No. 23-654

IN THE

SUPREME COURT OF THE UNITED STATES

Billy J. Seabolt — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Billy J. Seabolt
(Your Name)
Federal Correctional Complex Camp
P.O. Box 1000
(Address)

Petersburg, VA 23804
(City, State, Zip Code)

I do not have one
(Phone Number)

QUESTION(S) PRESENTED

1) Is it a fair trial when the jury is clearly in a distressed situation during a long trial; and, they contradict themselves on finding guilty and not guilty on similar charges in an attempt to flee the distressed situation as soon as possible?

2) Is it a fair trial, when the prosecution simply overcharges the defendant, making it harder to defend, and then declaring victory when one or more charges stick? This is not law but spaghetti Law fare. This will have a prejudicial affect on the jury who will think that with a lot of charges then the defendant certainly did something wrong. I.e. Where there is smoke, there must be fire.

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

None

TABLE OF CONTENTS

INDEX TO APPENDICES

Table of Authorities Cited

Cases: Pages

Table of Authorities Cited
Continued

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[X] reported at Nos. 21-4499(L); -4515; or,
[ ] has been designated for publication but is not yet reported; or,
[N] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[ ] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was May 22, 2023.

[X] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 6 of the Constitution of the United States & Rights of the Accused.

Amendment 6 Rights of the accused.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

PRELIMINARY STATEMENT

In this opening brief, Respondent will be referred to as the "United States", "the Government," or as Respondent. Defendant/Petitioner, Billy Seabolt, will be referred to as "Petitioner," "Defendant", or "Seabolt". References to Joint Appendix will be referred to as (J.A.___).

Statement of Supreme Court Jurisdiction

Jurisdiction is covered under 28 U.S.C. §1254(1). The form provided by the clerk of the Spreme Court is attached.

Statement of Issue

The Evidence was Insufficient to Sustain Convictions on Seventeen of twenty-three counts. The Acquital on these counts contradicts the six guilty counts. The jury was anxious to get out of their pandemic and Government reaction to the pandemic destopian hell to split the difference on Seabolt's counts so they could end the trial and go home on Friday afternoon.

STATEMENT OF THE CASE

Procedural History

On May 5, 2018, the Grand Jury returned an indictment that had 23 counts against Seabolt. (JA 59) He entered a plea of not guilty on all accounts. At trial, the Government dropped one count. Mr. Seabolt was tried by a jury with his co-defendent, Daryl Bank, in a joint trial, from March 22, 2021 to April 30, 2021 (including jury selection). Mr. Seabolt testified in his own defense.

The trial put the jury through a dystopian hellish introduction to the American legal system. The trial lasted five weeks from jury selection to the final verdicts. For those five weeks, the jury drove to an almost deserted downtown Norfolk to participate in the only trial being held at the courthouse. As the jury showed up

at the courthouse, they were greeted by long lines. to get inside, then subjected to extra "health securities." Besides the usual securities of metal detectors, leaving all phones, electronic devices, and most watches in their cars; they were wanded; they had to be fully masked; answer invasive health history questions; do temperture readings, hand sanitizers; and were constantly dealing with fully masked government officials, etc. All this for little pay (the government employees including the prosecutors, judge, clerks, security received their usual pay) during an ongoing pandemic which crushed most ordinary citizens financially.

The government listed over 100 witnesses and presented tens of thousands of pages of "evidence" to the jury. The judge stressed that the trial should only last five weeks. The government took three and one half weeks to

present their case. The defenses (both) took a total of One half week to present their cases (the judge would not allow most of the witnesses for Seabolt's co-defendent). The closing arguments took two days. There were 156 pages of Jury instructions which took over four and one half hours for the judge to read to the jury on the last Thursday of the trial. On Friday afternoon after only about ten hours of deliberation, they went over the twenty-seven counts against Daryl Bank, Seabolt's co-defendent; they went over the twenty-two counts of Seabolt, the 156 Pages of Jury Instructions, the testimony of all the witnesses, and the tens of thousands of pages of evidence to arrive at their verdicts. The jury convicted Daryl Bank, Seabolt's co-defendent, on all counts.

But, the jury only convicted Seabolt on six out of the remaining twenty-two counts. The jury finished up at about 3:30 on Friday afternoon, and hence, they did not have to return on Monday. Seabolt was found guilty on Counts 1, 4, 5, 13, 15, and 18 (J.A. 4469) He timely filed an appeal to the Fourth Circuit Court of Appeals. He timely sent a Writ of Citiori on or before ninety days after the Fourth Circuit Court of Appeals decision.

Seabolt was convicted of conspiracy to commit mail and wire fraud in count 1. which was used to convict him of mail fraud in counts 4 and 5 but not others. Seabolt was convicted of cospiracy to sell Unregistered securities in Count 13. Which was used to convict him of the sale of Unregistered Securities in Counts 15 and 18 but not the others. He was not convicted on counts 2, 3, 6-12, 14, 16, 17,

and others dealing with same subject matters. He was found not guilty of money laundering.

Facts

Daryl G. Bank ("Bank") created, owned, and operated Dominion Investment Group ("DIG"). DIG was a Virginia Limited Liability Company with offices operating from 4301 Commuter Drive, Virginia Beach, Virginia; 1391 NW St. Lucie West Blvd., Port St. Lucie, FL; and 1100 SW St. Lucie West Blvd., Port St. Lucie, FL. Bank was the sole managing member of DIG. (JA 23624) He was married to Mrs. Bank.

Raeann Gibson ("Gibson") was the Director of Operations of DIG. Gibson ran the day-to-day operations of DIG. (J.A. 23625). She was married; but, also the mistress of Bank for a number of years up and until her plea deal with the Government.

Seabolt was an attorney for 20 years, licensed in the Commonwealth of Virginia. Seabolt owned and operated his own law firm called Billy J. Seabolt, Attorney-at-Law as sole proprietor. He operated out of Williamsburg and Lynchburg, Virginia. He limited his practice to mainly wills, trusts, estates, elder law, charities and small business. (J.A. 23625)

Bank and Gibson created numerous limited Liability Companies ("LLC") in both Virginia and Florida to perpetuate schemes to defraud. In most instances Gibson prepared and filed the paperwork for the LLCs. However, they needed a Virginia Resident who was either a managing partner or a Licensed Attorney to be the registered agent for the LLCs of Virginia. Seabolt did some legal work for both Bank and Gibson and agreed to be the registered agent for

these LLCs; but, let them use the 4301 Commuter Drive address for the registered agent address. He did not monitor the number of LLCs created in this way. (JA23625)

There was no evidence that Seubolt had any ownership interest in any of these entities, or had access to or controlled any of the funds or financial accounts. He never traveled to Florida. He only occassionally used the Commuter Drive address to see one of his estate clients. He never advised nor encouraged potential investors to buy anything from Bank. The evidence did not establish that Seubolt ever attended meetings with potential investors or the seminars that Bank conducted to entice individuals to invest in the products thant Bank and his Companies were offering.

Seabolt's main role was to prepare paperwork related to the investments at the direction of Bank who had final say on all document preparation. Most of his interaction with Bank and Gibson were via email and telephone. Seabolt was aware that Bank had many other lawyers and compliance consultants who reviewed and oversaw the investment companies; and the documents Seabolt prepared for those companies, for regulatory and legal compliance, including the documents and investor agreements. (JA 1343; JA 1917-1971). Seabolt did not specialize or have a background in securities law and advised Bank on that issue. Seabolt advised Bank and others when he determined or perceived that they were not in compliance with the law or needed to find other legal help including getting securities lawyers. (JA 706; JA 709, JA 1427-1428; JA. 1490, JA 1493, JA 1496)

Summary of [redacted] Argument - Seabolt [redacted]

The United States did not present sufficrent evidence to prove that Seabolt conspired to commit mail fraud, conspiracy to commit securities fraud, engaged in mail fraud, and selling fraudelent securities. The United States did take advantage of a stressed out Jury living in a dystopian hell in the courtroom, who were extremely anxious to get out of there, to split the difference on the counts and find Seabolt guilty on some counts (6 out of 23) by Friday afternoon so they could go home.

Seabolt prepared documents at the direction of Daryl Bank. Seabolt did not have ownership interest in any of Bank's or Gibson's companies. He did not solicite investors, give advice on investments, and never had controll or access over any of the investor

funds or bank accounts that held those funds. Mr. Seabolt was only one of a large group of attorneys, compliance professionals, and outside advisors that Bank used to set up and operate his various investment entities and businesses. Mr. Seabolt was not aware of a large number of businesses that Bank created in late 2015, 2016, and later. On average, he made $28,000 a year for 2012, 2013, 2014 and 2015. He did not have "luxury" items or live a "lavish" lifestyle that Bank apparently enjoyed from the evidence presented. He did not share office space with Bank. He never vouched for or advise any investor about the risks or wisdom of putting their money into any of Bank's investment vehicles. To the contrary, Seabolt sent communications to Bank and others involved about the legal risks to not properly and transparently communicating

facts to investo.. and potential investors. There was no evidence that Seabolt ever advised or counseled Bank or anyone else to mislead any of the regulatory agencies or investors. The evidence at trial clearly demonstrated that no one, not a single person, invested with Daryl Bank because of the advice or recommendation of Seabolt.

The main, and in fact, the only witness that made any allegation of wrongdoing against Seabolt was Raeann Gibson ("Gibson"), whose testimony is found in the J.A at pages 1253-1872. Gibson was the long time extra-marital lover of Bank. (J.A. 1270-1271) Prosecutors led Gibson at the beginning of her testimony to make conclusory allegations that Seabolt engaged in "Conspiracy" and some unspecified fraudulent conduct. (JA 1254). But no fact in the rest of her testimony supported her conclusory statements.

The prosecutors never asked Gibson what she meant by Seabolt "conspired" with Bank nor even gave a definition of conspiracy or ask what Gibson thought conspiracy is. or was. Gibson never provided testimony on how Mr. Seabolt conspired with Bank or even herself. She testified that Bank controlled all aspects of Each and every business. The United States presented no evidence through Gibson that Seabolt had any involvement in the selection of investments, the pricing of those investments to Bank's clients, or the selection of who to target as potential investors. To the contrary, Ms. Gibson stated on multiple occasions that Seabolt was not involved in any of those aspects.

CJA 1259, JA 1266, and JA. 1269.

Ms. Gibson apparently received a reduction in her sentence for her testimony.

same subject matters. Mr. Seabolt was convicted on Count 13, Conspiracy to sell Unregisterd securities and Commit Securities Fraud and Counts 15 and 18, the Sale of Unregistered Securities. But he was found not guilty on counts 14, 16, 17 and others dealing with the same subject matters

ARGUMENT

Standard of Review

This Court reviews the denial of a Rule 29 motion de novo. United States v. Alerre, 430 F. 3d 681, 693 (4th Cir. 2005) cert. denied, 547 U.S. 1113, 126 S. Ct. 1925, 164 L. Ed. 2d 687 (2006). When a defendant challenges the sufficiency of a jury's guilty verdict on appeal, he "bears a heavy burden." United States v. Beidler, 110 F. 3d 1064, 1067 (4th Cir. 1997). However this is not an insurmountable burden, United States v.

Habegger, 370 F. 3d 441, 444-445 (4th Cir. 2004). The court views the evidence in a light most favorable to the government, including all reasonable inferences that can be drawn from the evidence. United States v. Williams, 41 F. 3d 192, 199 (4th Cir. 1994, Cert. denied, 514 U.S. 1056 (1995). However, a jury is entitled to make only reasonable inferences from the evidence. United States v. Samad, 754 F 2d. 1091, 1097 (4th Cir 1984), quoting United States v. Orrico, 599 F 2d 113, 117 (6th Cir. 1979). When evaluating the sufficiency of a jury verdict on appeal, the Court has held that "the jury verdict must be upheld if there exists substantial evidence, including circumstantial and direct evidence, to support the verdict, viewing the evidence in a light most favorable to

the government." United States v. Stewart, 256 F. 3d 231, 429 (4th Cir.), cert. denied, 534 U.S. 1049 (2001). The court must sustain the Government's conviction if it determines that the evidence was sufficient for a rational trier of fact to find the essential elements of the crime. United States v. Perkins, 470 F. 3d 150, 160-61 (4th Cir. 2006). However the Government must prove beyond a reasonable doubt that the Petitioner knowingly or intentionally acted in an unauthorized manner. 21. U.S.C. § 841, 21 U.S.C. § 845. Ruan v. United States, 142 S. Ct. 2370; 213 L. Ed. 2d 706 2370-2375. (S. Ct. 2022).

Discussion.

The jury in this case fully believed Daryl Bank to be guilty on all charges but appears

to have "hedged" their bets on Billy J. Seabolt. Why? The jury contradicted themselves on convicting Mr. Seabolt on some charges but finding him not guilty on clearly related charges. Again Why? It is because of their overwhelming desire to be done with the case, get out of the dystopia hell they were caught in, and return home and not come back on Monday; they simply split the difference: They did not properly deliberate the evidence. They only took 10 hours to go over 156 pages of Jury instructions and 50 counts. For these reasons and the reasons set forth below, Petitioner submits that the Government failed to prove beyond a reasonable doubt each and every element

of the offenses charged against Mr. Seabolt.

REASONS FOR GRANTING THE PETITION

Since the adoption of the sixth amendment of the Consitifution of the United States of Amerika, having a proper jury has been a right of the accused. The jury should be impartial and not pressured to make a decision even by circumstances such as a pandimic and the government's reaction to it especially in a situation like this, The jury had an overwhelming desire to bring back some normalcy to their lives and be done with this case. Hence on one defendent, they simply split the difference and actually believed the defendent more than the government. If more time had been taken then it is probable that a not guilty verdict for all counts would have been their conclusion.

There is no justice when the Government simply overwhelms defendants with almost two dozen charges. The Government claims that there is overwhelming evidence for the six counts they won. This is only commentary in hindsight. They either did not have good evidence for the seventeen counts they lost; or, they are simply practicing Spaghetti Law, whereby they severely overcharge, see what sticks, and then claim they had overwhelming evidence.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Billy J Seabolt

Date: Dec. 25, 2023