

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 16-11207

D.C. Docket No. 8:14-cr-00164-SDM-EAJ-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DAVID BROCK LOVELACE,
TERRI L. SCHNEIDER,

Defendants - Appellants.

No. 17-11028

D.C. Docket No. 8:14-cr-00164-SDM-AAS-2

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TERRI L. SCHNEIDER,

Defendant – Appellant.

No. 17-11059

D.C. Docket No. 8:14-cr-00164-SDM-AAS-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DAVID BROCK LOVELACE,

Defendant - Appellant.

Appeals from the United States District Court
for the Middle District of Florida

(June 13, 2018)

Before TJOFLAT, ROSENBAUM and BRANCH, Circuit Judges.

TJOFLAT, Circuit Judge:

This is a Medicare fraud case involving the use of appropriated physician Medicare identification numbers to bill for services not rendered, among other violations. In March 2015, a federal grand jury in the Middle District of Florida returned a 41-count superseding indictment against Lovelace, Schneider, and a co-defendant, Illya Jackson, with various healthcare fraud and money laundering

violations. Following trial, a jury found Lovelace and Schneider¹ guilty on all counts. The District Court sentenced Lovelace and Schneider to substantial terms of imprisonment.² The issues on appeal are as follows:

Lovelace: (1) Whether the District court erred in denying Appellant's pre-trial motion to dismiss the indictment; (2) whether the Court erred in denying Appellant's pre-trial motion to suppress; and (3) whether the Court erred in denying Appellant's motion for a new trial.

Schneider: (1) Whether the evidence was sufficient to convict on Counts 20, 21, and 22; (2) whether the District Court abused its discretion in denying Appellant's motion for new trial based on newly discovered evidence; and (3) whether the Court committed plain error in failing to *sua sponte* correct the prosecutor's rebuttal suggesting that Appellant's counsel was trying to "deceive" the jury.

We find no merit in any of Lovelace's issues and therefore AFFIRM his convictions. We find no merit Schneider's issues except for her first issue. We therefore AFFIRM her convictions with the exception of her convictions on Counts

¹ Defendant Jackson pleaded guilty to Count 41, making a false bankruptcy declaration in violation of 18 U.S.C. § 152(3), before trial.

² The District Court sentenced Lovelace to a total of 174 months' imprisonment, consisting of 150 months on each of Counts 1–19 and 30–37, and 24 months for Count 40, sentences to run consecutively. Schneider was sentenced to 94 months' imprisonment, consisting of 70 months' on each of Counts 1–9, 20–30, and 38, and 24 months for Count 39, sentences to run consecutively.

20, 21, and 22, which we REVERSE. In light of these reversals, we remand her case for RESENTENCING on all remaining counts.

SO ORDERED.

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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June 13, 2018

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 16-11207-BB ; 17-11028 -BB ; 17-11059 -BB
Case Style: USA v. David Lovelace
District Court Docket No: 8:14-cr-00164-SDM-EAJ-1

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Carol R. Lewis, BB at (404) 335-6179.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Djuanna Clark
Phone #: 404-335-6161

OPIN-1 Ntc of Issuance of Opinion