

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION**

**UNITED STATES OF AMERICA,**

**v.**

**Case No.: 5:20cr28-MW/MJF**

**JAMES DAVID FINCH,**

*Defendant.*

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**ORDER DENYING RENEWED MOTION FOR  
JUDGEMENT OF ACQUITTAL**

This Court has considered, without hearing, Defendant's renewed motion for judgement of acquittal. ECF No. 542. The Government filed a response in opposition, ECF No. 548, to which Defendant filed a reply, ECF No. 551. This motion is now under submission and ripe for disposition.

The Eleventh Circuit explained the standard for deciding a motion for a judgment of acquittal as follows:

In considering a motion for the entry of judgment of acquittal under Federal Rule of Criminal Procedure 29(c), a district court should apply the same standard used in reviewing the sufficiency of the evidence to sustain a conviction. *See United States v. Sellers*, 871 F.2d 1019, 1020 (11th Cir. 1989). The district court must view the evidence in the light most favorable to the government. *See id.* (citing *Glasser v. United States*, 315 U.S. 60, 80 (1942), *superseded by rule on other grounds*, *Bourjaily v. United States*, 483 U.S. 171, 107 (1987)). The court must resolve any conflicts in the evidence in favor of the government, *see United States v. Taylor*, 972 F.2d 1247, 1250 (11th Cir. 1992), and must accept all reasonable inferences that tend to support the government's

case. *See United States v. Burns*, 597 F.2d 939, 941 (5th Cir. 1979). The court must ascertain whether a reasonable jury could have found the defendant guilty beyond a reasonable doubt. *See Sellers*, 871 F.2d at 1021 (citing *United States v. O’Keefe*, 825 F.2d 314, 319 (11th Cir. 1987)). “ ‘It is not necessary for the evidence to exclude every reasonable hypothesis of innocence or be wholly inconsistent with every conclusion except that of guilt, provided a reasonable trier of fact could find that the evidence establishes guilt beyond a reasonable doubt.’ ” *Sellers*, 871 F.2d at 1021 (quoting *United States v. Bell*, 678 F.2d 547, 549 (5th Cir. Unit B 1982) (*en banc*), *aff’d on other grounds*, 462 U.S. 356 (1983)).

*United States v. Ward*, 197 F.3d 1076, 1079 (11th Cir. 1999) (cleaned up).

Defendant raises three arguments in favor of a judgment of acquittal. First, Defendant argues that the Government failed to present sufficient evidence showing that he and Antonius Barnes agreed to engage in bribery. Second, Defendant argues that the Government failed to present sufficient evidence of his corrupt intent, pointing to internal inconsistencies in Michael White’s testimony on the 17th Street Ditch project. Third, Defendant argues that the Government failed to present sufficient evidence that the City of Lynn Haven received federal benefits because they relied solely on state employees—not employees from the federal agencies that distributed the funds.

This Court finds that, viewing the evidence presented at trial in the light most favorable to the Government and drawing all reasonable inferences in its favor, a reasonable jury could have found Defendant guilty beyond a reasonable doubt. Defendant’s arguments overstate the paucity of evidence presented by the

Government at trial. For example, while the testimony from Michael White and Antonius Barnes did not fully support the Government's theory of the case, the circumstantial and documentary evidence cited by the Government in its response would permit a reasonable jury to return a verdict against Defendant. As for Defendant's argument on the Government's federal benefit showing, their focus on testimony coming from state employees rather than employees of the subject federal agencies is misplaced. Nowhere in 18 U.S.C. § 666(b) or the cases interpreting it is there a requirement that the Government establish the fact that a municipality receives federal benefits only by way of testimony from the agency itself. *Cf., e.g., United States v. Brown*, 727 F.3d 329, 336 (5th Cir. 2013) (finding that testimony from a state employee describing a municipality's source of federal funding was sufficient to show that the municipality had received more than \$10,000 in federal funding for purposes of a § 666(b) conviction). Further, the Government submitted ample documentary evidence illustrating the purpose and structure of federal programs that distributed more than \$10,000 to the City during each year in question.

This Court acknowledges that while prevailing on a motion for acquittal is an uphill battle for a criminal defendant, it is not an impossible task. In this case, however, the Government presented sufficient evidence that, when viewed in the light most favorable to it, would permit a reasonable jury to find Defendant guilty

beyond a reasonable doubt. Accordingly, Defendant's renewed motion for a judgment of acquittal, ECF No. 542, is **DENIED**.

**SO ORDERED on May 8, 2023.**

**s/Mark E. Walker**  
**Chief United States District Judge**