IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. KIM PHUONG TAYLOR, a/k/a Kim Taylor, Defendant.	No. CR23-4004-LTS **ORDER ON DEFENDANT'S MOTION FOR JUDGMENT OF ACQUITTAL**

I. INTRODUCTION

This matter is before me on a renewed motion (Doc. 75) for judgment of acquittal by defendant Kim Taylor. The Government has filed a resistance (Doc. 85). I find that oral argument is not necessary. *See* Local Rule 7(c).

II. BACKGROUND

On January 11, 2023, Taylor was charged in a 52-count indictment (Doc. 3). Counts 1-26 alleged violations of 52 U.S.C. § 10307(c), False Information in Registering or Voting, Aiding and Abetting. Counts 27-29 alleged violations of 52 U.S.C. § 20511(2)(A), Fraudulent Registration, Aiding and Abetting. Counts 30-52 alleged violations of 52 U.S.C. § 20511(2)(B), Fraudulent Voting, Aiding and Abetting. Taylor's jury trial began on November 13, 2023. She moved for judgment of acquittal at the close of the Government's case and renewed the motion at the close of all of the evidence. I reserved decision on the motion pursuant to Federal Rule of Criminal Procedure 29(b).

On November 21, 2023, the jury returned a verdict (Doc. 71) finding Taylor guilty on all 52 counts. Taylor filed her renewed motion (Doc. 75) for judgment of acquittal on December 1, 2023.

III. APPLICABLE STANDARDS

Rule 29 provides that "the court on the defendant's motion must enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction." Fed. R. Crim. P. 29(a). Such a motion is permitted after trial, in which case the court may set aside the verdict and enter a judgment of acquittal. *See* Fed. R. Crim. P. 29(c). Jury verdicts are not lightly overturned. *See, e.g.*, *United States v. Peneaux*, 432 F.3d 882, 890 (8th Cir. 2005); *United States v. Stroh*, 176 F.3d 439, 440 (8th Cir. 1999). The court views the evidence "in the light most favorable to the government, resolving evidentiary conflicts in favor of the government, and accepting all reasonable inferences drawn from the evidence that support the jury's verdict." *United States v. Ellefson*, 419 F.3d 859, 862 (8th Cir. 2005) (internal quotations omitted). The court must uphold the jury's verdict so long as a reasonable-minded jury could have found the defendant guilty beyond a reasonable doubt. *United States v. Peters*, 462 F.3d at 957. Moreover, courts "must uphold the jury's verdict even where the evidence 'rationally supports two conflicting hypotheses' of guilt and innocence." *Id.* (quoting *United States v. Serrano-Lopez*, 366 F.3d 628, 634 (8th Cir. 2004)). Additionally, courts should not reconsider the credibility of the witnesses, as that is a task for the jury. *United States v. Hayes*, 391 F.3d 958, 961 (8th Cir. 2004).

IV. DISCUSSION

Taylor makes several arguments. First, she argues generally that the Government failed to prove the elements of each charge beyond a reasonable doubt. Doc. 82 at 3. Second, she argues:

> No facts or legal principles have been presented, to establish that any provision of the Voting Rights Act or Iowa law requires that a specific person who is engaged in the process of helping or assisting a language-deficient or deficit person must be a qualified language interpreter or that that same assisting person or helper had a duty to perform a full and complete and accurate translation of the documents the voter is purportedly exercising or that they're – somehow the helper or assistant has some fiduciary duty.

Doc. 82 at 5. Third, Taylor argues that the Government did not prove that she acted "knowingly and willfully." *Id.* at 6. Finally, Taylor argues that because this case involves the Voting Rights Act and free speech, it "should be subject to a strict scrutiny analysis." *Id.*; Doc. 83 at 61. I will address each argument in turn.

A. Sufficiency of the Government's Evidence

The elements of Counts 1-26 are: (1) Taylor gave false information as to a name, address, or period of residence in the voting district for the purpose of establishing eligibility to register to vote; (2) that Taylor did so in a general, special, or primary election held solely or in part to elect a federal candidate and (3) that Taylor acted knowingly and willfully. Doc. 74-1 at 8. The elements of Counts 27-29 are: (1) Taylor procured or submitted voter registration applications that were materially false, fictitious or fraudulent under Iowa law; (2) Taylor knew that the voter registration applications were materially false, fictitious or fraudulent; (3) the voter registration applications were procured or submitted in any election for federal office and (4) Taylor knowingly and willfully deprived, defrauded or attempted to deprive or defraud the residents of Iowa of a fair and impartially conducted election process. *Id.* at 11. The elements of Counts 30-52 are: (1) Taylor procured, cast or tabulated a ballot that was materially false, fictitious or fraudulent under Iowa law; (2) Taylor knew the ballot was materially false, fictitious or fraudulent; (3) the ballot was cast in any election for federal office and (4) Taylor knowingly and willfully deprived, defrauded or attempted to deprive or defraud the residents of Iowa of a fair and impartially conducted election process. *Id.* at 14.

Each count also included an aiding and abetting theory, for which the elements are: (1) Taylor must have known "'false information in registering or voting," "fraudulent registration" and/or "fraudulent voting" offenses (as defined in the Court's jury instructions) were being committed or going to be committed; (2) Taylor must have had enough advance knowledge of the extent and character of "false information in registering or voting," "fraudulent registration" and/or "fraudulent voting" offenses that she was able to make the relevant choice to walk away from "false information in registering or voting," "fraudulent registration" and/or "fraudulent voting" offenses before all elements of "false information in registering or voting," "fraudulent registration" and/or "fraudulent voting" offenses were complete; (3) Taylor must have knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of "false information in registering or voting," "fraudulent registration" and/or "fraudulent voting" offenses; and (4) Taylor must have acted knowingly and willfully. *Id.* at 17. Taylor argues that even viewing the evidence in the light most favorable to the Government, it still "failed to submit sufficient evidence that could convince a rational trier of fact that the Government has proved each and every element of the offenses." Doc. 82 at 3. In advancing this argument, she incorporates her closing arguments which centered around the unreliability of witness accounts and the Government's failure to perform handwriting analysis of the alleged fraudulent ballots. Doc. 75 at 3; Doc. 83 at 96, 99-107.

As a preliminary matter, I must reject Taylor's arguments regarding witness reliability and the handwriting on the voting forms. The jury had the opportunity to weigh the credibility of the witnesses and compare handwriting on various forms. Analyzing credibility of the witnesses and weighing the evidence are tasks for the jury. *United States v. Hayes*, 391 F.3d 958, 961 (8th Cir. 2004); *see also United States v. Ranta,* 482 F.2d 1344, 1346 (8th Cir. 1973) (permitting the jury to make handwriting comparisons). I find no basis to interfere with the jury's conclusions as to these matters.

As to the argument that the Government failed to provide sufficient evidence that could convince a rational trier of fact that the Government has proved the elements of the charged offenses, I disagree. The Government submitted over 100 exhibits and presented extensive testimony surrounding Taylor's conduct with regard to five different Vietnamese-American families in the Sioux City area. For each group of families, the Government presented evidence that allowed the jury to find Taylor guilty beyond a reasonable doubt.

With regard to the Nguyen/Doan family, the Government presented evidence that Houng Nguyen's children did not give her permission to vote on their behalf and that Houng Nguyen did not routinely complete paperwork for her children. Doc. 78 at 214. In fact, Houng Nguyen's daughter, Tam Doan, testified that she usually completed documents for her mother. *Id.* at 219. Further, Houng Nguyen testified that Taylor told her she could vote on behalf of her children and Taylor did not translate the jurats on any of the forms. Doc. 79 at 65. Taylor argues that the evidence can only establish that there was an agency relationship between Houng Nguyen and her children. Doc. 82 at 4. The jury disagreed and I find that the evidence was sufficient for them to do so.

Regarding the Do/Pham family, Taylor similarly argues that there was an agency relationship between My Do and her sons, Nat Pham and Tan Pham. *Id.* The Government presented evidence that Taylor did not translate the jurat on the voter registration form or the voter affidavit on the absentee ballot for My Do. Doc. 80 at 139-40. The Government also presented evidence that Nat Pham and Tan Pham did not give My Do permission to vote on their behalf. *Id.* at 143, 147. I find that this was sufficient evidence for the jury to find that Taylor had acted unlawfully.

For the Nguyen family, the Government presented evidence that Yen Nguyen gave voting documents to Taylor that were later cast. Taylor argues that because there was another English speaker living in the Nguyen home, Taylor did not have to translate the documents for Yen Nguyen. Doc. 82 at 5. The Government presented evidence that despite the presence of another English speaker, Yen Nguyen chose to give the voting

documents to Taylor. Doc. 81 at 40-42. Further, under 52 U.S.C. § 20511(2), it is unlawful to procure or submit fraudulent voter registration applications or to procure, cast, or tabulate fraudulent ballots. While Taylor argues that the differing handwriting on the voting documents establishes that she did not forge the documents, the act of procuring fraudulent documents, or aiding and abetting their procurement, does not require that Taylor wrote on them or signed them personally. Viewing the evidence in the light most favorable to the Government, I find that a reasonable jury could find that Taylor procured and submitted fraudulent voting forms for the Nguyen family.

Regarding the Huynh family, the Government presented evidence that Taylor came to Nhieu Huynh's home and asked for all of his voting forms. Doc. 80 at 37. Nhieu Huynh testified that he then provided his children's voting forms to Taylor. *Id.* at 37-38. Nhieu Huynh's son, Nguyen Hyunh, testified that he did not sign his voting forms and did not authorize anyone to complete the forms on his behalf. *Id.* at 44-46. I find that this evidence was sufficient for the jury to find that Taylor fraudulently filled out and submitted voting forms for Nguyen Hyunh.

As to the Luu family, the Government presented testimony from Hoang Luu that Taylor filled out voting forms on his behalf, took those forms with her when she left the home and that Hoang Luu's son, Andy Luu, was told by family members that his family had already voted on his behalf. Doc. 80 at 54-58. The Government also presented evidence that Hoang Luu's other son, Anthony Luu, did not fill out or sign any voting forms despite those forms being submitted. *Id.* at 95-98. This evidence, viewed in the light most favorable to the Government, was sufficient for the jury to find that Taylor fraudulently submitted voting forms for Andy Luu and Anthony Luu.

B. Taylor's Translation of Voting Materials

In requesting a judgment of acquittal at trial, Taylor's counsel argued:

> [n]o facts or legal principles have been presented, to establish that any provision of the Voting Rights Act or Iowa law requires that a specific

> person who is engaged in the process of helping or assisting a language-deficient or deficit person must be a qualified language interpreter or that that same assisting person or helper had a duty to perform a full and complete and accurate translation of the documents the voter is purportedly exercising or that they're – somehow the helper or assistant has some fiduciary duty.

Doc. 82 at 5. This argument fails to directly rebut the Government's case. Regardless of whether there existed a legal duty to be a qualified language interpreter under the Voting Rights Act, or under Iowa law, the elements of the charged offenses remain the same. Thus, for example, Taylor could have procured fraudulent voting materials by misleading voters into submitting fraudulent voting forms through intentional mistranslation or omission. One witness testified that Taylor told her it was "okay" for her to complete voting forms on behalf of her children. Doc. 79 at 59. Other witnesses testified that Taylor did not translate language from the jurat forms providing that an individual may vote only on the individual's own behalf. *See, e.g., id.* at 63-64. The jury was free to find that Taylor unlawfully misled voters even if she was not a qualified language interpreter.

C. Knowingly and Willfully

Taylor next argues that the Government did not produce sufficient evidence to prove that she acted knowingly and willfully. In support of this argument, she reasserts her argument that for her conduct to be knowing and willful, she must have been aware of the specific law she was violating. Doc. 82 at 6. I rejected this argument in a prior order, noting that "ignorance of the law is no excuse; knowledge that the conduct is unlawful is all that is required." Doc. 56 at 5. I find no basis to hold otherwise.

The Government presented evidence from Special Agent Matthew Murphy, and from Erica Tuttle, that Taylor was experienced with political and voting-related activities. Murphy testified that Taylor was a legislative aid in the Iowa House of Representatives. Doc. 81 at 90. Tuttle testified that she watched Taylor help individuals translate voting

materials during the 2020 election cycle. Doc. 80 at 108. The Government also produced evidence from My Do that Taylor had helped her vote as early as 2008. *Id.* at 137. The evidence was sufficient for the jury to find that a reasonable jury could infer from this evidence that Taylor acted knowingly and willfully.

D. Strict Scrutiny

Finally, Taylor argues that I must apply strict scrutiny to this case because the charged conduct involves voting and political speech. It is unclear whether Taylor means that the voter fraud statutes under which she was charged should be analyzed under a strict scrutiny constitutional analysis or whether the evidence presented at her trial should be scrutinized more strictly. *See* Doc. 82 at 6. Under either theory, Taylor's motion for judgment of acquittal fails. The jury was instructed as to the elements of the various charges and I find no basis to conclude that those elements were described incorrectly or incompletely. The jury was also instructed as to the burden of proof and the "beyond a reasonable doubt" standard. I have determined that the evidence presented at trial was sufficient to allow the jury to return verdicts of guilty as to all counts. Taylor's arguments as to strict scrutiny do not support setting aside the verdicts and entering a judgment of acquittal.

V. CONCLUSION

For the reasons set forth herein, Taylor's motion (Doc. 75) for a judgment of acquittal is **denied**.

IT IS SO ORDERED.

DATED this 18th day of January, 2024.

Leonard T. Strand, Chief Judge