United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
August 18, 2026
Lyle W. Cayce
Clerk

No. 25-40567

United States of America,

Plaintiff—Appellee,

versus

Sameer Praveen Sethi,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:20-CR-77-1

Before Willett, Engelhardt, and Douglas, *Circuit Judges*.

Per Curiam:[*]

Following an 11-day trial, a jury found Defendant-Appellant Sameer Sethi guilty of seven counts of wire fraud, in violation of 18 U.S.C. § 1343, and a single count of money laundering, in violation of 18 U.S.C. § 1957. The district court sentenced Sethi to 151 months in prison. On appeal, Sethi challenges (1) the district court's application of the hearsay rule; (2) the absence of a limiting jury instruction regarding the admitted out-of-court

[*] This opinion is not designated for publication. *See* 5th Cir. R. 47.5.

statements; (3) the district court's denial of Sethi's motion seeking a trial continuance; and (4) the court's jury instruction regarding the seven counts of wire fraud with which he was charged. We AFFIRM.

I.

In 2003, Sethi founded what would become Sethi Petroleum (SP), a Texas company with its principal office in Plano. SP purported to be an "oil exploration company." Sethi was SP's president and had signing authority over its bank accounts. In May 2015, SP ceased operations.

In 2016, IRS Special Agent Ronald Leazer commenced an investigation and, in March 2020, interviewed Sethi at Sethi's home. Two days after that interview, a grand jury charged Sethi with eight counts of wire fraud, six counts of mail fraud, and one count of money laundering. In June 2021, a superseding indictment omitted the mail fraud charges but retained the wire fraud and money laundering offenses.

The superseding indictment alleged that Sethi had defrauded investors by creating joint ventures for "investing" in oil and gas interests; making false statements regarding those ventures in investment materials (executive summaries and private placement memoranda) that induced investors to think that their money actually would be invested in those ventures; and spending most of the investors' money on Sethi's (personal) and SP's (general business) expenses rather than oil and gas interests. Sethi pleaded not guilty.

At trial, the government called 20 witnesses and introduced emails, investment materials, bank records, and other documents, along with audio recordings and a video recording. Sethi testified in his own defense, called four witnesses, and introduced an audio recording of his own. He denied any intent to defraud investors, and blamed Michael Davis, who had acted as SP's chief financial officer and general counsel in 2014 and 2015, for a large percentage of investor money being used to fund SP's operating expenses instead of oil ventures. Apparently unpersuaded by Sethi's testimony and other evidence, the jury found him guilty of all counts that were submitted to it—seven counts of wire fraud (Counts 1–5 and 7–8) and one count of money laundering (Count 15).[1]

II.

Sethi challenges the district court's admission of certain out-of-court statements, arguing that they are inadmissible hearsay, as well as the court's failure to instruct the jury regarding the limited purpose for which those statements were admitted. Sethi also contends that the district court abused its discretion in denying his motion seeking a ninth continuance of the trial, and in instructing the jury regarding wire fraud. All four challenges fail.

A. Hearsay

The Federal Rules of Evidence define "hearsay" as "a statement that: (1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement." *See* FED. R. EVID. 801(c); *United States v. Moore*, 748 F.2d 246, 248 (5th Cir. 1984) (defining hearsay as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted" (citing FED. R. EVID. 801(c))).[2] Hearsay is not admissible unless a federal statute, the Federal

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[1] Due to the death of a witness, Count 6 was dismissed mid-trial for lack of sufficient supporting evidence.

[2] But, even if offered to prove the truth of the matter asserted, an out-of-court statement by a party that is offered against that party "is not hearsay." *See* FED. R. EVID. 801(d)(2)(A). According to the 1972 Advisory Committee Notes to Rule 801, "[a]dmissions by a party-opponent are excluded from the category of hearsay on the theory that their admissibility in evidence is the result of the adversary system rather than the

Rules of Evidence, or "other rules prescribed by the Supreme Court" provide otherwise. *See* Fed. R. Evid. 802; *see also* Fed. R. Evid. 803–804 (identifying various types of statements that are not excluded by the rule against hearsay).

As defined in Rule 801, an out-of-court statement is hearsay only if "offered for proof of its contents." *Moore*, 748 F.2d at 248. If evidence of an out-of-court statement is offered as "proof that certain statements were made, not that the statements were true[,]" it is not hearsay. *Id.*; *Anderson v. United States*, 417 U.S. 211, 219–20 (1974) ("Out-of-court statements constitute hearsay only when offered in evidence to prove the truth of the matter asserted . . . therein." (footnotes omitted)); *United States v. Cantu*, 876 F.2d 1134, 1137 (5th Cir. 1989) ("If the significance of a statement lies solely in the fact that it was made, rather than in the veracity of the out-of-court declarant's assertion, the statement is not hearsay because it is not offered to prove the truth of the matter asserted." (quotation marks and citations omitted)). Accordingly, a statement "offered to prove that the party had knowledge or notice is not hearsay because the value of the statement does not rest upon the declarant's credibility." *In re Morrison*, 555 F.3d 473, 483 (5th Cir. 2009) (quotation omitted).

Likewise, "[w]hen statements are introduced to prove the *falsity* of the matter asserted, they are not inadmissible as hearsay." *Moore*, 748 F.2d at 248 (emphasis in original) (quoting *United States v. Adkins*, 741 F.2d 744, 746 (5th Cir. 1984); *see also Anderson*, 417 U.S. at 220 ("[T]he point of . . . introducing those statements was simply to prove that [they] were made so as to establish a foundation for later showing, through other admissible

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conditions of the hearsay rule." *See* Fed. R. Evid. 801(d)(2)(A), advisory committee's note 2 to 1972 proposed rules (citation modified).

evidence, that they were false." (footnotes omitted)); *Adkins*, 741 F.2d at 746 ("The Dun & Bradstreet report was not offered . . . to prove the *truth* of the matter asserted, that [the] facilities and employees were as reported. Rather, the government offered the report to establish a foundation for later showing, through other admissible evidence, that it was false[.] Thus, the . . . report [was] not hearsay and was properly admitted." (citations omitted)).

Applying these rules, the challenged exhibits were not inadmissible hearsay. As the government correctly argues, Sethi's assertions to the contrary erroneously "conflate[] the matter asserted in the criminal trial (his guilt or lack thereof) and the matter asserted in the statement[.]" *United States v. Meyer*, 63 F.4th 1024, 1043 (5th Cir. 2023). *See* Appellees' Brief at 21–22 ("[H]e emphasizes that the government offered the exhibits to prove the truth of matters asserted *at trial* . . . [,] [b]ut under Rule 801, an out-of-court statement is hearsay only if it is offered 'to prove the truth of the matter asserted *in the statement*.'" (quoting Fed. R. Evid. 801(c)(2) (emphasis added))); Appellant's Brief at 29 ("Here, the evidence was offered for the truth of the matter asserted."); *id.* at 30 ("[T]his exhibit (and the others referenced above) were not simply to show communication between Sethi and a witness but were offered to show that [Sethi] was personally involved in the operation and that he was making false statements to potential investors.").[3]

B. Limiting Instruction

If evidence is admissible for one purpose but not another, Federal Rule of Evidence 105 provides, in pertinent part: "[T]he court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly." Citing this provision, Sethi argues that "[t]he district court

[3] Sethi did not file a reply brief.

erred in refusing [his request for] a limiting instruction for evidence that was admitted on the premise that [the statements were] not offered for the 'truth of the matter asserted.'" Sethi's assertion, however, is not supported by the record.

Sethi's counsel urged:

> I do understand that things are not being offered for the truth of the matter so it overcomes the hearsay. I can't find a limiting instruction in the pattern jury instructions. But would the Court consider or give some thought to maybe a limiting instruction when things are being, you know, offered for the—not for the truth of the matter, but it's just being offered for context, because my fear is always that they'll forget that and they'll consider it for all purposes. And so I was just wondering whether the Court would entertain maybe a possible instruction as it relates to that.

The district court responded, in pertinent part: "I'm certainly willing to consider something, but I'm not sure what that would look like." Suggesting that the requested instruction could be included in the final instructions to the jury, the court added:

> So, I mean, I'm willing to consider it. We have some time. I can think about it because I certainly don't think any such instruction would need to be issued as the exhibits are coming in. You can tell me if you feel different[ly] about that. But I would want to hear more. And maybe you can talk to [the government] because I just haven't seen that before.

At that point, Sethi's attorney did not urge that an instruction was needed as the exhibits came in, rather than after closing arguments, or otherwise continue to pursue the matter. Instead, defense counsel immediately turned to a different topic. Furthermore, for the remainder of the trial, the record does not show that Sethi ever proposed specific language in response to the district court's stated desire "to hear more" before ruling, or raised the issue in any other way. And when the court gave its final charge, the defense did not object to the omission of a limiting instruction.

On this record, Sethi fails to prove the district court erred, much less plainly erred. *See* FED. R. CRIM. P. 30(d); *United States v. Davis*, 609 F.3d 663, 689 (5th Cir. 2010) (citations omitted) (explaining that refusals to give requested jury instructions are reviewed for an abuse of discretion); *United States v. Potts*, 644 F.3d 233, 236 (5th Cir. 2011) (citation omitted) (plain error review applied where no objection was made to a proposed instruction's exclusion).

C. Continuance

We review the denial of continuance motion for an abuse of discretion. *United States v. Sheperd*, 27 F.4th 1075, 1085 (5th Cir. 2022). Sethi's motion, requesting a ninth trial continuance of at least 30 days, was filed just five days before trial was to commence on November 18, 2024. In support of the November 13 motion, Sethi's two trial attorneys reported that they had "just learned" that "there exist 60 producing [o]il wells from the Hess Company[,] which Sethi had participated with back in 2014[,] and are attempting to distribute royalties from those wells." Defense counsel characterized the information as "critical" because "one of the primary allegations from the government is that Sethi misled investors by stating he dealt with major oil companies such as Hess when he did not." Additionally, Sethi had "just given [his counsel] over 80 witnesses he [] demand[ed] [they] interview."

The following day, the district court denied a continuance "for all the reasons described in the Government's response." The court "particularly note[d]" the length of time the case had been pending; the number of previous continuances; "the lateness of the hour at which this motion [was] made"; and "the public interest in a speedy trial."

On November 16, Sethi moved for reconsideration, citing the need to investigate the Hess wells and the "uncashed and stale checks." After hearing argument at the final pretrial conference, the district court denied reconsideration, reasoning that Sethi and his attorneys "have had significant time to investigate the allegations against him and prepare their case, that Sethi "has had ample time to work with his current counsel to investigate the case, interview witnesses, and issue subpoenas," and "has had adequate time to discover and disclose" to counsel any evidence about the Hess wells. Finally, the court concluded, "Sethi has not provided a sound reason . . . to yet again continue his trial."

Even so, the court made clear that it would do what it could, on the existing schedule, to accommodate the defense, observing that the trial was "going to span a few weeks," and that the jury would have several days off for Thanksgiving. (Ultimately, the court gave the jury ten days off, counting weekends and Thanksgiving.) Thus, the defense would have some additional time to investigate and develop the Hess evidence, and, if assistance from the court were needed for that purpose, the court "certainly would be willing to provid[e] that assistance." The court also advised that it would "give the defense leeway on this in terms of presenting evidence that is derived while trial is ongoing[.]"

Given the motion's proximity to the trial date, rescheduling a multi-day trial (lasting 11 days), which included the testimony of 25 witnesses (many of whom lived out of state and already had made travel plans), without incurring substantial associated delay and expense would have been logistically difficult. Moreover, Sethi failed to demonstrate why the Hess evidence was not reasonably discoverable prior to trial. Notably, even his most recently appointed trial counsel were not new to the case. (When the motions were filed, one of Sethi's attorneys had been representing him for more than 14 months, and the other had been for more than five months.)

Finally, it is far from evident that a continuance would have yielded a different evidentiary outcome. In sum, on the showing made, we are not convinced that the district court abused its discretion by denying Sethi's motions seeking a trial continuance and reconsideration.

D. Jury Instructions

Sethi contends that the district court plainly erred when instructing the jury regarding the eight counts of wire fraud for which the jury was to render a verdict of guilty or not guilty. Specifically, he maintains that the instructions and verdict form "gave the jurors no ability to coordinate the alleged offense with the count" because the instructions did not include the date/conduct information set forth in the superseding indictment. That is, neither the instructions nor the verdict form recite that Count 1 referred to conduct (wire transmission) alleged to have occurred "on or around March 16, 2015" and included an email from "SPPLC employee J.M. to NDDF investor B.L. . . . ," that Count 2 referred to a wire transmission alleged to have occurred "on or around March 25, 2015" and included an email from "SPPLC employee S.P. to NDDF investor L.B. . . . , and so forth. This omission, Sethi argues, undermined the jury's ability to evaluate the evidence against the charges, thereby unlawfully permitting a conviction for uncharged conduct.

We disagree. Notably, as the government points out, Sethi jointly proposed the instruction, which is based on this court's pattern jury charge, that he now challenges. *See* Fifth Circuit Pattern Jury Instructions (Criminal) § 2.57 (2024). In any event, the district court gave the jury a copy of the superseding indictment—charging Sethi with wire fraud in Counts 1–5 and 7–8, and, for each count, providing a specific date and description of the corresponding wire transmission that was sent in execution of the fraud scheme—to use during their deliberations.

Furthermore, by the time the wire fraud instructions were read, the jury already was familiar with the particulars of those charges, given that the government had detailed the wire fraud counts, including the corresponding wire transmissions, during jury selection, and then again when Sethi was arraigned, and yet a third time during closing argument. Additionally, to the extent any doubt possibly remained, the court's written instructions regarding the elements that the government had to prove (to establish wire fraud) were immediately preceded by a reference to Sethi having been charged with that offense "in Counts 1 through 5 and 7 through 8 of the First Superseding Indictment."

Finally, the district court instructed the jury that Sethi "is not on trial for any act, conduct, or offense not alleged in the indictment"; that "[a] separate crime is charged in each count of the First Superseding Indictment"; and that "[e]ach count, and the evidence pertaining to it, should be considered separately." On this record, Sethi cannot persuasively argue that the jury misunderstood the charges or convicted him for uncharged conduct.

III.

For the foregoing reasons, the judgment of the district court is AFFIRMED.