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2024 WL 123273

Only the Westlaw citation is currently available.
United States Court of Appeals, Eleventh Circuit.

UNITED STATES of America, Plaintiff-Appellee,
v.

Julio Ruiz CHUTA, Defendant-Appellant.

No. 22-13857

|

Non-Argument Calendar

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Filed: 01/11/2024

Appeal from the United States District Court for the Southern District of Florida, D.C. Docket No. 9:21-cr-80154-KAM-1

Attorneys and Law Firms

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Bernardo Lopez, Federal Public Defender's Office, Fort Lauderdale, FL, M. Caroline McCrae, Federal Public Defender's Office, West Palm Beach, FL, Michael Caruso, Federal Public Defender's Office, Miami, FL, Julio Ruiz Chuta, FCI Fort Dix - Inmate Legal Mail, Joint Base MDL, NJ, for Defendant-Appellant.

Before Wilson, Jill Pryor, and Branch, Circuit Judges.

Opinion

Wilson, Circuit Judge:

*1 Julio Ruiz Chuta appeals his conviction for aiding and abetting undocumented immigrant smuggling for the purpose of commercial advantage or financial gain, in violation of 8 U.S.C. § 1324(a)(2)(B)(ii) and 18 U.S.C. § 2. Chuta argues that the government's evidence, viewed in the light most favorable to the verdict, was insufficient to support his conviction. After careful review, we affirm.

I. Factual Background

The following information was produced at trial: Chuta financed and arranged for N.M., a 15-year-old

unaccompanied minor, to be smuggled from his remote village in Guatemala to the United States via Mexico. N.M. reached out to Chuta, a family friend, via Facebook to ask for his help in coming to the United States. N.M. wanted to help his family financially, and he planned to work in the United States and send a portion of his earnings back to Guatemala. Ultimately, Chuta agreed to loan N.M. the money necessary to transport him to the United States, but the loan would accrue interest at a two-percent rate. On top of the interest rate charged, Chuta also included a \$300 service fee once N.M. arrived in the United States. Before N.M. left Guatemala, Chuta told N.M. to not "back down" from coming to the United States, telling N.M. he was preparing things for N.M.'s arrival and there was no reason to be scared. Chuta also promised N.M.'s parents he would house N.M. once N.M. was inside the United States. Chuta instructed N.M. on the smuggling process, hand-picked the coyote who smuggled N.M., and instructed N.M. to pay the coyote in increments once N.M. reached specific geographical checkpoints. Throughout the transport, Chuta remained in contact with N.M. and the coyote and provided status updates to N.M.'s father. N.M.'s father testified that Chuta assured him that "he was awaiting [N.M.]" "because he was the one that had arranged everything." Once N.M. arrived in the United States, he was apprehended by Border Patrol. N.M. was then taken to a shelter for children in Arizona, where he stayed for about 20 days.

N.M. later flew from Arizona to Florida, where he was united with Chuta. Over time, tensions increased. After a few weeks Chuta met with N.M. to give him a ledger reflecting his debt, which totaled \$4,036, including the interest rate and \$300 service fee. As time went on, Chuta continued to remind N.M. about his debt, which included the accruing interest that he owed Chuta. Two years after N.M. had arrived in Florida, the debt still had not been fully repaid. Chuta threatened to increase N.M.'s interest if he did not repay his debt, and Chuta engaged in a heated exchange with N.M.'s father regarding the payments. As a result, N.M.'s grandfather mortgaged his farm in Guatemala to pay for N.M.'s debt.

Chuta was charged with three separate counts: (1) undocumented immigrant smuggling for the purpose of commercial advantage and private financial gain, in violation of 8 U.S.C. § 1324(a)(2)(B)(ii) and 18 U.S.C. § 2; (2) providing and obtaining forced labor, in violation of 18 U.S.C. § 1589(a); and (3) document servitude, in violation of 18 U.S.C. § 1592(a). Following the government's case, Chuta moved for a judgment of acquittal on all charges.

The district court denied the motion as to count one and reserved judgment on counts two and three. The defense rested without putting on any evidence and renewed the motion for a judgment of acquittal. Again, the court denied as to count one and reserved judgments on counts two and three. Ultimately, the jury found Chuta guilty on count one and acquitted him on the remaining counts. Chuta timely appealed.

II. Standard of Review

*2 We review *de novo* a challenge to the sufficiency of the evidence supporting a conviction and the denial of a Rule 29 motion for judgment of acquittal, viewing the evidence in the light most favorable to the government, and making all reasonable inferences and credibility choices in favor of the jury's verdict. *United States v. Gamory*, 635 F.3d 480, 497 (11th Cir. 2011). We will uphold the denial of a Rule 29 motion unless no reasonable factfinder could have found proof of guilt beyond a reasonable doubt. *Id.*

We will not reverse a conviction solely because the defendant "put forth a reasonable hypothesis of innocence" at trial, because "the issue is not whether a jury reasonably could have acquitted but whether it reasonably could have found guilt beyond a reasonable doubt." *United States v. Campo*, 840 F.3d 1249, 1258 (11th Cir. 2016) (quotation marks omitted). A jury may choose among reasonable constructions of the evidence, and we must accept the jury's reasonable determinations of witness credibility. *United States v. Godwin*, 765 F.3d 1306, 1319–20 (11th Cir. 2014).

III. Analysis

It is a crime to bring or attempt to bring to the United States an undocumented immigrant who does not have prior authorization to enter the United States, knowing or in reckless disregard of the fact that the undocumented immigrant lacks said authorization. 8 U.S.C. § 1324(a)(2). Subsection (B)(ii) provides for an enhanced sentence when the smuggling offense is done for "the purpose of commercial advantage or private financial gain." § 1324(a)(2)(B)(ii). We have defined "commercial advantage" as "a profit or gain in money obtained through business activity" and "private financial gain" as "an additional profit specifically for a particular person or group." *United States v. Zheng*, 306 F.3d 1080, 1086 (11th Cir. 2002). No evidence of actual

payment or of an agreement for the defendant to be paid is required. *United States v. Dominguez*, 661 F.3d 1051, 1066 (11th Cir. 2011). Instead, evidence that the defendant acted for the purpose of financial gain is sufficient. *Id.* A person who does not commit an offense under § 1324(a) can still be convicted as principal if he "aids, abets, counsels, commands, induces, or procures its commission." 18 U.S.C. § 2(a). To be convicted under said theory, the evidence must show that: "(1) the substantive offense was committed by someone; (2) the defendant committed an act which contributed to and furthered the offense; and (3) the defendant intended to aid in its commission." *Dominguez*, 661 F.3d at 1065 (quotation marks omitted).

Chuta's claim fails. Here, the government presented sufficient evidence for the jury to find Chuta guilty of aiding and abetting undocumented immigrant smuggling for commercial advantage or financial gain beyond a reasonable doubt. The jury reasonably concluded that Chuta intended to aid in the minor victim's smuggling operation for the purpose of financial gain based on the trial evidence that: Chuta secured the coyote, loaned money to the N.M.'s family to pay the coyote, coached N.M. on how to handle interactions with the coyote during transport, assured N.M.'s family N.M. would be able to stay with him in the United States, and maintained a ledger showing that he charged interest on the loan, plus a separate \$300 fee for arranging the smuggling operation. A jury could, and did, find Chuta's guilt beyond a reasonable doubt based on these facts, and we must accept the jury's reasonable determinations of witness credibility here.

*3 Chuta relies on *Dominguez* to argue that we have generally required more culpable conduct from a to affirm a § 1324(a)(2) conviction under an aiding and abetting theory. *Dominguez* concerned smuggling operations designed to obtain lucrative Major League Baseball contracts. See 661 F.3d at 1057. But § 1324(a)(2) is not limited to sophisticated smuggling ventures, and Chuta does not rebut the evidence showing he charged interest on the loan as well as a service fee. This is sufficient evidence for a jury to conclude beyond a reasonable doubt that Chuta's actions were done for the purpose of commercial advantage or financial gain, and therefore we must affirm.

AFFIRMED.

All Citations

Not Reported in Fed. Rptr., 2024 WL 123273

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA

v.

JULIO RUIZ CHUTA

JUDGMENT IN A CRIMINAL CASE**§****§****§****§****§****§****§**Case Number: **9:21-CR-80154-KAM(1)**USM Number: **69518-509**Counsel for Defendant: **M Caroline McCrae**Counsel for United States: **Gregory Schiller****THE DEFENDANT:**

<input type="checkbox"/>	pleaded guilty to count(s)	
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input checked="" type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	One of the Superseding Indictment on July 1, 2022

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense	Offense Ended	Count
8:1324(a)(2)(B)(ii) and 18:2 - Bringing In and Harboring Aliens	08/08/2019	1s

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) 2s and 3s.
 Count(s) is are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

November 3, 2022

Date of Imposition of Judgment



Signature of Judge

KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE

Name and Title of Judge

November 3, 2022

Date

DEFENDANT: JULIO RUIZ CHUTA
CASE NUMBER: 9:21-CR-80154-KAM(1)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

36 months as to Count 1s.

The court makes the following recommendations to the Bureau of Prisons:
The defendant be designated to an institution close to the Southern District of Florida.

The defendant is remanded to the custody of the United States Marshal.
 The defendant shall surrender to the United States Marshal for this district:

at a.m. p.m. on

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 before 2 p.m. on
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on 11/04/2022 to

at 1100 W. 2nd Street, Suite 1000, Miami, FL 33130, with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JULIO RUIZ CHUTA
CASE NUMBER: 9:21-CR-80154-KAM(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Two (2) years.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (*check if applicable*)
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. (*check if applicable*)
5. You must cooperate in the collection of DNA as directed by the probation officer. (*check if applicable*)
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (*check if applicable*)
7. You must participate in an approved program for domestic violence. (*check if applicable*)

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: JULIO RUIZ CHUTA
 CASE NUMBER: 9:21-CR-80154-KAM(1)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.flsp.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: JULIO RUIZ CHUTA
CASE NUMBER: 9:21-CR-80154-KAM(1)

SPECIAL CONDITIONS OF SUPERVISION

Surrendering to Immigration for Removal After Imprisonment: At the completion of the defendant's term of imprisonment, the defendant shall be surrendered to the custody of the U.S. Immigration and Customs Enforcement for removal proceedings consistent with the Immigration and Nationality Act. If removed, the defendant shall not reenter the United States without the prior written permission of the Undersecretary for Border and Transportation Security. The term of supervised release shall be non-reporting while the defendant is residing outside the United States. If the defendant reenters the United States within the term of supervised release, the defendant is to report to the nearest U.S. Probation Office within 72 hours of the defendant's arrival.

DEFENDANT: JULIO RUIZ CHUTA
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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100.00	\$0.00	\$0.00		

The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Restitution amount ordered pursuant to plea agreement \$

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

<input type="checkbox"/> the interest requirement is waived for the	<input type="checkbox"/> fine	<input type="checkbox"/> restitution
<input type="checkbox"/> the interest requirement for the	<input type="checkbox"/> fine	<input type="checkbox"/> restitution is modified as follows:

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of **\$0.00**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.

** Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: JULIO RUIZ CHUTA
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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

Lump sum payments of \$100.00 due immediately.

It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1s, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:

**U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716**

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

See above for Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall forfeit the defendant's interest in the following property to the United States:

FORFEITURE of the defendant's right, title and interest in certain property is hereby ordered consistent with the plea agreement. The United States shall submit a proposed Order of Forfeiture within three days of this proceeding.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.