UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-2417
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HUGO DEJESUS VELEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(CR-H-92-159-2)

(May 18, 1994)

Before POLITZ, Chief Judge, KING and WIENER, Circuit Judges.

POLITZ, Chief Judge:[*]

Hugo DeJesus Velez appeals his jury conviction of money laundering in violation of 18 U.S.C. § 1956(a)(1)(A)(i). We affirm.

Background

Velez, a citizen of Colombia, was arrested after extended surveillance and the execution of a search warrant on his Houston

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

residence. During the search officers found nearly $1.4 million in bundled cash, drug ledgers containing entries in Velez's handwriting and bearing his fingerprints, and a number of toys, one of which had been dismantled and stuffed with cash.

Velez was tried and convicted of money laundering and was sentenced to prison for 135 months. Claiming procedural errors and insufficient evidence, Velez timely appealed.

Analysis

Velez asserts two jury-related points of error. He first maintains that the district court erred in refusing to strike for cause a venireman who responded on voir dire examination that there was probably some reason the defendant was facing charges and that he might not be wholly impartial toward an accused drug offender. Although this venireman was not seated, Velez contends that he wasted a peremptory challenge he could have saved for another member of the venire.

We review voir dire rulings on juror impartiality only for a manifest abuse of discretion.[1] On close questioning by the court the venireman clarified his answer, stating his understanding that Velez had no obligation to put on evidence and giving assurance that he would not vote to convict unless the government proved guilt beyond a reasonable doubt. Although a strike for cause would have been a logical option after the venireman's initial testimony, it was within the district court's discretion to find his clarifying explanation credible and acceptable.

[1] **United States v. Munoz**, 15 F.3d 395 (5th Cir. 1994).

Velez also challenges the district court's decision not to excuse a juror who recognized and privately informed the trial court that the government's chemical expert had been one of his schoolteachers. As per Supreme Court direction,[2] the district court held a hearing during which this juror noted that he had not seen the expert witness in 13 years and attested that his relationship with her would not influence his ability to weigh her testimony fairly and impartially. Velez put on no evidence of bias and did not object to the hearing or to the district court's decision not to excuse this juror.[3] On the record before us, that decision was not plainly erroneous.

Velez claims that the district court erred by allowing the government to ask its DEA expert whether, based on his experience, the circumstances of the instant case indicated Velez's active participation in the money-laundering operation. The expert testified that he believed "Velez was actively assisting in the laundering of money." According to Velez, the question impermissibly allowed the government expert to testify to an ultimate fact about his state of mind.[4] This argument lacks merit.

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[2]**Smith v. Phillips**, 455 U.S. 209, 215 (1982) (remedy for alleged juror bias is "a hearing in which the defendant has the opportunity to prove actual bias.").

[3]One challenging a seated juror bears the burden of showing bias. **De La Rosa v. Texas**, 734 F.2d 299 (5th Cir. 1984), cert. denied, 470 U.S. 1065 (1985). Velez presented no evidence of bias and will not be heard to complain because the trial judge accepted the juror's disavowal of any bias resulting from his earlier teacher/student relationship with the government witness.

[4]Fed.R.Evid. 704(b) provides that "No expert witness testifying with respect to the mental state or condition of a

The defense invited the inquiry by asking whether it was frequently the case that "in drug cases or money laundering cases there are knowing spectators that may know what the people in the house are doing, but are not involved in it?" Further, the expert was only asked whether Velez appeared to be an active participant, a fact from which the jury could infer knowledge or intent but which is not itself an ultimate conclusion about the defendant's mental state. The admissibility of such expert testimony is well established in this circuit.[5]

Velez next contends that the district court erred in allowing the government to pose leading questions to a government witness. Although the district court reminded the prosecutor of her "obligation not to lead your case agent who sat at your table throughout the whole trial," the court overruled each defense objection and counsel persisted in asking leading questions of the case agent. Such trial decisions are entrusted to the district court's sound discretion,[6] but an abuse thereof may constitute reversible error.[7] Allowing the government a certain amount of leeway in having the case agent explain a previously-corrected error in an affidavit, and in giving a description of the document

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defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged . . . ."

[5]See, e.g., **United States v. Dotson**, 817 F.2d 1127 (5th Cir.), modified on other grounds, 821 F.2d 1034 (5th Cir. 1992).

[6]**Ardoin v. J. Ray McDermott & Co.**, 684 F.2d 335 (5th Cir. 1982).

[7]**Id.**; Fed.R.Evid. 103(a).

upon which that affidavit was based, was neither an abuse of discretion nor an error of sufficient magnitude to impair any substantial right of the defendant.

Velez finally attacks the evidence adduced against him as insufficient. His challenge is unpersuasive. We must view sufficiency challenges by considering all evidence "direct or circumstantial [with] all the inferences reasonably drawn from it, in the light most favorable to the verdict."[8] Given Velez's proximity to and activities involving the huge quantities of bundled cash stored at the Houston residence, the drug ledgers containing his handwriting and bearing his fingerprints, the impending expiration of his visitor visa occasioning his return to Colombia, and the expert testimony suggesting that these factors were highly indicative of active participation in a money-laundering operation, we cannot conclude that the evidence was insufficient for a rational jury to find Velez had attempted to engage in a financial transaction, knew that the money was derived from drugs, and intended to promote the drug transactions through his efforts.

Finding no reversible error, we AFFIRM.

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[8] **United States v. Salazar**, 958 F.2d 1285, 1291 (5th Cir.), cert. denied, 113 S.Ct. 185 (1992).