

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 92-1636
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOYCE A. MARTIN,

Defendant-Appellant.

Appeal from the United States District Court
For the Northern District of Texas

(2:91-CR-00022(2))

(February 22, 1993)

Before KING, DAVIS and WIENER, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Joyce A. Martin appeals her conviction by a jury on charges of money laundering and aiding and abetting under 18 U.S.C. §§ 2 and 1956(a)(1)(B)(i), insisting that the evidence was insufficient. Finding the evidence sufficient under the applicable standard of review,

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

we affirm.

I.

FACTS AND PROCEEDINGS

In a superseding indictment Martin was charged with four counts of money laundering and aiding and abetting Herbert Johnson, Jr., in laundering the proceeds of Johnson's cocaine trafficking, through the purchase of four automobiles: a 1989 Pontiac Grand Prix, a 1982 Buick Riviera, a 1988 Toyota Supra, and a 1990 Chevy van.

The evidence at trial revealed that in Martin and Johnson's purchase of the Grand Prix Johnson paid \$9000 in cash, primarily in twenty dollar bills, and that they financed the balance of the purchase price on Martin's credit, titling the car in Martin's name. Although the Buick Riviera and the Toyota Supra were registered in other women's names, Martin purchased the cashier's checks that were used as partial payments in those acquisitions. The money for these checks came from Martin's accounts at First National Bank and Pantex Federal Credit Union. The Chevy van was titled in Martin's name and was paid for by Johnson's cash, Martin's cashier's check, and Martin's car loan.

Sammy Scott testified that he personally knew Johnson as a "crack" cocaine supplier from whom he (Scott) had purchased drugs. He testified that at various times he observed Johnson selling crack from each of the four vehicles. He also testified that Martin was Johnson's girlfriend, and that on two separate occasions Martin was sitting or standing next to Johnson when he sold crack cocaine.

Scott testified additionally about a conversation he had with Johnson. Scott said that he was told by Johnson that if he were caught selling crack he would avoid the problem of vehicle forfeiture by virtue of his cars' titles being in the names of others.

Evidence showed that Martin had five accounts at the two above named banks, and that funds from her accounts were used in paying for the cars. Martin's name was the only one appearing on the signature cards. Moreover, funds from Martin's bank accounts were used to pay several of

Johnson's bills. And, Martin's name was used in a rent application for Johnson and in his transactions involving other vehicles.

Testimony revealed that Martin's annual net income from her job came to \$10,000 and that she received a \$6000 insurance settlement during the period in question. Johnson's legitimate income during the relevant period was estimated to be no more than \$17,000. Also, Martin admitted that Johnson had access to her bank accounts.

Exhibits summarized the evidence on the vehicle purchases and the bank accounts' cash flow. Over \$75,000 in currency flowed into Martin's bank accounts. This amount could not possibly have come from her legitimate earnings.

The jury found Martin guilty on all four counts. After the district court sentenced Martin to forty-six months' imprisonment, three years' supervised release, and a \$200 special assessment, she appealed.

II

ANALYSIS

Martin insists that the evidence was insufficient to convict her of money laundering and aiding and abetting. Her trial counsel moved for a judgment of acquittal at the close of the government's case, but the record does not indicate that the motion was renewed at the close of the evidence.

Consequently, this Court's review is limited to determining whether the district court committed plain error or "whether there was a manifest miscarriage of justice.' Such a miscarriage would exist only if the record is `devoid of evidence pointing to guilt,' or . . . `because the evidence on a key element of the offense was so tenuous that a conviction would be shocking.'" [This Court] must review the evidence in the light most favorable to the jury verdict, including all reasonable inferences and credibility choices.

United States v. Pierre, 958 F.2d 1304, 1310-11 (5th Cir.) (en banc) (citations omitted), cert. denied, 113 S.Ct. 280 (1992).

"To prove money laundering, the government must show that the defendant 1) conducted or attempted to conduct a financial transaction, 2) which the defendant knew involved the proceeds of unlawful activity, 3) with the intent to promote or further unlawful activity." United States v.

Ramirez, 954 F.2d 1035, 1039 (5th Cir.), cert. denied, 112 S.Ct. 3010 (1992). To prove aiding and abetting,

the Government must prove (1) that the defendant associated with the criminal venture, (2) participated in the venture, and (3) sought by action to make the venture succeed. The defendant must share the principal's criminal intent and engage in some affirmative conduct designed to aid the venture.

United States v. Gallo, 927 F.2d 815, 822 (5th Cir. 1991) (citation omitted).

Martin argues that she was not directly involved in the purchase of the Buick Riviera and the Toyota Supra. As mentioned in the foregoing statement of facts, however, Martin was involved in every car purchase, either by obtaining a cashier's check from money placed in one of her accounts or by having the car title and loan placed in her name.

Martin urges that the circumstantial evidence adduced to show that drug money was used in purchasing the autos was insufficient to prove that she had knowledge that drug money was used. She also contends that there was no evidence to show that she knew that the purchases were designed to conceal. Her contentions are without merit. To infer knowledge of the drug money, the jury could rely on Scott's testimony concerning Johnson's illegal drug dealings in Martin's presence at several of these drug transactions. Further, "[e]vidence of a differential between legitimate income and cash outflow is sufficient for a money-laundering conviction. . . ." United States v. Webster, 960 F.2d 1301, 1308 (5th Cir.), cert. denied, 113 S.Ct. 355 (1992). As the evidence is not devoid of indications of Martin's guilt for money laundering, there was no manifest injustice.

As for aiding and abetting, a review of the record reveals the presence of evidence on each element of the crime. Martin argues that the evidence was insufficient to prove that she had the requisite intent to aid and abet Johnson in his scheme to conceal his drug money through the vehicle purchases. Yet Martin's own testimony revealed that (1) she had bank accounts for Johnson's use, (2) she obtained the cashier's checks at Johnson's request, (3) she voluntarily registered two of the vehicles in her name along with obtaining financing for them, and (4) she financially benefited from her banking association with Johnson. On the

strength of Martin's own testimony, coupled with the other evidence presented, the jury could reasonably infer the requisite intent. See United States v. Hinojosa, 958 F.2d 624, 629 (5th Cir. 1992) (inferring intent from conduct). We find that the evidence was sufficient under the plain-error standard.

AFFIRMED.