

APPENDIX C

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

United States of America,

v.

Case No. 1:21-cr-375-MLB

Arturs Spila,

Defendant.

ORDER

Defendant renews his Motion for Judgment of Acquittal of his conviction for conspiracy to commit money laundering, or alternatively, moves for a New Trial (Dkt. 83). For the foregoing reasons, the Court converts Defendant's scheduled sentencing hearing to a hearing on Defendant's Motion.

Defendant first argues 18 U.S.C. § 1956 required the United States to prove he knew the money he allegedly conspired to launder came from felonious activity. (*Id.* at 1–2.) The Court rejects Defendant's argument and agrees with the Sixth Circuit's conclusion that "the government is not required to show that the defendant knew the precise nature of the unlawful activity; i.e., that he knew it was felonious as opposed to

misdemeanor activity” *United States v. Hill*, 167 F.3d 1055, 1066–67 (6th Cir. 1999). Rather, the United States is required to “prove that (1) the defendant knew the laundered funds came from criminal activity; and (2) that the criminal activity at issue was designated a felony under federal, state, or foreign law.” *Id.* at 1067.


Defendant also argues the United States failed to present evidence that the criminal activity at issue was a felony and improperly stated in its rebuttal argument that wire fraud is a felony. (*Id.* at 4.) The United States argues its rebuttal was a proper response to Defendant’s closing argument. (Dkt. 84 at 10.) The Court agrees that the United States presented no direct evidence that wire fraud is a felony. The Court also notes neither party requested a jury instruction to identify wire fraud as a felony or otherwise define the term “felony.”

The parties should be prepared to discuss whether, in the absence of direct evidence or an instruction, the United States was entitled to rely on circumstantial evidence to prove the money Defendant allegedly conspired to launder arose from felonious conduct. In other words, could the jurors conclude the work-from-home scheme was a felony based on their common sense understanding of the term “felony” and the evidence

the United States presented about the underlying conduct (e.g., the sophistication of the work-from-home scheme, the extent of the criminal activity, and other details). The parties should also be prepared to discuss whether, if circumstantial evidence was sufficient to show the work-from-home scheme was a felony, the United States's comment is grounds for a mistrial. In addressing the Court's concerns, the Court tentatively concludes that the United States's comment was not a proper response to Defendant's closing argument; the United States should not defend its position on this basis.

Accordingly, the Court converts Defendant's sentencing hearing, scheduled for November 9, 2023, at 10:00 a.m., to a hearing on Defendant's Motion (Dkt. 83). If the parties have additional relevant authority they want the Court to consider, they may provide that authority by 12:00 p.m. on November 7, 2023.

SO ORDERED this 2nd day of November, 2023.


MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE