

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.: 3:16-cr-93-J-32JRK
)	
CORRINE BROWN,)	
)	
Defendant.)	

DEFENDANT CORRINE BROWN’S MOTION FOR JUDGMENT OF ACQUITTAL

Defendant, Corrine Brown, moves for a Judgment of Acquittal pursuant to Rule 29 Federal Rule of Criminal Procedure, and in support would show the following:

I. Introduction:

In ruling on a motion for judgment of acquittal, the Court must determine “whether there is substantial evidence from which a jury could reasonably find the defendant guilty beyond a reasonable doubt. “*United States v. Gregory*, 730 F.2d 692, 706 (11th Cir. 1984); *United States v. O’Keefe*, 825 F.2d 314 (11th Cir. 1987); *United States v. Moore*, 504 F.3d 1345, 1348 (11th Cir. 2007) (reversing a

district court's ruling denying a motion for judgment of acquittal at the close of the government's case because the government failed to present evidence of a "knowing" violation of the statute).

As will be discussed below the government's case failed to establish the essential elements of the offenses charged against the defendant. Therefore, this Court should enter a judgment of acquittal on all counts.

II. Procedural Background:

On July 6, 2016, the defendant was charged in a 24-count indictment. Count One of the indictment charged the defendant with Conspiracy to Commit Mail and Wire Fraud in violation of Title 18 U.S.C. § 1349. Counts Two through Seventeen of the indictment charged the defendant with Mail and Wire Fraud in violation of Title 18 U.S.C. §§ 1343 and 2.

Count Nineteen charged the defendant with a Scheme to Defraud in violation of Title 18 U.S.C. § 1001(a)(1). Count Twenty-One charged the defendant with corruptly endeavoring to obstruct and impede the due administration

of the internal revenue laws in violation of Title 26 U.S.C. § 7212(a).

Counts Twenty-Two, Twenty-Three, and Twenty-Four of the indictment alleged that the defendant filed false tax returns in violation of Title 26 U.S.C. § 7206(1). The defendant was not charged in Counts Eighteen and Twenty of the Indictment.

At the close of the government's case and at the close of the defendant's case, the defendant, pursuant to Rule 29 of the Federal Rules of Criminal Procedure, made motions for judgment of acquittal on all counts. The court denied both motions.

The defendant was ultimately convicted on 18 of 22 counts. This motion is made in an abundance of caution in order to preserve any and all possible issues.

III. Facts:

The government's theory in its case-in-chief was that between 2012 and 2015 the defendant conspired with others known and unknown to commit wire fraud and mail fraud.

Specifically, the government alleged that the defendant aided and abetted Carla Wiley, Ronnie Simmons, and others

when they solicited donations to a charity known as One Door for Education.

The government asserted that the defendant and her co-conspirators knew that at the time of the solicitations they intended to use some of the funds for their personal use and expenses. The failure to disclose this fact to the donors, according to the government's theory, amounted to wire fraud and mail fraud.

Beginning in 2012, and continuing through 2015, the defendant solicited donors to provide funds for charitable events and other legitimate purposes. These initiatives included an educational trip for students to China; computer initiative; golf tournament that took place in the Jacksonville area; and receptions that were held in conjunction with the Congressional Black Caucus Foundation's Annual Legislative Conferences.

The donors were provided with flyers about a few of the events. All of the events did in fact take place. None of the flyers ever indicated that scholarships would be handed out during the events; however, scholarship funds were raised for various initiatives.

With regard to Count Nineteen, the government alleged that in 2012, 2013, 2014, and 2015, the defendant failed to disclose, on her financial disclosure forms, income that she received from various sources.

With regard to Count Twenty-One, the government alleged that in 2008, 2009, 2010, 2011, 2012, and 2013, the defendant knowingly failed to disclose income on her tax returns and that she claimed charitable deductions on her tax returns that she knew she was not entitled to claim.

With regard to Counts Twenty-Two, Twenty-Three, and Twenty-Four, the government alleged that the defendant knowingly submitted income tax returns that she knew contained false information concerning her income and charitable deductions.

In summary, the government alleged two general categories of fraud: a scheme to defraud as to One Door for Education, and a scheme to defraud as to her financial disclosure forms and the filing of false tax returns.

With regard to One Door for Education, during its case-in-chief the government first established that various donors wrote checks to One Door for Education and that

these checks were deposited into the One Door for Education bank accounts.

Second, the government presented testimony that the donors were told that the money would be used to sponsor fundraising events for One Door for Education and that any money raised would be used to further the charitable aims of the organization.

Third, the government presented testimony from Ms. Wiley and Mr. Simmons. Both witnesses admitted that they took funds from the One Door for Education bank accounts and used those funds for their personal use.

Ms. Wiley testified that her theft of One Door for Education funds was done without the knowledge or direction of the defendant. The government did not present any evidence that the defendant and Ms. Wiley ever conspired to commit mail or wire fraud.

Mr. Simmons testified that his theft of One Door for Education funds was often done at the direction of the defendant but he was not able to provide any corroboration for this claim. What stands out the most about Mr. Simmons' testimony are the statements he made that eviscerated the government's theory concerning the defendant's guilt.

To the surprise of the government, Mr. Simmons provided exculpatory evidence on behalf of the defendant. One of the government's primary theories of guilt was that the defendant never intended to use any of the funds solicited from donors for charitable or legitimate purposes. Mr. Simmons testified that this was in fact the intent with regard to the funds raised for the events and despite the government's attempt to impeach him on that point he remained resolute.

At no point during its case-in-chief did the government provide any direct evidence that any money from One Door for Education made its way into the possession of the defendant or into her bank accounts.

In support of its case for a conviction on Count Nineteen, the government presented a bare bones circumstantial evidence case. The government presented testimony that financial disclosure forms were filed on the defendant's behalf at the times alleged in the indictment.

In support of its case for a conviction on Counts Twenty-One through Twenty-Four, the government presented testimony and exhibits that tax returns were submitted for the tax years 2008-2014. The government argued that the tax

returns were false in that they failed to state income the defendant had received from various sources, and contained charitable deductions that were false.

At no point during the trial did the government produce any direct evidence of the defendant's intent to make false statements in these tax returns.

The defendant testified in her own defense. During her testimony, the defendant stated that she became associated with One Door for Education at the suggestion of Mr. Simmons. He was the defendant's Chief of Staff during her tenure in the U.S. House of Representatives from 1993-2017. During the relevant times alleged in the indictment, he had firmly established himself as her trusted aide. The defendant testified that she loved Mr. Simmons like a son, and that she placed absolute trust in him.

Mr. Simmons, according to the defendant, would regularly sign her signature on documents. Oftentimes, if there was not an actual signature there would be an electronic signature, which the defendant's staff utilized.

The defendant also testified that as she aged Mr. Simmons took more of an active role in the handling of her personal affairs. Mr. Simmons had access to her bank

accounts. He handled her bills, he prepared her financial disclosure forms, and he helped prepare her income tax returns.

The defendant asserted that she was never aware that Ms. Wiley and Mr. Simmons were stealing funds from the One Door for Education bank accounts. Ironically, Ms. Wiley and Mr. Simmons both testified that they were not aware of the others misdeeds, despite the fact they were in a romantic relationship.

The defendant testified that Mr. Simmons told her that he advanced his personal funds for events that were eventually sponsored by One Door for Education. The government's case agent, and one of its forensic accountants verified this testimony.

The defendant testified that Mr. Simmons told her that he did withdraw funds from the One Door for Education account for reimbursements for the funds he advanced in order to get the events started. While the government presented evidence that Mr. Simmons did provide cash to the defendant, she testified that it was her belief that any money she received from Mr. Simmons was his money and that it was obtained lawfully.

The defendant also testified that she believed that One Door for Education was a legitimate charity given that it did conduct some social justice operations. In particular, the defendant testified about One Door for Education's sponsorship of an educational trip for students to China in August 2015. Donors were solicited to provide funds to One Door for Education to help pay for various expenses including round-trip airfare from the United States to China. Ultimately, 22 students received educational scholarships to participate in this initiative.

The defendant's testimony established a significant flaw in the government's theory of her guilt. The government repeatedly pointed out that One Door for Education only gave out two scholarships.

During the trial the government argued that at the events sponsored by One Door for Education no scholarships were awarded to students. They did this despite numerous pieces of evidence that undercut this theory.

The evidence at trial clearly established that One Door for Education never presented itself as an organization that was solely dedicated to provide scholarships for students to pursue careers in education. One Door for

Education was a social justice organization that was intended to raise funds for all manner of charitable purposes.

More relevant to this case, in the mind of the defendant, One Door for Education's mission was not limited to providing scholarships for students to pursue careers in education.

In summary, during her testimony the defendant was able to establish the following with regard to Counts One through Seventeen:

- a. She never had access to the One Door for Education bank accounts.
- b. She never withdrew any funds from the One Door for Education bank accounts.
- c. She was not an officer or a member of the board for One Door for Education, and was never briefed on its finances.
- d. Mr. Simmons advanced his personal funds to One Door for Education and, on occasion, sought reimbursement for these advances.

e. Mr. Simmons told the defendant that the funds he withdrew from One Door for Education were reimbursements.

With regard to Counts Nineteen, Twenty-One, Twenty-Two, Twenty-Three, and Twenty-Four, the defendant testified that due to her busy schedule, she relied on her staff to handle her financial disclosure forms and income tax returns. The defendant testified that Mr. Simmons and others on her staff handled the preparation and submission of her financial disclosure forms and income tax returns.

In summary, the defendant asserted that she was unaware of the illegal acts of Mr. Simmons. Had she paid closer attention to her finances she might have discovered Mr. Simmons misdeeds. With regard to the information on her financial disclosure forms, and her tax forms that were inaccurate, the defendant asserted that this false information was due to neglect and mistake, and was not the result of any criminal intent.

IV. Memorandum of Law and Argument:

The defendant's motion for judgment of acquittal should be granted because the government failed to present

sufficient evidence with regard to the element of criminal intent. Despite the parade of witnesses called by the government, and the thousands of documents introduced as exhibits, the government was never able to present any direct evidence of the defendant's state of mind.

In essence the government asked the jury to speculate about the defendant's state of mind, and to make a number of inferential leaps that were not supported by logic or the law. The government presented a purely circumstantial evidence case. When the government relies on circumstantial evidence, reasonable inferences and not mere speculation must support the conviction. See *United States v. Mendez*, 528 F.3d 811, 814 (11th Cir. 2008) (per curiam).

All of the crimes charged required the government to prove not only that the defendant committed certain acts, but also that she did them with the requisite state of mind. With regard to the Conspiracy to Commit Mail and Wire Fraud, and the Mail Fraud and Wire Fraud counts, the government failed to provide sufficient evidence of criminal intent for each and every count alleged.

A defendant can only be found guilty of conspiracy if the government proves the following elements beyond a reasonable doubt:

(1) Two or more persons, in some way or manner, agreed to try to accomplish a common and unlawful plan; and

(2) The defendant knew the unlawful purpose of the plan and willfully joined in it.

A defendant can only be found guilty of mail fraud if the government proves the following elements beyond a reasonable doubt:

(1) The defendant knowingly devised or participated in a scheme to defraud someone, or obtain money or property, using false or fraudulent pretenses, representations, or promises;

(2) The false or fraudulent pretenses, representations, or promises were about a material fact;

(3) The defendant intended to defraud someone; and

(4) The defendant used a private or commercial interstate carrier by depositing or causing to be deposited with the carrier something meant to help carry out the scheme to defraud.

A defendant can only be found guilty of wire fraud if the government proves the following elements beyond a reasonable doubt:

(1) The defendant knowingly devised or participated in a scheme to defraud, or to obtain money or property by using false pretenses, representations, or promises;

(2) The false pretenses, representations, or promises were about a material fact;

(3) The defendant acted with the intent to defraud; and

(4) The defendant transmitted or caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud.

With regard to the offenses that alleged a scheme to defraud, Counts Two through Seventeen, and Counts Nineteen and Twenty-One, the government alleged that the defendant participated in a scheme to defraud. "A scheme to defraud requires proof of a material misrepresentation, or the omission or concealment of a material fact calculated to deceive another out of money or property." *United States v. Maxwell*, 579 F.3d 1282, 1299 (11th Cir. 2009).

In this case, the government failed to present any evidence that the defendant engaged in such behavior. With regard to the alleged One Door for Education fraud, the defendant solicited donors to provide money for the purpose of holding various events. All of the events the defendant

solicited money for did in fact take place. Thus, there was no material misrepresentation, omission, or concealment of a material fact calculated to deceive another out of money or property.

While the defendant did have a professional and personal relationship with Mr. Simmons, and a very limited number of interactions with Ms. Wiley, merely associating with certain people and discussing common goals and interests does not establish proof of a conspiracy. As the 11th Circuit's pattern jury instruction for conspiracy clearly states, a person who doesn't know about a conspiracy but happens to act in a way that advances some purpose of one doesn't automatically become a conspirator.

Simply put, the government failed to present in its case any evidence that the defendant was aware of the misdeeds of either Ms. Wiley or Mr. Simmons. Guilt by association is not a sufficient basis for conviction.

There is no doubt that Ms. Wiley and Mr. Simmons did engage in mail fraud and wire fraud based on their own admissions and the evidence introduced at trial.

Ms. Wiley and Mr. Simmons did send letters and wires to donors to One Door for Education and did solicit donations during the time when they knew they were withdrawing funds from the account for their personal use.

The government was not able to produce any such evidence with regard to the defendant. In fact, the government, much to its surprise, presented exculpatory evidence concerning the defendant's state of mind.

During his testimony, Mr. Simmons clearly stated that it was not only his intent, but also the intent of the defendant, to use the funds raised from donors to hold events that would raise funds for charity and other legitimate purposes. While some of the charitable events did not raise any funds, that is not proof beyond a reasonable doubt of criminal activity.

Furthermore, the defendant's argument, with regard to her innocence, is bolstered by the fact that she was acquitted on counts Three, Five, Fourteen and Sixteen. It makes no logical sense that the jury could believe that the defendant was part of a scheme to commit wire and mail fraud and yet acquit her on these counts.

With regard to the alleged financial disclosures and tax return fraud, Counts Nineteen, Twenty-One, Twenty-Two, Twenty-Three, and Twenty-Four of the Indictment, again the government failed to introduce sufficient evidence of intent to defraud with regard to these counts. At worst the defendant was extremely careless and reckless with the handling of her personal finances and her obligations to ensure that her financial disclosure forms were accurately completed.

V. Conclusion:

In conclusion, despite the number of witnesses called, and the number of exhibits introduced, there is no doubt about the fact that there was no direct evidence of criminal intent. The government's case failed to deliver because it did not provide sufficient the proof of criminal intent. For this, and the other reasons stated above, the defendant respectfully requests that the Court grant her motion for judgment of acquittal.

WHEREFORE, Ms. Brown prays that this Court grant her request for judgment of acquittal.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that this document was filed today with the Clerk of the Court by using the ECF system which will send a copy of the same and electronic notice of this filing to all counsel of record.

CPLS, P.A.

Attorneys|Consultants|Mediators
201 E. Pine Street, Suite 445
Orlando, Florida 32801
407-647-7887/407-647-5396 (Fax)
Attorney for Defendant
CPLS File No. 2349-1

June 8, 2017

/s/ James Smith, Esq.
James W. Smith III, Esq.
Florida Bar No. 96438
jsmith@cplspa.com
Samuel A. Walker, Esq.
Florida Bar Number 103190
swalker@cplspa.com