gregory Keys. He was also found guilty of assault with a dangerous weapon in aid of racketeering as to Jasmine Jones, Albert Hardy, Kevin Baham, Carrie Henry, and Kendrick Smothers. Perry was found not guilty of charges relating to the death of Littlejohn Haynes, Terrance Dennis, and Anthony Charles Brown, Jr.
5. McCoy Walker was found guilty of the Count 1 RICO conspiracy, the Count 2 drug conspiracy, and the Count 3 firearms conspiracy; he was also found guilty of charges associated with the murders of Lester Green, Jerome Hampton, and Renetta Lowe, as well as the assault of Jamal Smith. He was found not guilty of charges associated with

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the assault of Elton Williams, Quinieece Noble, and the use of a firearm in the death of Lester Green and assault of Jamal Smith.

6. Terrioues Owney was found guilty of the Count 1 RICO conspiracy and the Count 3 firearms conspiracy, as well as counts associated with the murder of Lester Green, Donald Daniels, Elton Fields, Jerome Hampton and Renetta Lowe. He was also found guilty of the assault of Jamal Smith.
7. Evans Lewis was found guilty of the Count 1 RICO conspiracy and the murder of Littlejohn Haynes. He was found not guilty of charges relating to the deaths of Anthony Charles Brown, Jr. and Lester Green, and the assault of Jamal Smith.
8. Curtis Neville was found guilty of the Count 1 RICO conspiracy, the Count 2 drug conspiracy, and the Count 3 firearms conspiracy, as well as counts associated with the murder of Littlejohn Haynes and the assaults of Albert Hardy, Kelvin Baham, and Carrie Henry. He was also found guilty of possession with the intent to distribute heroin, and possession of a firearm in furtherance of a drug trafficking crime.
9. Solomon Doyle was found guilty only of the Count 1 RICO conspiracy. He was found not guilty of the Count 3 firearms conspiracy, as well as counts associated with the murder of Littlejohn Haynes.
10. Damian Barnes was found guilty of the Count 1 RICO conspiracy, the Count 2 drug conspiracy, and the Count 3 firearms conspiracy. He was found not guilty of counts associated with the murder of Floyd Moore.

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