

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES

vs.

ELMER STEWART RHODES

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Case No.: 1:22-cr-00015-APM-1

CONSOLIDATED POST-TRIAL MOTIONS OF DEFENDANT RHODES
PURSUANT TO F.R.Cr.P. 29 & 33

COMES NOW, the Defendant, ELMER STEWART RHODES, by and through his attorneys, JAMES LEE BRIGHT and PHILLIP LINDER, and hereby moves for judgment of acquittal pursuant to F.R.C.P. 29(c) and for a new trial pursuant to F.R.C.P. 33, and in support thereof sets forth the preliminary grounds as to these Motions as follows:

On November 29, 2022 the Defendant was found guilty by a jury of Seditious Conspiracy (Count 1), Obstruction of an Official Proceeding (Count 3) and Tampering with Documents or Proceedings (Count 7). ECF No. 411. The Defendant challenges his convictions as to these counts on the grounds set forth below and as will be set forth in a substantive memorandum, which the Court has advised is due on or before December 23, 2022.

I. The verdict was unsupported by legally sufficient evidence to sustain the convictions beyond a reasonable doubt.

The Defendant submits that the verdict as to all counts was unsupported by adequate evidence to sustain his convictions to the standard of beyond a reasonable doubt.

II. The verdict was against the weight of the evidence.

The Defendant submits that the verdict was against the weight of the evidence adduced.

III. Reassertion of grounds previously placed on the record.

The Defendant hereby reasserts each and every ground previously set forth in all defense motions during trial and trial objections, including but not limited to Defendant's oral and written motions for judgment of acquittal.

IV. Legal Standard.

Under Federal Rule of Criminal Procedure 33, the Court "may vacate any judgment and grant a new trial if the interest of justice so requires." Pursuant to Rule 33(a): "[T]he evidence must preponderate heavily against the verdict, such that it would be a miscarriage of justice to let the verdict stand . . . [.] This power should be . . . invoked only in those exceptional cases in which the evidence weighs heavily against the verdict." *United States v. Howard*, 245 F. Supp. 2d 24, 30 (D.D.C. 2003) (*quoting United States v. Edmonds*, 765 F. Supp. 1112, 1118 (D.D.C. 1991)). Moreover, a new trial should be allowed "only if the defendant has shown that the error . . . affected the defendant's substantial rights." *United States v. Williams*, 825 F. Supp. 2d 128, 132 (D.D.C. 2011).

V. Rhodes will supplement this motion on or before December 23, 2022.

In addition to arguments made in various motions to dismiss, an oral motion for judgment of acquittal, and a written motion for judgment of acquittal, Rhodes, as instructed by the Court, will file a supplemental brief in support of the instant requests for a new trial and for the granting of judgment of acquittal.

WHEREFORE, the Defendant respectfully requests that he be granted a new trial or that his motion for judgment of acquittal be granted.

Respectfully submitted:

/s/ Phillip Linder
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December, 2022, a copy of the foregoing Defendant Rhodes's Consolidated Post-Trial Motions Pursuant to F.R.Cr.P. 29 & 33 was electronically filed with the Clerk of the United States District Court using CM/ECF, with a notice of said filing to the following:

Counsel for the Government:

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