

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-2318  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HENRY OBI,  
a/k/a Henry Ubi,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CR-H-91-206-9  
- - - - -  
(March 23, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Henry Obi (appellant) argues that the district court erred by not granting his motions for a judgment of acquittal because the evidence was insufficient to support a guilty verdict. Appellant does not dispute that a tax fraud scheme existed; he simply contends that he was not a part of it.

In reviewing the sufficiency of the evidence, this Court must determine whether any reasonable trier of fact could have found that the evidence established guilt beyond a reasonable

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

doubt. United States v. Martinez, 975 F.2d 159, 160-61 (5th Cir. 1992), cert. denied, 113 S. Ct. 1346 (1993). Reasonable inferences are construed in accordance with the jury's verdict. Id. at 161. The jury, moreover, is solely responsible for determining the weight and credibility of the evidence. Id. This Court will not substitute its own determination of credibility for that of the jury. Id. Additionally, the scope of appellate review remains the same regardless whether the evidence is direct or circumstantial. United States v. Lorence, 706 F.2d 512, 518 (5th Cir. 1983).

Appellant was convicted under 18 U.S.C. § 286, which provides:

Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

To prove a person's involvement in this type of conspiracy, the Government must prove "(1) that there was an agreement by two or more persons to violate the law; (2) that the defendant knew of and voluntarily joined the conspiracy; and (3) that overt acts were committed to further the conspirators' purpose." United States v. Investment Enterprises, Inc., 10 F.3d 263, 266-67 (5th Cir. 1993) (convictions under 18 U.S.C. § 1462).

Once the Government has produced evidence of a conspiracy, only "slight" evidence is needed to connect an individual to that conspiracy. United States v. Duncan, 919 F.2d 981, 991 (5th Cir.

1990), cert. denied, 111 S. Ct. 2036 (1991). In this case, there was evidence of a conspiracy, and appellant does not dispute that a conspiracy existed. In addition, sufficient evidence was presented to prove appellant's knowledge of, and voluntary participation in, the conspiracy. Furthermore, the record is replete with evidence of overt acts committed to further the conspirators' purpose.

Henry Clement testified that appellant worked as a recruiter for Oganna Obi by recruiting other individuals to file false returns. Appellant's name, moreover, appears in Oganna Obi's diary as a recruiter. The diary also reflects the names of several individuals appellant recruited and the amounts claimed as refunds. Two of the individuals noted as having been recruited by appellant filed returns the IRS determined to be false.

The jury, as the sole judge of credibility, was entitled to reject appellant's testimony that he did not participate in the conspiracy. See Martinez, 975 F.2d at 161. Although the evidence reflects that appellant did not play a major role in the conspiracy, he can not escape conviction simply because of that fact. See United States v. Elwood, 993 F.2d 1146, 1150 (5th Cir. 1993).

Based on the evidence in this case, a reasonable trier of fact could have found appellant guilty beyond a reasonable doubt. The judgment, therefore, is AFFIRMED.