

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FILED
2009 MAY 20 PM 3:32
US DISTRICT COURT
MIDDLE DISTRICT OF FL
ORLANDO

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 6:08-cr-118-Orl-DDD-DAB

JUDE LACOUR,

Defendant

_____ /

MOTION FOR JUDGEMENT OF ACQUITTAL

PRO SE DEFENDANT, JUDE T. LACOUR respectfully moves this Court under Rule 29 of the Federal Rules of Criminal Procedure, for a judgment of acquittal on all counts.

The Court is firmly on record admitting that in the instant internet pharmacy case there were plenty of reversible errors and this Pro Se inmate is respectfully requesting of the Court to redress those errors in the interest of justice and prevent a travesty of justice, by rendering a judgment of acquittal on all counts, pursuant to Rule 29 of the Federal Rules of Criminal Procedure.

In Defendant Jude Lacour's case, the evidence at trial centered principally on the testimony of FBI agent John Groeschner and IRS agent Donald Metzger. As the Court was informed, both agents relied on elaborate series of tactical evasions and perjury in order to convict the Defendant. Perjury is not just an attack on the Defendant, it is an attack on the entire Judicial and Criminal Justice system as well as the jury. The incontrovertible and irrefutable evidence of agents perjury and obstruction of justice was concealed from the jury by the Court and the prosecutor who was involved in suborning perjury. The Court prevented the Defendant from impeaching government witnesses recognizing that catching witnesses lying about a single issue would cloud the truth and had Defendant been able to impeach the witnesses and expose the truth and nothing but the truth the jury would have found the Defendant innocent of all charges. By disregarding the truth and dishonoring the rule of law the Court, the prosecutor and her agents ensured the verdict in advance of the trial.

Impeaching witness's credibility is the benchmark of a fair trial and this Defendant was prevented by the prosecutor and the Court from doing exactly that. The Court's reversible errors infected the reliability of the trial and the jury was left to render an unjust verdict based on insufficient, one sided and tainted evidence. **The jury could not and did not "properly evaluate the credibility of the witnesses, found the facts, and drew rational inferences" when they rendered a guilty verdict against the Defendant.**

The Court has no right to turn a blind eye to reversible errors and abandon the principles of judicial integrity, fairness, and impartiality. The role of the judge is to hear courteously, answer wisely, consider soberly and decide impartially. Defendant is

fighting for his life and he should not have to rely on the appeal process to reverse the injustice that was amplified by Court's intentionally reversible errors.

I. STANDARD FOR A MOTION FOR ACQUITTAL

Rule 29(c) provides that a defendant may seek a judgment of acquittal following a jury verdict. As the Third Circuit has explained, in analyzing a Rule 29 motion, the Court should review the record in the light most favorable to the government to determine “whether any rational trier of fact could have found proof of guilt beyond a reasonable doubt based on the available evidence.” *United States v. Bobb*, 471 F.3d 491, 494 (3d Cir.2006); *United States v. Tyler*, 281 F.3d 84, 99 (3d Cir. 2002). However, in the underlying case **the evidence against the Defendant was hyped, misleading, false, and obtained under fraudulent acts and practices.**

The District Court “must sustain a jury’s verdict if a reasonable jury could find beyond a reasonable doubt that the government proved all the elements of the offenses.” *Tyler*, 281 F.3d at 99. In making this evaluation, the Court should presume that the jury “properly evaluated credibility of the witnesses, found the facts, and drew rational inferences,” and should overturn a guilty verdict only if “no reasonable jury could find the defendant guilty beyond a reasonable doubt.” *United States v. Menon*, 24 F.3d 550, 564 (3d Cir. 1994). In the instant case, the jury did not properly evaluate the credibility of witnesses or the facts and therefore could not have attained rational inferences when they reached the guilty verdict.

II ARGUMENT

The Defendant respectfully submits that in an unprecedented and or complex case ala this internet pharmacy case, the Court's role in assessing the sufficiency of the prosecution's case should have included the evidence that the jury did not hear. As already stated, the Court prevented the jury from hearing the truth and nothing but the truth by intentionally and injudiciously impeding the Defendant from challenging and or attacking the credibility of key government witnesses who were involved in premeditated obstruction of justice and perjurylong before they obtained the first search warrant from Magistrate Judge David Baker, on April 15, 2005. The evidence adduced at trial was deficient and **had the jury been permitted to hear all the evidence, “the truth and nothing but the truth, so help me God” the outcome by the same jury (that was deadlocked until the Court coercively inserted the modified Allen Rule) would have resulted in a unanimous “Not Guilty” verdict.**

The Court was made aware via various motions and notices that his defense at the trial would be based on law enforcement and prosecutorial misconduct, shoddy investigation, entrapment, selective prosecution and multiple advice of counsel. The Court prevented the Defendant from making any such arguments and he was not allowed to impeach government witnesses in front of the jury even after the Court informed the jury that the Defendant would get his chance to do so. That was just one of many insincere comments that the Court directed at the Defendant. In fact, when Dolores Leza (an original Grand Jury witness) took the stand to testify on behalf of the Defendant, the Court (knowing the witness would impeach FBI agent John Groeschner and others) intimidated the witness in front of the jury, ultimately telling her “....you are through....step down immediately....call your next witness....”

The reversible errors go to the heart of the evidence that the jury did not hear and could not probe because it was deliberately concealed from them. The jury was never given all the facts and or the evidence, including that on April 19, 2005, at the direction of prosecutor Karen Gable, FBI agent John Groeschner intentionally and **unlawfully** exceeded the scope of the search warrant that was executed against Jive Network. The jury was never told that the prosecutor, Karen Gable, knowingly and willfully devised a scheme and artifice to commit various crimes against Defendant and his employees by conspiring, planing, and coordinating their illegal strategy against Defendant and his corporation.... weeks before the April 15, 2005 search warrant. Illegally falsifying information in the search warrant paled in comparison to other criminal misconduct that followed during and after the execution of the search warrant.

When agent John Groeschner recently testified at the trial that he initiated the investigation against the Defendant and his corporation, he was patently lying to the jury. This is not a case of parsing words. The investigation against Defendant was initiated years before agent John Groeschner inherited the case and the jury heard nothing about it. The investigation by Volusia Bureau of Investigation and Florida Department of Law Enforcement was covered up from the jury so as to protect Agent John Groeschner's friend Det. Harry Oakley who initially targeted the Defendant because he was cohabitating with Harry Oakley's former girlfriend, a tested confidential informant in drug related cases.

The confederacy and conscious unlawful acts by the prosecutor and her agents, in obtaining and executing the faulty search warrant against the Defendant, was premeditated and necessitated the involvement of substantial resources, planning, and

coordination. As the Court is aware conspiracy to commit illegal acts, including false imprisonment, is a crime and the Defendant was “forcibly” restrained by the court from challenging the credibility of the agents who were engaged in felonious criminal misconduct and obstruction of justice.

So the record is clear, agent John Groeschner lied and knowingly prepared a false “Master Affidavit In Support Of Search And Seizure Warrants” on April 15, 2005 and submitted other official reports that were intentionally misrepresented, in order to cover up his undercover officers involved in shoddy investigation of Jive Network. The evidence obtained from the intentionally defective and or false search warrant was used to convict the Defendant. The Court was provided with the declaration of former Jive Network employee Dolores Leza (Doc 547) concerning FBI John Groeschner’s obstruction of justice crimes and when she appeared as a defense witness the prosecutor, involved in the misconduct, prevented Ms. Leza from testifying to the truth and nothing but the truth. The Court facilitated Ms. Gables exorbitant objections so as to protect the government. Had the jury been provided with all the evidence in the instant case the Defendant would have been acquitted on all charges.

The jury was never informed that prosecutor Karen Gable and Special Agent John F. Groeschner, Jr. are public officials who took an oath of office and swore that they would faithfully discharge the duties of their office, including adhering to the standards of conduct enunciated in the United States Attorney’s Office Manual. As the Court is aware, engaging in criminal and unlawful activities is misconduct. The Court and the United States Attorney’s Office in Orlando was informed of prosecutor’s criminal wrongdoings through various letters, notices and motions, including (Doc. 422) a motion

for **Outrageous Prosecutorial Misconduct** that the Court denied in order to protect the prosecutor and her agents.

The Court knows very well that the Defendant is basing all his allegations on facts that can be verified by any professional law enforcement investigator. The recipe for who is telling the truth is simple. The Court can refer this matter to Office of Professional Responsibility and or hold an evidentiary hearing to determine if FBI agent John Groeschner, IRS agent Donald Metzger and prosecutor Karen Gablewere were involved in outrageous prosecutorial misconduct. The Court never held an evidentiary hearing and or asked the government to respond to allegations which were raised in this and other motions.

The jury in the underlying case relied on selective evidence and they were denied evidence that would inculpate the government such as the security surveillance camera tapes that recorded the illegal execution of the search warrant, on April 19,2005. The existence of the tape was concealed from the jury because it would show the government excesses when they illegally detained, abused, interrogated, and terrorized Jive Network employees, by falsely detaining them and brandishing firearms at them. To cover up their crimes the FBI agent(s) falsified their official reports and the prosecutor was “forced” to suborn perjury from her agents.

As the Court already knows from Dolores Leza’s declaration (Doc. 527) she was called as a witness during the original 2005 Grand Jury investigation and when she was interviewed by FBI Agent John Groeschner and others, the agents were attempting to

persuade Dolores to say that the agents did not brandish any weapons during the execution of the search warrant. Asking a Grand Jury witness to lie is a crime. Defendant is convinced that the prosecutor's concealment of exculpatory discovery and Grand Jury transcripts were intentionally suppressed by the government to obscure their misconduct. The Court will recall that the same defense witness claimed four years earlier that when she was interviewed on April 19, 2005 (Doc. 422) by FBI agents participating in the search warrant, her answers were challenged and falsely misrepresented on the questionnaire form that FBI agent John Groeschner and others prepared. Had the jury been informed of the evidence that was concealed from them the Defendant would have been found not guilty on all charges.

While the Defendant appreciates the sacred role of jurors as the sole judges of a witness's credibility, in the instant case the Court intentionally excluded the jury from all the facts and prevented the defendant from impeaching key government witnesses who (unbeknown to the jury) were involved in multiple acts of dishonesty and perjury. For this and other reasons, the Defendant sought the recusal of the Court (Doc. 519) and filed numerous motions (Doc. 422) delineating the judicial and prosecutorial misconduct .

The Court has a responsibility to determine whether a witness's testimony meets a minimal threshold of competence and credibility. The Court was aware of the misconduct involving the agents and went out of its way to sustain hundreds, if not thousands of objections from the prosecutor in an attempt to protect the government's case. Defendant is certain that the Court would not permit a blind witness to testify about colors he or she cannot see; or permit a witness to testify about sounds he cannot hear. Likewise, FBI agent John Groeschner and IRS agent Donald Metzger (who perjured

himself at a bond hearing) should not have been allowed to testify about the “truth” of any alleged act involving the defendant, **since they were motivated to lie, had lied repeatedly, and lied even as they testified in court.**

The testimony of government witnesses appearing on behalf of the prosecution conveys to the jury a sense that the government vouches for the witness’s credibility since the government is relying on that witness to establish beyond a reasonable doubt the elements of the crime of which the defendant is accused. But that unspoken “seal of approval” is tarnished beyond rehabilitation when an individual agent intentionally fabricates official reports and or provides false testimony to curry favor with the government. Just as the court should not permit the testimony of an unqualified expert witness, the court should not permit the testimony of a witness like FBI agent John Groeschner and IRS agent Donald Metzger. The cost to society and to individual defendants is too high to allow the testimony of witnesses who rely on perjuries . The defendant has been incarcerated for over a year and following his conviction he faces a long sentence. To certify his conviction on the testimony of a witnesses like FBI agent John Groeschner and IRS agent Donald Metzger would undermine the basis of our system of justice.

Defendant respectfully submits that the jury in the instant case was misled and that no rational trier of facts would have convicted the defendant based on the truth and nothing but the truth.

I HEREBY CERTIFY that on May 18, 2009, I filed the foregoing with the Clerk of the Court and Assistant U.S. Attorney by hand delivering this motion to the following entities:

Clerk's Office, US. District Court
Middle District of Florida, Orlando Division
United States Courthouse, Suite 1200
401 West Central Boulevard
Orlando, FL 32801

Karen L. Gable, Assistant U.S. Attorney
501 W. Church St., Suite 300
Orlando, FL 32801

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jude T. Lacour", written over a horizontal line.

Jude T. Lacour, Pro Se Inmate