

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

:

v.

:

3:01CR114(AHN)

RYAN WASHINGTON

:

RULING ON MOTION FOR JUDGMENT OF ACQUITTAL AND  
MOTION FOR NEW TRIAL

Currently pending before the court are defendant Ryan Washington's Motions for Judgment of Acquittal and for a New Trial. For the following reasons, the motions [doc. #s 35 and 36] are DENIED.

BACKGROUND

On May 2, 2000, Detectives from the New York City Police Department accompanied detectives from the New Haven, Connecticut Police Department to 21 Bassett Street in New Haven in search of defendant Ryan Washington. Upon their arrival at that address, the detectives spotted a green Honda Accord, owned by the defendant's mother and known to the New York detectives as the car driven exclusively by the defendant. The detectives left after failing to gain entry to the residence.

Sometime after leaving 21 Bassett Street, the detectives saw the green Accord approach a nearby intersection and attempted to block, in some fashion, the car from proceeding. Some of the detectives exited their vehicles approached the

defendant in his car. Before they could do so, the car left the scene, damaging a police car in the process.

The detectives gave chase and ultimately found the car at 88 Marlboro Street in Hamden, Connecticut. Detective Ciccone saw the defendant running from the car and attempted to stop him. Unsuccessful in his efforts, Detective Ciccone returned to the Honda Accord, looked inside and saw the handle of a Glock .45 semiautomatic pistol. Detective Ciccone removed the weapon and eventually gave it to New Haven Detective Lisa Dadio for processing.

The Defendant was eventually arrested and put on trial in New York for attempted murder. He was acquitted of those charges. He was also indicted for the crime charged in the instant case, that is being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g).

In March, 2002, the defendant stood trial in this court for the possession charge. The defendant did not put on a defense. The defendant moved for judgment of acquittal following presentation of the government's case-in-chief. The court denied the motion. On March 12, 2002, a jury convicted Ryan Washington on the single count of the indictment charging the defendant with being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1).

The defendant now moves again for judgment of acquittal, or, in the alternative, for a new trial. The defendant contends that the government's evidence was insufficient to support a finding of guilty by the jury. Specifically, the defendant argues that inconsistencies in the testimony of several government witnesses and failure by the government to present evidence on certain issues call for acquittal or a new trial. The court disagrees.

V. Motion for Judgment of Acquittal

A. Standard

In examining a motion for acquittal, the court must view the evidence in the light most favorable to the government and draw all inferences in its favor. See United States v. Autuori, 212 F.3d 105, 114 (2d Cir. 2000). In addition, the court must view the evidence "in its totality, not in isolation and the government need not negate every theory of innocence." See id. (citing United States v. Rosenthal, 9 F.3d 1016, 1024 (2d Cir. 1993)).

The court must take care not to usurp the role of the jury by substituting its judgment for that of the jury. See id. On such questions as witness credibility, weight of the evidence, and inferences to be drawn from the evidence, the

court is obligated to defer to the jury. See United States v. Velasquez, 271 F.3d 363, 370 (2d Cir. 2001); United States v. Mariani, 725 F.2d 862, 865 (2d Cir. 1984). In order to succeed on his motion, Washington bears the heavy burden of establishing that no "rational trier of fact could have found the essential elements of the crime charged beyond a reasonable doubt." Jackson v. Virginia, 443 U.S. 307, 319 (1979); Velasquez, 271 F.3d at 370. If the court concludes that the evidence supports a finding of "either of the two results, a reasonable doubt or no reasonable doubt," the court must accept the jury's conclusion. See Autuori, 212 F.3d at 114.

B. Sufficiency of the Evidence

The defendant maintains that the judgment should be set aside because the inconsistent testimony of several of the government witnesses establishes the insufficiency of the government's evidence. Washington points to discrepancies in testimony offered by police officers at the scene when the car driven by Washington fled from the intersection at Bassett and Shelton Streets and when the gun was discovered in the abandoned car at 88 Marlboro Street, as well as inconsistencies between a witnesses statement at this trial and a previous New York state court trial.

Defendant is correct that the witnesses did offer somewhat conflicting versions of events that occurred in Connecticut on May 2, 2000. Detective Ciccone of the New York City Police Department testified that he was outside of his car when the defendant fled from the intersection at Bassett and Shelton Streets. In the earlier New York state court proceeding, Detective Ciccone stated that he remained in his car. Also, New Haven Detectives Pelletier and Dadio gave conflicting testimony about which one of them exited their vehicle. Likewise, there was conflicting testimony about the discovery of the gun in the abandoned car including whether the car doors were open or closed, whether Detective Ciccone entered the car from the driver side or passenger side, whether the gun was with a plastic bag; and whether there was debris in the car.

The defendant also argues that the government failed to prove its case beyond a reasonable doubt because it did not offer evidence on several issues. For instance, there were no photographs of the gun as it was discovered. Also, there was no testimony as to who was in charge of the crime scene, where certain evidence was found, or how the evidence was collected.

While some inconsistencies and alleged shortcomings may exist in the government's evidence, they are not material.

The officers agreed on the facts necessary to prove possession of the gun by Ryan Washington. That the officers disagreed, nearly two years after the fact, on whether the cars doors were open or from what side of the car the detective entered will not suffice to set aside a reasoned jury verdict. Upon review of the evidence, the court concludes that a rational juror could find beyond a reasonable doubt that the government proved the necessary elements of the crime charged, that is: (1) that the Defendant was convicted in any court, of a crime punishable by imprisonment for a term exceeding one year; (2) that the Defendant knowingly possessed a firearm; and (3) that the possession charged was in or affecting interstate commerce.

Moreover, when there are inconsistencies in witness testimony, the jury, not the court, must resolve them. See Autuori, 212 F.3d at 117. In Autuori, the Second Circuit overturned a post-verdict acquittal because the court "impermissibly judged the credibility of witnesses, weighed the significance of evidence, and resolved conflicts in testimony against the verdict." Id. When testimony conflicts, the court will defer to the judgment of the jury. See id. Accordingly, the court will not disturb the verdict reached by the jury in this matter and the defendant's motion

for judgment of acquittal is denied.

## II. Motion For New Trial

### A. Standard

The court has the discretion to order a new trial when the "interests of justice so require." F.R. Crim. P. 33. The standard for granting a new trial is broader than that for a judgment of acquittal, where the truth of the government's evidence is assumed. See United States v. Sanchez, 969 F.2d 1409, 1414 (2d Cir. 1992). Nonetheless, such discretion should be used "sparingly," and only in such instances where "it would be manifest injustice to let the guilty verdict stand." Id. (internal quotation marks omitted).

Only in "exceptional circumstances" may the court engage in evaluation of witness credibility. See id.; Aurtuori, 212 F.3d at 120. For example, the court may discount testimony that is "patently incredible or defies physical realities," regardless of the jury's assessment. See Sanchez, 969 F.2d at 1414. Even when the court does reject testimony, a new trial is not necessarily warranted. The defendant must establish that manifest injustice would occur absent the granting of a new trial. See id.

### B. Analysis

The defendant argues that this case is one of

"extraordinary circumstances," which calls for a new trial to prevent manifest injustice. The court disagrees.

As discussed above, the inconsistencies and purported weaknesses in government's case are not material. The witnesses all agree on the key facts, specifically that the defendant was driving a green Honda Accord and that Detective Ciccone discovered a gun under the passenger seat of the Accord. In Sanchez, the defendant argued that discrepancies similar to those in the instant case mandated a new trial. The Second Circuit disagreed, finding that "the trial judge was wrong to reject all the testimony of the three officers as perjured because of insignificant discrepancies and thereby to overrule the findings of the jury regarding credibility." See id. This case provides no more extraordinary circumstances than did Sanchez; therefore, the court will not reject the jury verdict by ordering a new trial.

#### CONCLUSION

For the foregoing reasons, defendant's motion for judgment of acquittal [doc. # 35] and motion for a new trial [doc. # 36] are DENIED.

SO ORDERED this 31st day of July, 2002, at Bridgeport, Connecticut.

---

Alan H. Nevas  
United States District Judge