

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

UNITED STATES OF AMERICA

v.  
OMALI YESHITELA  
PENNY JOANNE HESS  
JESSE NEVEL  
AUGUSTUS C. ROMAIN, JR.

Case No. 8:22-cr-259-WFJ-AEP

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**ORDER**

Before the Court are various motions and responses, filed after trial by the very able trial lawyers in this case. Dkts. 304, 305, 306, 307, 308, 321, and 324. The Court denies the defense motions and adjudicates the Defendants guilty on Count One.

Significant portions of the defense motions state that the evidence was insufficient to support the verdict, pursuant to Fed. R. Crim. P. 29(c). The Court is obliged to view the evidence and its inferences in a light most favorable to the verdict. *United States v. Williams*, 390 F.3d 1319, 1324 (11<sup>th</sup> Cir. 2004). “All credibility choices must be made in support of the jury’s verdict.” *Id.* at 1323. Concerning both the Rule 29 sufficiency motions, and related motions asking the Court to weigh the evidence under Fed. R. Crim. P. 33(a), the Court is of the view that more than sufficient evidence exists to support the verdict. The verdict,

although hotly disputed by the Defendants, was rational and based on the proof. The jury's finding was not a miscarriage of justice based upon these facts at trial. *United States v. Martinez*, 763 F.2d 1297, 1313 (11<sup>th</sup> Cir. 1985).

Having concluded that the evidence was sufficient, the Court remains troubled that the Defendants' knowledge of the "notification requirement" of 18 U.S.C. § 951(a) was not an element for the Government to prove and the jury to determine. This is Eleventh Circuit law under *United States v. Duran*, 596 F.3d 1283, 1292 (11<sup>th</sup> Cir. 2010). How one may conspire to violate a law that one is not aware of, and the knowledge of which is not proven at trial (even as a matter of reckless or deliberate ignorance), is a concern of the undersigned. The Court is bound by *Duran*. The Court does believe it followed *Duran*, including on the jury instructions given by the *Duran* district court and the Eleventh Circuit review of them.

The various motions also assert a number of trial and evidentiary errors. Some of these are well-preserved, and some are not. The record is well detailed and the Court finds no utility in listing out and addressing the sundry claims asserted. The Court finds none of them singly or collectively sufficiently merited to require a new trial or set aside the verdict. The Government's Response at Dkt. 321 addresses these various claims, and offers the better view of them.

Accordingly, the various post-trial motions of the Defendants are denied.

**DONE AND ORDERED** at Tampa, Florida, on December 5, 2024.

  
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**WILLIAM F. JUNG**  
**UNITED STATES DISTRICT JUDGE**