

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4497

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

VICKIE JONES PEELE,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Malcolm J. Howard, District Judge. (CR-02-199)

Submitted: January 28, 2004

Decided: February 10, 2004

Before WILKINSON and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Joseph M. Wilson, Jr., BROWNE, FLEBOTTE, WILSON & HORN, P.L.L.C., Durham, North Carolina, for Appellant. Frank D. Whitney, United States Attorney, Anne M. Hayes, Christine Witcover Dean, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Vickie Jones Peele appeals her jury convictions of conspiring to defraud the United States by obtaining payments of false claims for tax refunds in violation of 18 U.S.C. § 286 (2000); and four counts of making fraudulent claims for tax refunds and aiding and abetting another in those offenses in violation of 18 U.S.C. §§ 2, 287 (2000). After the close of the Government's case in chief, the district court denied Peele's motion for acquittal for lack of sufficient evidence on all counts save one § 287 count. On appeal, Peele asserts the evidence was insufficient to support any of her convictions and that certain remarks by the prosecutor in closing argument unduly prejudiced her defense. We affirm.

In reviewing the sufficiency of the evidence and the denial of a motion for acquittal, a guilty verdict "must be sustained if there is substantial evidence, taking the view most favorable to the government, to support the finding of guilt." Glasser v. United States, 315 U.S. 60, 80 (1942); United States v. Burgos, 94 F.3d 849, 862 (4th Cir. 1996) (en banc). We find the evidence, when viewed in its entirety and in the light most favorable to the Government, supports Peele's convictions. Likewise, we find the prosecutor's comments in closing did not prejudice Peele's defense or violate her right to due process under

the Fifth Amendment. See United States v. Scheetz, 293 F.3d 175, 186 (4th Cir.), cert. denied, 537 U.S. 963 (2002).

Accordingly, we affirm Peele's convictions and sentence.* We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

*Peele's criminal judgment order contains several clerical errors. Most notably, Count One is described as a conspiracy to distribute 50 grams or more of a mixture containing methamphetamine, rather than a conspiracy to defraud the United States by obtaining payments of false claims for tax refunds. Also the term of imprisonment for Count One is omitted, and the term of supervised release for Count Four is omitted. Peele has not asserted these errors on appeal and they do not affect our disposition of the issues she has asserted. The district court may correct such clerical errors in the criminal judgment order at any time under Fed. R. Crim. P. 36.