

United States District Court
Eastern District of Kentucky
Northern Division at Covington

UNITED STATES OF AMERICA)
) Covington Criminal
) Action No. 11-70
 vs.)
) Covington, Kentucky
 RONALD E. WEINLAND)
) June 11, 2012
) 1:29 p.m.
)

TRANSCRIPT OF RULE 29 MOTION
BEFORE THE HONORABLE DANNY C. REEVES

Appearances of Counsel:

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Proceedings recorded by mechanical stenography,
transcript produced by computer.

1 (Whereupon, the following proceedings were had outside the
2 presence of the jury.)

3 THE COURT: Thank you. Please be seated.

4 I'll take up any motions that the defense wishes to
5 make at this time.

6 Mr. Cline?

7 MR. CLINE: May I speak from here, Your Honor?

8 THE COURT: Yes, sir, certainly.

9 MR. CLINE: Your Honor, we move at this time for
10 judgment of acquittal under Rule 29 on each count of the
11 indictment on the grounds that the evidence is insufficient on
12 each element of each offense for an actual jury to find guilt
13 beyond a reasonable doubt.

14 THE COURT: All right. Thank you.

15 Mr. McBride?

16 MR. MCBRIDE: Your Honor, the Court is to evaluate the
17 evidence in the light most favorable to the nonmoving party and
18 we would submit that there is more than ample evidence. If I
19 may list through the elements of the offenses.

20 First, there's a substantial portion of the tax due
21 and owing element on the returns. The jury has heard evidence
22 of the 2004 through 2007 returns, in which little and no tax was
23 paid as due and owing. In 2008, Mr. Weinland paid \$20,000,
24 which is insufficient based on the evidence the Court just
25 heard.

1 There are analyses in the report showing unreported
2 income for each year that was reported. In '04, that amount is
3 \$58,000 approximately; in '05, it's approximately \$155,000; in
4 '06, it's approximately \$136,000; in '07, it's approximately
5 \$372,000; and in '08, it's approximately \$331,000.

6 Mr. Pillow testified that that resulted in tax
7 liabilities of, in '04, approximately \$8,000; in '05,
8 approximately \$33,000; in '06, approximately \$26,000; in '07,
9 approximately \$106,000; in '08, approximately \$71,000.

10 Further, the 2008 return completed by the CPA after
11 Mr. Weinland became aware of the investigation showed taxable
12 income from expenses that were not reimbursed by the church of
13 approximately \$164,000, which we believe is an admission against
14 interest and shows a guilty mind.

15 Also, with regard to Count Two -- or the second
16 element, Your Honor, there is -- which is an affirmative attempt
17 in any manner to evade or defeat tax, we would cite to the Court
18 that Mr. Weinland filed returns that contained false reports of
19 income for all years, '04 through '08, citing for '04 through
20 '07, 32,500 in income. He failed to include personal -- failed
21 to declare the personal expenses as -- that were not reimbursed
22 to the church as income. He failed to report foreign accounts
23 on his returns in '04 through '07. He also failed to file any
24 return in 2008 within the time prescribed for law. He failed to
25 file the FBARS from '04 to '07, although we concede that he did

1 file an FBAR in '08.

2 He commingled church accounts with personal bank
3 accounts. He commingled church and business expenses with
4 personal credit cards. He created an organization in which he
5 was the only legal authority, and he utilized his moral
6 authority to shield church members from knowing the financial
7 status and operations of the church.

8 He exploited the 501(c) status of the church, failing
9 to file wage information with the IRS and understanding that
10 there was no other reporting requirement for the church, he
11 failed to allow transparency of the church finances to the
12 congregation by providing no financial reports or information.
13 He placed church money in a Swiss account in his own name for
14 personal use.

15 Even if you accept the end of time theology, Your
16 Honor, it was for his personal use when the end of time came so
17 he and his wife could travel and survive. He gave access only
18 to members of his family to the money, his wife, his daughter,
19 his son. They are the ones that benefited and no other church
20 members.

21 He paid for the living expenses of his daughter and
22 son, including expensive automobiles. He completed W-2s on
23 behalf of himself, which underreported his income and his
24 daughter's income, and he provided all the 1099s without
25 consulting a bookkeeper or performing any kind of audit. He

1 completed his own returns until he became aware of the IRS
2 investigation.

3 With regard to whether he acted willfully, Your Honor,
4 which is the third element, he told his congregation that they
5 must pay their taxes, he completed and filed his own returns,
6 W-2s, and 1099s. He created a 501(c) organization. He utilized
7 parsonage allowance on all of his own taxes for each year. The
8 church issued accountings of tithes, offerings for deductions
9 for the individuals who did pay tithes. He took deductions for
10 his tithes and offerings, he commingled the church money with
11 his personal accounts and church expenses and personal expenses
12 on credit cards.

13 He attempted to conceal his true income from BMW
14 Finance by failing to file the income section, which Mr. Cline
15 pointed out they had to have the dealership call back and get
16 the correct number of \$170,000. Further evidence of this
17 evasive conduct was he put \$60,000-plus in the other income
18 category on that document.

19 He controlled -- he was the only one that controlled
20 what the church did and what it spent and who was paid and how
21 they were paid.

22 They used church income for exclusive benefit of
23 himself, his wife, and his daughter for clearly personal
24 expenses. Again, we have the \$400,000 in the Swiss account and
25 then we have self-serving statements on his 2008 tax returns.

1 So we believe, Your Honor, we have certainly met the
2 burden with regard to surviving a Rule 29.

3 THE COURT: All right. Thank you, Counsel.

4 Of course, as counsel indicates, in ruling on the
5 motion under Rule 29, motion for judgment of acquittal, the
6 Court takes the evidence in the light most favorable to the
7 nonmoving party, the government in this case, and the question
8 becomes could a reasonable jury return a conviction in the case
9 based upon the evidence that has been presented.

10 As the attorneys have indicated through their
11 arguments and as I've indicated in the preliminary jury
12 instructions, there are three elements of each count that's
13 charged, Counts One through Five.

14 First, was there substantial tax due in addition to
15 that declared by the defendant? In this case, there is
16 sufficient evidence that would meet the burden under Rule 29 of
17 establishing that a substantial tax was due in addition to that
18 declared. Without recounting all of the testimony, I do believe
19 that the jury could accept the testimony summarized by the --
20 Mr. Pillow in determining the amounts of tax liability.

21 Number two, did the defendant make an affirmative
22 attempt to evade and defeat payment of that tax? There is
23 sufficient evidence from which the jury could reach such a
24 conclusion based upon all the actions taken and having been
25 described in the case and affirmative actions taken on behalf of

1 the defendant and the fact that he controlled all aspects of the
2 organization, 501(c)(3), and made all important determinations
3 of that entity.

4 Mr. McBride has recounted a substantial amount of
5 evidence, he summarized it. The Court will not do so at this
6 point, but only concludes that based upon the summary that has
7 been provided, I do agree that it's an accurate summary taking
8 the evidence in the light most favorable to the government and
9 it would be sufficient to meet the second element.

10 Also, the Court believes that the third element has
11 been met with the proof that's been offered, and that is that
12 the defendant acted willfully in attempting to evade and defeat
13 the payment of that tax.

14 Again, the Court considers all the evidence in the
15 case, and while the parties may disagree over certain aspects of
16 the evidence, for example, the statement made or submitted to
17 BMW that has two different types of ink, the jury could easily
18 conclude that the defendant filled out the portion indicating
19 60-some-odd thousand dollars of income, there was a call that
20 could have been placed back to the defendant to ask about the
21 other portion and that could have been handwritten in based upon
22 the information provided by the defendant in the case. And if
23 the jury were to conclude that that's in fact what happened, it
24 would be substantially higher than the amount of income that the
25 defendant was reporting on his tax return for that year, which

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C E R T I F I C A T E

I, Cynthia A. Oakes, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

6/11/2012
DATE

s/CYNTHIA A. OAKES
CYNTHIA A. OAKES, RPR, RMR, CRR