

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JERRY PEOPLES,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

*On Petition for Writ of Certiorari to the
United States Court of Appeals
For the Seventh Circuit*

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Seventh Circuit erred by affirming the district court's decision to deny Mr. Peoples' Rule 29 Motion for Acquittal where the Government failed to prove the requisite interstate commerce element of the Hobbs Act robbery that was the purported object of the alleged conspiracy.
2. Whether small personal use amounts of marijuana satisfy the interstate commerce element and whether someone in possession of such amounts is deemed a drug "dealer" under *Taylor v. United States*, 579 U.S. 301, 308 (2016).

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I. PETITION FOR WRIT OF CERTIORARI

Mr. Jerry Peoples petitions the Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit.

II. OPINIONS BELOW

The Seventh Circuit's published opinion affirming Mr. Peoples' conviction is reported at 119 F.4th 1097 (7th Cir. 2024) and attached as Appendix 1. The district court's order denying Mr. People's Rule 29 Motion is unreported and attached as Appendix 2.

III. JURISDICTION

The Seventh Circuit entered final judgment on October 24, 2024. *See* Appendix 1. This petition is timely filed pursuant to Supreme Court Rule 13.1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

IV. STATUTORY PROVISIONS INVOLVED

This case involves conspiracy to commit and attempted robbery, in violation of 18 U.S.C. §§1951(a) and 1951(b) and, specifically, the interstate commerce element contained therein:

- (a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

18 U.S.C. §§1951(a).

V. STATEMENT OF THE CASE

A. Introduction

This petition arises from the Seventh Circuit's Final Judgment issued on October 24, 2024, affirming the judgement of the District Court for the Northern District of Illinois. (Final Judgment, Case No. 23-2847, Dkt. No. 46)

On March 10, 2020, the Government charged Mr. Peoples by Superseding Indictment with two counts of conspiracy to commit attempted robbery, in violation of 18 U.S.C. §§1951(a) and 1951(b), and one count of possession of a firearm in furtherance of a crime of violence under 18 U.S.C §924(c)(1)(A). (Case No. 1:19-cr-00418-4, Dkt. No. 108)

On October 21, 2022, following a jury trial, Mr. Peoples was found guilty of Counts 1 and 2. (*Id.* at Dkt. No. 305)

On January 30, 2023, Mr. Peoples filed a Motion for Acquittal, Defendant's Supplement to his Oral Rule 29 Motion Made at Trial (*Id.* at Dkt. No. 330), and a Motion for a New Trial (*Id.* at Dkt. No. 331)

On April 11, 2023, the District Court denied Mr. Peoples' post-trial Motions. (*Id.* at Dkt. No. 356)

On September 12, 2023, the District Court sentenced Mr. Peoples to a term of incarceration of 110 months as to counts I and II of the Superseding Indictment, to run concurrently, as well as a 3-year term of supervised release. (*Id.* at Dkt. No. 371).

B. Relevant Testimony During Trial

Agent Williamson

On June 13, 2017, Williamson was working on an investigation of Mr. Peoples's co-Defendant Kelvin Everett ("Everett") – *not* on any investigation into Mr. Peoples. (10-17-22 Tr., at pp. 4-5) There was a wire on Everett's phone as that of that investigation. (*Id.* at pp. 11-12) To obtain authorization to monitor Everett's calls, law enforcement did not allege that there was any basis to suspect Mr. Peoples of any wrongdoing. (*Id.* at p. 22)

On and prior to June 13, 2017, the Agents did not have any basis for believing that Ali Salem (i.e., the individual allegedly "targeted" for harm by Mr. Peoples and his co-Defendants for purpose of this case) was a drug dealer. (*Id.* at pp. 28-33) Williamson admitted that Mr. Peoples used to go to Salem's store and hang out there on a regular basis with Salem, and that Mr. Peoples and Salem were friends. (*Id.* at p. 35)

Agent Wieszorek

Wieszorek testified about his efforts to follow and pull over the target/"victim" of what law enforcement believed to be a robbery attempt, Salem. (*Id.* at pp. 305-309) Wieszorek had no personal knowledge of the alleged plot against Salem, and was just relying upon what Agent Walsh had reported after monitoring Everett's calls after the first traffic stop that had been conducted earlier during the daytime hours on June 13. (*Id.* at p. 322)

Wieszorek further testified about the search of Salem and his car after Wieszorek pulled Salem over. (*Id.* at pp. 309-310) Wieszorek testified that Salem only had on his person a couple grams of marijuana. (*Id.* at p. 310) Wieszorek further testified that represented a “personal use” amount of marijuana that Salem possessed. (*Id.* at p. 318) Wieszorek also testified that Salem was not in possession of a large amount of money that night. (*Id.* at pp. 318-319)

Wieszorek interviewed Salem after pulling him over the night of June 13, 2017. (*Id.* at pp. 319-322) During that interview Wieszorek learned that there were other, non-criminal reasons that Mr. Peoples would have met with Salem on the night of June 13, 2017, including the fact that Salem and Mr. Peoples were friends; that Mr. Peoples had known Salem for three years; that Mr. Peoples regularly came to Salem’s convenience store; that Mr. Peoples regularly came to Salem’s store and hung out and talked to Salem; that Salem and Mr. Peoples sometimes ate meals together; and that Mr. Peoples had never attempted to take anything from Salem. (*Id.* at pp. 319-322, 324) Salem told the Agents during that interview that he did not believe that Mr. Peoples would be involved in any plan to kidnap, rob, or harm him. (*Id.* at p. 374)

Ali Salem (The Purported Intended Victim)

Prior to June 13, 2017, Salem knew Mr. Peoples. (*Id.* at p. 338-340) Mr. Peoples would visit Salem at his “phone store and grocery store,” which was located at “67 block and California” in Chicago. (*Id.* at p. 340) Salem had a “relationship” with Mr. Peoples. (*Id.* at pp. 340-341)

Salem explained that, at first, Mr. Peoples was a regular customer of his store. (*Id.* at p. 341) After some time, Salem began buying goods for his store from Mr. Peoples, including “baby clothes, clothing.” (*Id.* at pp. 341-342) Salem and Mr. Peoples became friends, and Mr. Peoples would come to Salem’s store on a regular basis and hang out. (*Id.* at pp. 341-343) They sometimes ate meals together; they talked or saw each other in person “almost every other day” during the relevant time period; Salem had been to Mr. Peoples’ residence; they were friends; Mr. Peoples was a “good guy.” (*Id.* at pp. 342-343, 365-367) As Salem explained, “I take him [Mr. Peoples] like a brother.” (*Id.* at p. 343)

Salem spoke to Mr. Peoples on the phone on June 13, 2017. (*Id.* at pp. 350-354) According to Salem, Mr. Peoples wanted to meet up with him because “[H]e want a sample of weed.” (*Id.* at p. 351) Accordingly, Salem met Mr. Peoples at the Circle K gas station that night, shortly after 9:15 p.m. (*Id.* at pp. 353-360) Salem gave Mr. Peoples a very small amount of marijuana. (*Id.* at pp. 360-361) Salem had not told Mr. Peoples that he was going to have with him any other amounts of drugs with him that night when they met up – nor did he. (*Id.* at p. 382)

Salem was never a drug dealer, including on June 13, 2017. (*Id.* at pp. 373, 389-392) Salem’s only occupation and source of income was to work at his own store. (*Id.*) Likewise, Salem’s friend, “Hanni” - from whom Salem obtained the very small “personal use” amount of marijuana that he gave to Mr. Peoples on the night of June 13- was similarly not a drug dealer either. (*Id.* at pp. 379, 381) Salem and Hanni just used to “smoke weed” together on occasions. (*Id.* at p. 381)

When he was interviewed by the Agents on the night of June 13, 2017, he told them that he did not believe that Mr. Peoples would be involved in any plan to kidnap, rob, or harm him. (*Id.* at p. 374) The Agents confiscated from Salem the only other drugs that he had with him that night, which consisted of only one “joint to smoke.” (*Id.* at p. 386)

C. How the Questions Presented were Raised and Decided Below

1. The District Court Denied Mr. Peoples’ Rule 29 Motion By Finding That The Evidence Was Sufficient For The Jury To Find Mr. Peoples Guilty Beyond A Reasonable Doubt.

Whether the Government failed to prove the requisite interstate commerce element of the Hobbs Act robbery that was the purported object of the alleged conspiracy was an issue raised on January 30, 2023, when Mr. Peoples filed a Motion for Acquittal, to supplement his oral Rule 29 Motion made at trial. (Case No. 1:19-cr-00418-4, Dkt. No. 330) On April 11, 2023, for reasons stated on the record, the District Court denied Mr. Peoples’ post-trial Motions. (*Id.* at Dkt. No. 356) This decision was in error because, first, there was insufficient evidence to establish that Salem, the purported intended victim, was involved in the distribution of drugs.

2. In Affirming The District Court’s Denial Of Mr. Peoples’ Rule 29 Motion And His Conviction, The Seventh Circuit Held That Taylor And Its Progeny Do Not Require A Minimum Drug Quantity To Satisfy The Interstate Commerce Element, Nor Do They Define “Drug Dealer.”

On appeal, the Seventh Circuit affirmed the District Court’s denial of Mr. Peoples’ Rule 29 Motion and his conviction, finding that *Taylor v. United States*, 579 U.S. 301, 308 (2016) and its progeny do not require a minimum drug quantity to

satisfy the interstate commerce element. Ultimately, the Seventh Circuit held that, in light of the testimony presented at trial, the “proof was sufficient to meet the commerce element of the Hobbs Act.” *United States v. Peoples*, 119 F.4th at 1103.

VI. REASONS FOR GRANTING THE WRIT

A. The Seventh Circuit Erred By Affirming The District Court’s Decision To Deny Mr. Peoples’ Rule 29 Motion For Acquittal Where The Government Failed To Prove The Requisite Interstate Commerce Element Of The Hobbs Act Robbery That Was The Purported Object Of The Alleged Conspiracy.

The Indictment alleged that Mr. Peoples and his purported “coconspirators” agreed to rob an individual, specifically Salem, who was “involved in the distribution of a controlled substance, namely marijuana.” (*See* Indictment, Dkt. No. 108, at p. 2) However, it is undisputed that the Government failed to offer *any* admissible evidence that Salem was ever involved in the “distribution” of marijuana. Salem’s own testimony, in addition to the testimony of the Government’s other witnesses, established conclusively that Salem was not, and never had been, involved in the “distribution” of a controlled substance, namely marijuana.

Furthermore, the Government’s own witnesses admitted that they never attempted to investigate, and never established, that Salem was ever involved in the “distribution” of marijuana. On that point, Salem’s own trial testimony that he was never involved in the “distribution” of marijuana was entirely un rebutted. Therefore, the only reasonable and allowable inference for the finder of fact was that Salem worked at and managed a store; that he only ever possessed small personal use amounts of marijuana himself; and that he only ever provided Mr.

Peoples with small personal use amounts of marijuana. Accordingly, the District Court erred in denying Mr. Peoples' Rule 29 Motion. as to Count I.

Similarly, regarding Count II, there was a complete absence of any admissible evidence that the occurrences and transactions had anything at all to do with, much less **"affected or had the potential to affect interstate commerce"** even in any "minimal" fashion or amount. As emphasized above, it is undisputed that Salem was *not* a drug dealer and was *not* in the business of drugs or their distribution. For that matter, it was undisputed that Salem's friend, Hanni, was *not* a drug dealer and *not* in the business of drugs. Even the Government's purported "star" witness and "victim," Salem, attested to those facts – and those facts were entirely un rebutted and uncontroverted based upon the admissible evidence actually presented.

Here, it was undisputed that Salem was merely an operator and worker at a local convenience store. That store had nothing to do with the Government's contention that Mr. Peoples' alleged actions in this case affected interstate commerce. Put simply, even if some crime was contemplated or even committed by any of the co-Defendants in this matter, their actions and intent were purely local and had no impact or affect upon interstate commerce in any way whatsoever. The Government entirely overreached and attempted to federalize the actions of Mr. Peoples. The Government's own witness, Salem, completely undermined any notion that this case affected, or had the ability to potentially affect, interstate commerce.

Taylor v. United States

Although *Taylor* does not require a minimum drug quantity to satisfy the interstate commerce element, this Court clearly held that the commerce element does in fact require the Government to prove beyond a reasonable doubt “that a robber targeted a **marijuana dealer’s** drugs or illegal proceeds.” *Taylor v. United States*, 579 U.S. 301, 308 (2016) (emphasis added). This Court further clarified that the target is not an individual who merely possesses, or shares, small amounts of marijuana for personal use, but someone unequivocally involved in the business of distributing marijuana. “In order to obtain a conviction under the Hobbs Act for robbery or attempted robbery of a **drug dealer**,” as the *Taylor* court continues, “the Government need not show that the drugs that a defendant stole or attempted to steal either traveled or were destined for transport across state lines.” *Id.* at 309 (emphasis added). As emphasized above, it was entirely undisputed at trial, that Salem was not a marijuana dealer, or a drug dealer of any sort. Salem was the Government’s own witness, and the Government did not try to, and could not have, established that Salem was ever a drug dealer of any kind.

Consequently, the Seventh Circuit erred in affirming the District Court’s denial of Mr. Peoples’ Rule 29 Motion as to Counts I and II.

B. This Court Has Not Affirmatively Determined Whether Small Personal Use Amounts Of Marijuana Satisfy The Interstate Commerce Element, Or Whether Someone In Possession Of Such Amounts Is Deemed A Drug “Dealer” Under *Taylor v. United States*, 579 U.S. 301, 308 (2016), Or Its Progeny, Which Threatens To Over-Criminalize The Possession And Use Of Small “Personal Use” Amounts Of Marijuana.

As stated above, *Taylor* does not require a minimum drug quantity to satisfy the interstate commerce element; however, this Court clearly held that the commerce element does in fact require the Government to prove beyond a reasonable doubt “that a robber targeted a **marijuana dealer’s** drugs or illegal proceeds.” *Taylor*, 579 U.S. at 308 (2016) (emphasis added).

This Court’s use of the phrase “marijuana dealer” is significant here. “Marijuana dealer” conveys something substantively different than “marijuana user.” Given the now legalized status of the possession and use of small amounts of marijuana for recreational and medical purposes, countless individuals possess and use small amounts of marijuana who are decidedly and objectively *not* “marijuana dealers.” Even if such individuals buy or sell such small amounts from friends for the purpose of continued recreational use of small amounts, their conduct is readily distinguishable from the conduct commonly associated with “drug dealers.” Minimally, a distinguishing factor is the possession of larger amounts of drugs—more than what would objectively be deemed for personal use.

This Court’s decision in *Taylor* thusly leaves open the possibility that an individual who (depending on the jurisdiction) legally possesses small “personal use” amounts of marijuana and chooses to sell or give such amounts to another may be deemed a “marijuana dealer” by the Government under *Taylor*.

VII. CONCLUSION AND PRAYER FOR RELIEF

The Circuits need guidance on how to determine if an individual is appropriately deemed a “marihuana dealer” under *Taylor* which, when interpreted as the Seventh Circuit has in the instant case, substantially broadens the operating definition of “marijuana dealer” to include any individual in possession of even a small “personal use” amount of marijuana. In the context of a criminal prosecution under 18 U.S.C. §§1951, this vastly widens the scope of those who can be deemed “marijuana dealers” and, in turn, vastly increases the number of those potentially culpable under this statute.

This Court should grant certiorari to review the Seventh Circuit’s final judgment affirming the district court’s denial of Mr. Peoples’ Rule 29 Motion and his conviction, summarily reverse the decision below, and grant such other relief as justice requires.

Respectfully submitted,

**By: /s/ Michael I. Leonard
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119 F.4th 1097

United States Court of Appeals, Seventh Circuit.

UNITED STATES of America, Plaintiff-Appellee,

v.

Jerry PEOPLES, Defendant-Appellant.

No. 23-2847

|
Argued September 6, 2024

|
Decided October 24, 2024

Synopsis

Background: Defendant was convicted in the United States District Court for the Northern District of Illinois, Robert W. Gettleman, Senior District Judge, of violating Hobbs Act by conspiring and attempting to rob a drug dealer, and he appealed.

Holdings: The Court of Appeals, Scudder, Circuit Judge, held that:

[1] government proved that defendant took substantial step to rob marijuana dealer's supplier, as required to support defendant's conviction for violating Hobbs Act, and

[2] evidence that defendant intended to obtain illegal drugs and the proceeds from the sale of illegal drugs was sufficient to meet the commerce element of the Hobbs Act.

Affirmed.

Procedural Posture(s): Appellate Review; Trial or Guilt Phase Motion or Objection; Post-Trial Hearing Motion.

West Headnotes (7)

- [1] **Criminal Law** ⇌ Nature of Decision
Appealed from as Affecting Scope of Review
In reviewing the denial of motion for a judgment of acquittal, Court of Appeals applies the same standard as the district court, and the overarching question is whether there is sufficient evidence to support the jury's verdict. Fed. R. Crim. P. 29.

- [2] **Criminal Law** ⇌ Nature of Decision
Appealed from as Affecting Scope of Review
Criminal Law ⇌ Construction in favor of government, state, or prosecution
When reviewing denial of motion for a judgment of acquittal, Court of Appeals considers the evidence in the light most favorable to the government and will reverse only when the record contains no evidence, regardless of how it is weighed, from which the jury could find guilt beyond a reasonable doubt. Fed. R. Crim. P. 29.

- [3] **Criminal Law** ⇌ New Trial
Appellate court's review of trial court's denial of motion for new trial is limited and highly deferential, asking only whether the trial court's ruling reflects an abuse of discretion. Fed. R. Crim. P. 33.

- [4] **Criminal Law** ⇌ Nature of Decision
Appealed from as Affecting Scope of Review
Court of Appeals' review of the district court's denial of defendant's motion for judgment of acquittal was tantamount to reviewing the district court's denial of defendant's motion for new trial, where defendant grounded his motions in the same core contention, namely that the government's evidence was insufficient to support the jury's verdict convicting him of violating Hobbs Act by conspiring and attempting to rob a drug dealer. Fed. R. Crim. P. 29, 33; 18 U.S.C.A. § 1951(a).

- [5] **Conspiracy** ⇌ Robbery
Robbery ⇌ Attempts
Government proved that defendant took a "substantial step" to rob marijuana dealer's supplier, as required to support defendant's conviction for violating Hobbs Act by conspiring and attempting to rob marijuana supplier; jury could have concluded from the wiretap alone that defendant and his cohorts agreed and planned

to rob drug dealer's marijuana supplier, law enforcement surveillance corroborated the plot, government showed that defendant and his cohorts would have completed the robbery had police not interfered, and absent law enforcement intervention, then, the ordinary and likely course of things would have resulted in the commission of the robbery. 18 U.S.C.A. § 1951(a).

[6] **Commerce** ⇌ Federal Offenses and Prosecutions

Conspiracy ⇌ Robbery

Robbery ⇌ Weight and Sufficiency of Evidence

Evidence that defendant intended to obtain illegal drugs and the proceeds from the sale of illegal drugs was sufficient to meet the commerce element of the Hobbs Act, as required for defendant's conviction for violating Hobbs Act by conspiring and attempting to rob a drug dealer.

18 U.S.C.A. § 1951(a).

[7] **Commerce** ⇌ Federal Offenses and Prosecutions

Robbery ⇌ Nature and elements in general

Where the government proves beyond a reasonable doubt that robber targeted a marijuana dealer's drugs or illegal proceeds, the government has proved beyond a reasonable doubt that commerce over which the **United States** has jurisdiction was affected so as to satisfy Hobbs Act's interstate commerce element.

18 U.S.C.A. § 1951(a).

*1098 Appeal from the **United States** District Court for the Northern District of Illinois, Eastern Division. No. 1:19-cr-00418-4 — **Robert W. Gettleman**, *Judge*.

Attorneys and Law Firms

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Michael I. Leonard, Matthew Allen Chivari, Attorneys, LEONARD TRIAL LAWYERS, Chicago, IL, for Defendant-Appellant.

Before Ripple, Scudder, and St. Eve, Circuit Judges.

Opinion

Scudder, Circuit Judge.

*1099 Jerry **Peoples** and three friends hatched a plan to rob a marijuana dealer. What they did not know was that the police heard it all over a wiretap. As the plot was playing out, the police stepped in and arrested **Peoples** and his confederates. Federal charges followed, and, for his part, **Peoples** chose to go to trial. A jury found him guilty of violating the Hobbs Act by conspiring and attempting to rob a drug dealer. **Peoples** appeals, contending the district court committed error in not granting his post-trial motions challenging the sufficiency of the government's evidence. We affirm, as the case against **Peoples** was overwhelming.

I

On June 13, 2017, Jerry **Peoples** met Ali Salem at a gas station in Bridgeview, Illinois to obtain a sample of marijuana. But **Peoples** intended more than trying Salem's marijuana. He used the meeting to set up a robbery of Salem's supplier—someone **Peoples** believed had a substantial stash of marijuana somewhere nearby. With three friends (Kelvin Everett, Quincy Wright, and Gregory Blackwell), **Peoples** devised a plan to learn the whereabouts of Salem's supplier. The idea was simple: **Peoples** would use the gas-station meeting to get the sample and then, with help from Everett, Wright, and Blackwell, the group would follow Salem back to his supplier. Once the whereabouts of the supplier became known, the crew would move in and steal the stash—or so they planned.

The police heard the entire plot over a wiretap of Everett's phone. Believing a violent crime was in the works, the officers got a step ahead and arrested **Peoples** and his crew as they sought to close in on Salem. A federal indictment followed, charging **Peoples**, as relevant here, with conspiring and attempting to interfere with commerce by robbing a drug dealer, in violation of 18 U.S.C. §§ 1951(a), 2.

The most damning evidence at trial came from the wiretaps the government played for the jury. In a conversation with Kelvin Everett, **Peoples** described the plan this way:

Peoples: I promise that when I go meet him and then I know where he coming from so next when I follow him, I know where he coming from with the shit.

...

Peoples: We do our homework. We get in your car and boom and just go in. You know go up and down Harlem and Cicero. He gonna be meeting **people** and I know the car so bam ... we on his ass dude.

...

Peoples: That's what I'm saying. We grab him. We grab him I can guarantee you we grab him and we tell him look man, we need 500 of them thangs 200,000 fool. We can have that shit.

...

Peoples: We ain't never gonna have to shit again fool. We buyin' buildings after buildings G, I swear to God. But see the only thing we need to do is move fast before somebody beat us to it.

Hearing this discussion left the police worried that **Peoples** was planning some sort of violent crime—perhaps a kidnapping or murder. So a group of officers hit the streets to conduct surveillance.

One officer told the jury that **Peoples**, Everett, and Wright entered Everett's home and, approximately 20 minutes later, left together in a car. Another officer explained that police then stopped the car, intending not to make arrests but instead to spook the crew from going forward with *1100 any planned crimes. The police's ploy did not work. After the stop the crew returned to Everett's house, where **Peoples** switched into a different car and proceeded to meet with Salem at the designated gas station. Meanwhile, Everett and Wright drove to pick up Blackwell and along the way called Blackwell to ask whether he “got the poles”—street jargon for firearms.

The government's case also included testimony from Ali Salem. He explained to the jury that **Peoples** called him on June 13, 2017 to obtain a sample of marijuana. Salem agreed and supplied the sample after a brief meeting with **Peoples** at the gas station. The account the jury heard from Salem

aligned with the gas station's video footage of the meeting. Salem further testified that he had given marijuana to **Peoples** twice before. On one prior occasion, Salem added, **Peoples** expressed interest in meeting his supplier.

After the meeting at the gas station, **Peoples** followed Salem and phoned Everett—relaying real-time updates of Salem's exact location. The government played this call for the jury:

Peoples: Listen, listen listen he on Harlem, he um, well he goin up um 87th down Harlem, he goin south, he goin um East down Harlem. I'm followin.

...

Peoples: [H]e scared man, and he got some more smoke, that's what he tryin to give me, he got some more shit G, he gave me a sample, that's what he was callin me, tryin to give me, and get some more smoke.

...

Peoples: [L]isten, we on 87th and [] Oak Park Avenue bro, I'm following, I'mma follow him, listen listen, I'm going to follow him as far as I can, jus jus come, come 87th real quick bro.

...

Peoples: I'm on his heels though, he can't leave me though cause I'm on his heels. He on 87th goin down uh comin back off Harlem foo, like we passed Oak Park, we comin' back to that area though.

...

Peoples: Yeah, if he turns on um 87th and and and Ridgeland, stay on 95th, you gon see him, he's gonna come to 95th and Ridgeland bro.

This discussion prompted law enforcement to foil the plot before the situation got out of control. As **Peoples** was relaying Salem's whereabouts, Everett grew alarmed because the police had spotted and began trailing him. **Peoples** reacted with alarm of his own, telling Everett, “you know what to do, get off the phone and smoke their ass.” Everett, Wright, and Blackwell proceeded to lead police on a chase—first by car and then on foot. Officers found two loaded guns in a bag that the trio tried to carry over a fence while running from law enforcement. The police later identified and arrested **Peoples**.

At the close of the government's case-in-chief, **Peoples** invoked Federal Rule of Criminal Procedure 29 and sought a judgment of acquittal. The district court reserved decision and sent the case to the jury.

After the jury returned guilty verdicts on both counts, **Peoples** renewed his Rule 29 motion while also moving for a new trial pursuant to Rule 33. Both motions focused on the sufficiency of the government's evidence. The district court denied the motions, concluding that the evidence against **Peoples** was overwhelming. The district court later sentenced **Peoples** to concurrent terms of 110 months' imprisonment. This appeal followed.

*1101 II

A

The Hobbs Act makes it a crime for a person to “obstruct[], delay[], or affect[] commerce or the movement of any article or commodity in commerce, by robbery ... or attempt[] or conspire[] so to do” 18 U.S.C. § 1951(a). Adhering to our pattern instructions, the district court informed the jury that to sustain a conviction on the attempt count, the government had to prove beyond a reasonable doubt that (1) **Peoples** knowingly attempted to obtain money or property from the victim; (2) **Peoples** did so by means of attempted robbery; (3) **Peoples** believed that the victim would have parted with the money or property because of the robbery; and (4) **Peoples's** conduct would have affected or had the potential to affect interstate commerce. See *William J. Bauer Pattern Criminal Jury Instructions of the Seventh Circuit*, at 784 (2023 ed.).

The district court added that an attempt also requires the intent to commit the full robbery and a substantial step taken toward that end. See *id.* at 77. A substantial step, the court explained, “must be an act that strongly corroborates that the defendant intended to carry out the robbery.” *Id.* Putting the same point another way, we have conveyed that a substantial step is “something more than mere preparation, but less than the last act necessary before actual commission of the substantive crime,” *United States v. Muratovic*, 719 F.3d 809, 815 (7th Cir. 2013) (quoting *United States v. Barnes*, 230 F.3d 311, 315 (7th Cir. 2000)), or “something that makes it reasonably clear that had [the defendant] not been interrupted or made a mistake ... [he] would have completed the crime,”

United States v. Sanchez, 615 F.3d 836, 844 (7th Cir. 2010) (alterations in original) (quoting *United States v. Gladish*, 536 F.3d 646, 648 (7th Cir. 2008)).

As for the conspiracy charge, the district court explained that the government had to prove not only that a conspiracy existed, but also that **Peoples** knowingly became a member of the conspiracy with an intent to advance its objective. See *William J. Bauer Pattern Criminal Jury Instructions of the Seventh Circuit*, at 105; see also *United States v. Jett*, 908 F.3d 252, 273 (7th Cir. 2018).

[1] [2] In reviewing the denial of a Rule 29 motion for a judgment of acquittal, we apply the same standard as the district court. The overarching question is whether there was sufficient evidence to support the jury's verdict. See *United States v. Dewitt*, 943 F.3d 1092, 1096 (7th Cir. 2019). In undertaking this inquiry, we “consider the evidence in the light most favorable to the Government,” and will reverse “only when the record contains no evidence, regardless of how it is weighed, from which the jury could find guilt beyond a reasonable doubt.” *United States v. Blessingame*, 197 F.3d 271, 284 (7th Cir. 1999) (quoting *United States v. Moore*, 115 F.3d 1348, 1363 (7th Cir. 1997)). Reversal under this standard, we have emphasized, is a “nearly insurmountable hurdle.” *United States v. Garcia*, 919 F.3d 489, 496 (7th Cir. 2019) (citation omitted).

[3] **Peoples** faces a similar uphill climb on his motion for a new trial. Rule 33 authorizes a district court to vacate a judgment and grant a new trial “if the interest of justice so requires.” Here, too, our review is limited and highly deferential, asking only “whether the district court's ruling reflected an abuse of discretion.” *United States v. Jones*, 79 F.4th 844, 859 (7th Cir. 2023) (citing *United States v. Foy*, 50 F.4th 616, 622 (7th Cir. 2022)). Indeed, we have underscored that the “exercise of power conferred by Rule 33 is reserved for only the most ‘extreme *1102 cases,’ ” *United States v. Linwood*, 142 F.3d 418, 422 (7th Cir. 1998) (quoting *United States v. Morales*, 902 F.2d 604, 606 (7th Cir. 1990)), “those rare cases in which consideration of the evidence leaves a strong doubt as to the defendant's guilt of the charged offense,” *United States v. Washington*, 184 F.3d 653, 658 (7th Cir. 1999).

B

[4] [5] The government urges us to forego review of the district court's denial of **Peoples's** request for a new trial, insisting that the motion was so underdeveloped in the district court (and again on appeal) as to preclude any meaningful judicial review. While a fair observation, the point need not detain us. Our review of the record shows that **Peoples** grounded his Rule 29 and 33 motions in the same core contention—that the government's evidence was insufficient to support the jury's verdict. In these circumstances, then, our review of the district court's denial of **Peoples's** Rule 29 motion is tantamount to reviewing the court's denial of the Rule 33 motion for a new trial.

On the merits, we agree with the district court's observations about the strength of the government's case against **Peoples**. The jury easily could have concluded from the wiretap alone that **Peoples**, Everett, Wright, and Blackwell agreed and planned to rob Ali Salem's marijuana supplier. In his own words, **Peoples** described his plan to meet with Salem, track Salem back to the supplier, and make them “cough up” drug proceeds and marijuana. Law enforcement surveillance corroborated the plot. And Salem's testimony confirmed that he gave **Peoples** a sample of marijuana. The wiretap further established that Everett and Wright drove to pick up Blackwell, who brought two loaded firearms to carry out the robbery. The jury also heard how Everett, Wright, and Blackwell attempted to converge on Salem's location—using real-time directions that **Peoples** relayed via phone as he followed in pursuit.

The jury received ample evidence from which to conclude that **Peoples** and his crew would have completed the robbery had police not interfered. See, e.g., *Muratovic*, 719 F.3d at 816 (finding the substantial step requirement satisfied where defendants assembled a team, finalized a robbery plan, and procured firearms). Indeed, even after police conducted a traffic stop, **Peoples** kept pressing forward with the robbery plan. Absent law enforcement intervention, then, “the ordinary and likely course of things” would have resulted in the commission of the robbery. *United States v. Villegas*, 655 F.3d 662, 669 (7th Cir. 2011) (quoting *Gladish*, 536 F.3d at 648). On this evidence, we have no difficulty concluding that the government proved that **Peoples** took a substantial step to rob Salem's supplier.

[6] [7] The evidence also sufficed to satisfy the Hobbs Act's interstate commerce element. In *Taylor v. United States*, the Supreme Court determined that “it is enough [under 18 U.S.C. § 1951] that a defendant knowingly stole or attempted to steal drugs or drug proceeds.” 579 U.S. 301, 309, 136 S.Ct. 2074, 195 L.Ed.2d 456 (2016). Where the “Government proves beyond a reasonable doubt that a robber targeted a marijuana dealer's drugs or illegal proceeds, the Government has proved beyond a reasonable doubt that commerce over which the United States has jurisdiction was affected.” *Id.* at 308, 136 S.Ct. 2074.

This is not a close question here. Recall that **Peoples** devised his plan on the belief that following Salem would lead to his supplier—and by extension, a large stash of marijuana. Salem testified he gave **Peoples** *1103 marijuana on June 13, 2017 as he had a time or two before, with **Peoples** expressing interest in meeting Salem's supplier. What is more, **Peoples's** own words, recorded on the wiretap, revealed his intent to target a drug distributor for both drugs and drug proceeds. He referred, for example, to “get[ting] some more smoke” and demanding “500 of them thangs 200,000 fool.” **Peoples** also told Everett, “we can have it all,” “[a]ll the money and everything”—enough that they could “buy[] buildings after buildings.” This evidence gave the jury plenty to find that he intended to “obtain illegal drugs and the proceeds from the sale of illegal drugs. Such proof is sufficient to meet the commerce element of the Hobbs Act.” *Taylor*, 579 U.S. at 310, 136 S.Ct. 2074.

Finally, rounding out the elements of the attempt charge, **Peoples's** statements also demonstrate his belief that Salem and the supplier would have parted with the money and drugs because of the robbery.

C

Peoples's only response is to urge us to see the evidence as showing nothing more than a plot to get a sample of marijuana. But that is an incomplete view of the record—one **Peoples** pressed at trial and the jury declined to accept. We need not accept it either. **Peoples's** arguments run headlong into the highly deferential standard governing our review of a jury's verdict. The jury had a more than sufficient basis to conclude that **Peoples** conspired and attempted to interfere

with commerce by robbing a drug dealer in violation of the Hobbs Act. We see no grounds to second guess their verdicts.

All Citations

For these reasons, we AFFIRM.

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**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF NextGen 1.7.1.1
Eastern Division**

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No.: 1:19-cr-00418

Honorable Robert W. Gettleman

, et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, April 11, 2023:

MINUTE entry before the Honorable Robert W. Gettleman as to Jerry Peoples: In court motion hearing held on 4/11/2023. Defendant appeared in person. For the reasons stated on the record, Defendant Jerry Peoples' Supplement To, And Renewed, Rule 29 Motion [330] and Rule 33 Motion [331] are denied. Defendant was admonished to adhere to the terms of his pretrial release. Cause is referred to the Probation Department for a pre-sentence investigation and report. Sentencing is set for 7/25/2023 at 10:30 a.m. Sentencing briefs are due by 7/11/2023. Mailed notice (cn).

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