

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
COVINGTON**

CRIMINAL ACTION NO. 11-70-DCR

UNITED STATES OF AMERICA

PLAINTIFF

**V. RESPONSE TO DEFENDANT’S MOTION TO SET ASIDE JURY
VERDICT AND ENTER JUDGMENT OF ACQUITTAL**

RONALD WEINLAND

DEFENDANT

* * * * *

Comes now the United States of America, by and through counsel, and responds to the Defendant’s Motion to Set Aside the Verdict and Enter a Judgment of Acquittal. *See* R. 91: Defendant’s Motion to Set Aside the Verdict and Enter a Judgment of Acquittal. The Court should deny the Defendant’s motion because it ignores eight days of trial testimony and evidence, and because it falls far short of the standard for Fed. R. Crim. P. 29(c)(1) motions the U.S. Supreme Court set forth in *Jackson v. Virginia*, 443 U.S. 307 (1979).

When reviewing a Rule 29 motion, a court must consider “whether the record evidence could reasonably support a finding of guilty beyond a reasonable doubt.” *Jackson*, 443 U.S. at 319. This inquiry “does not require a court to ask itself whether *it* believes that the evidence at trial established guilt beyond a reasonable doubt.” *Id.* (emphasis in original) (citing *Woodby v. INS*, 385 U.S. 276, 282 (1966)). Instead, a court must determine “whether, after viewing the evidence in the light most favorable to the

prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Id* (emphasis in original); *see also Johnson v. Louisiana*, 406 U.S. 356, 362 (1972); *United States v. Jones*, 102 F.3d 804, 807 (6th Cir. 1996). On review, a court “may conclude a conviction is supported by sufficient evidence even though the circumstantial evidence does not remove ‘every reasonable hypothesis except that of guilt.’” *Jones*, 102 F.3d 807 (quoting *United States v. Stone*, 748 F.2d 361, 363 (6th Cir. 1994)).

The Defendant’s motion should be denied because the United States presented sufficient evidence to satisfy the Rule 29 standard set forth above for Counts 1 through 5 of the indictment, which charge the Defendant with attempting to evade or defeat a tax for the calendar years 2004 through 2008, all in violation of 26 U.S.C. § 7201. The Court instructed the jury that the elements for the offenses charged are:

- (1) *First*, an income tax was due and owing from the Defendant in addition to that declared on his income tax return;
- (2) *Second*, the Defendant made an affirmative attempt, in any manner, to evade or defeat this income tax; and
- (3) *Third*, the Defendant acted willfully in attempting to evade and defeat the tax.

The evidence the United States presented, which must be viewed in the light most favorable to the government, *Jackson*, 443 U.S. at 319, is overwhelming, and includes, but is not limited to, the following.

With respect to the first element, that an income tax was due and owing from the Defendant in addition to that declared on his income tax return, the United States introduced the Defendant's tax returns for the years 2004 through 2008 into evidence. The Defendant's tax returns for 2004 through 2007 showed that he paid little or no tax for each year; the Defendant's 2008 tax return showed that he paid insufficient tax. The United States also introduced analyses showing the Defendant's unreported income for each of the years at issue. The United States offered the testimony of Internal Revenue Service ("IRS") Agent Kenton Pillow, who described the evaluation he performed which showed a tax due and owing for the years 2004 through 2008. The United States also introduced into evidence the Defendant's 2008 tax return, completed by a Certified Public Accountant after the Defendant became aware that the IRS was investigating him, which showed the Defendant's taxable income for personal expenses for which his church paid.

With respect to the second element, that the Defendant made an affirmative attempt, in any manner, to evade or defeat this income tax, the United States introduced evidence that the Defendant filed tax returns in which he falsely reported his income for the years 2004 through 2008. The United States also introduced evidence the Defendant's failure to report on his tax returns both personal expenses paid for by the church and a foreign bank account. In addition, the United States proved that the Defendant failed to file a Report of Foreign Bank and Financial Accounts for the years 2004 through 2007, comingled church and personal bank accounts, and comingled church

and personal expenses on his numerous credit cards. The United States introduced evidence that the Defendant created a corporate entity in which only he would have access to the entity's financial statements, exploited the church's 501(c) status by failing to file wage information with the IRS, placed church money in a personal Swiss bank account for personal use, funded the lavish lifestyles of his wife and children with church funds, and completed IRS Forms W-2 for himself and his daughter and Forms 1099 for church employees without consulting the church's bookkeeper.

With respect to the third element, that the Defendant acted willfully in attempting to evade and defeat the tax, the United States offered both testimonial and documentary evidence that demonstrated the Defendant knew of his tax reporting obligations and acted to defeat them. This evidence included testimony from church members that the Defendant instructed them to pay their taxes and that the church issued quarterly receipts to members documenting their donations which were to be used to take deductions on their taxes. The United States demonstrated that the Defendant regularly completed and filed Forms W-2 and 1099, created a 501(c) organization, and took the parsonage allowance each year on his own taxes. The United States proved that the Defendant comingled money from church and personal accounts with church and personal expenses in an effort to conceal his true income. The United States further proved that the Defendant attempted to conceal his true income by misstating it on a BMW credit application. The United States also proved that the Defendant controlled the church's

operations, expenses, and expense reimbursement, and used church funds for the benefit of himself and his family.

For these reasons, the Court should deny the Defendant's Motion to Set Aside the Verdict and Enter a Judgment of Acquittal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2012 the foregoing was electronically filed through the CM/ECF system, which will send notice of the filing to counsel of record.

s/ Christopher L. Nason
Assistant United States Attorney