

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2688

United States of America,

Plaintiff-Appellee,

v.

George Edward Dobbs,

Defendant-Appellant.

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Appeals from the United States
District Court for the
District of Minnesota.

No. 03-2762

[UNPUBLISHED]

United States of America,

Plaintiff-Appellee,

v.

Raymond Claude Leatham,

Defendant-Appellant.

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Submitted: May 10, 2004

Filed: August 2, 2004

Before LOKEN, Chief Judge, BRIGHT, and SMITH, Circuit Judges.

BRIGHT, Circuit Judge.

George Dobbs and Raymond Leatham appeal their jury convictions for two counts of mail fraud. The district court¹ sentenced both to thirty-four months of imprisonment and restitution. On appeal, they assert that substantial evidence does not exist to support the jury's verdict. We affirm.

Dobbs and Leatham formed a corporation to build assisted living housing for the elderly. While their first facility in New Mexico was still under construction, they moved forward on the plans for facilities in Minnesota. To fund these projects they obtained money from a Minnesota investor. The parties negotiated an investment agreement in May 1996, which stated that the Minnesota investor's money would only be used for the development of the Minnesota facilities. Dobbs and Leatham produced false financial documents stating that their corporation, Assisted Care Corporation, was financially stable. In addition, they provided the investor with false updates as to the status of the Minnesota facilities. The New Mexico project ran behind and was drastically over budget. Dobbs and Leatham used the Minnesota investor's money for their own use and to pay for costs other than those associated with any Minnesota assisted care facilities. In fact, Assisted Care Corporation took very few steps to build such facilities in Minnesota.

On March 14, 2002, a grand jury indicted Dobbs and Leatham on three counts of mail fraud. In January 2003 after hearing the evidence, the jury found Dobbs and Leatham guilty of two of the three counts of mail fraud. Two letters written in March

¹The Honorable Richard H. Kyle, United States District Judge for the District of Minnesota.

1997 served the basis for the convictions. The letters misrepresented the status of the Minnesota facilities and the use of the investor's money. The district court sentenced Dobbs and Leatham to thirty-four months on each count to run concurrently, three years supervised release, and jointly payable restitution.

Dobbs and Leatham appeal their convictions on both counts, arguing that the government presented insufficient evidence for a reasonable jury to conclude that they had engaged in mail fraud. We review a sufficiency of the evidence challenge in a jury trial strictly, viewing all of the evidence in the light most favorable to the verdict, and overturning a conviction "only if no reasonable jury could have concluded that the defendant was guilty beyond a reasonable doubt on each essential element of the charge." United States v. Jimenez-Villasenor, 270 F.3d 554, 558 (8th Cir. 2001).

In order to sustain the charges of conducting a scheme to defraud using the mail, the government need only prove the existence of a scheme to defraud and the use of the mail for the purpose of executing the scheme. United States v. Manzer, 69 F.3d 222, 226 (8th Cir. 1995). Dobbs and Leatham argue that the evidence presented at trial did not prove that they had an intent to defraud the investor, rather the evidence suggested a mere breach of contract over the investment agreement. They try to narrow the fraud issue to just the fraudulent statements used to induce the investor to contribute money. However, the alleged mail fraud was not that narrow. The government demonstrated that Dobbs and Leatham used the mail by sending letters that misrepresented the status and investment in the Minnesota facilities.

After reviewing the record, we conclude that a jury could reasonably infer from the evidence that Dobbs and Leatham used the mail to further their scheme to defraud

the Minnesota investor. Accordingly, the judgment of the district court is AFFIRMED.²

²No Blakely v. Washington, 542 U.S. ___, 2004 WL 1402697 (June 24, 2004), issue has been raised or considered in this opinion.