[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

_____

No. 09-11101

_____

D. C. Docket No. 07-00211-CR-ORL-22-DAB

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LUIS M. CANDELARIO,

Defendant-Appellant.

_____

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

_____

(January 11, 2010)

Before EDMONDSON, BARKETT and BALDOCK,* Circuit Judges.

PER CURIAM:

_____
*Honorable Bobby R. Baldock, United States Circuit Judge for the Tenth Circuit, sitting
by designation.

Luis Candelario appeals his conviction for one count of conspiring to commit wire fraud and honest services fraud in violation of 18 U.S.C. § 1349. He first argues that the government presented insufficient evidence to convict him of conspiracy to commit money or property wire fraud or honest services fraud. Second, he argues that 18 U.S.C. § 1346, the statute defining honest services fraud, is unconstitutional on its face and as applied to him because it is vague. Third, he argues that the district court abused its discretion in restricting the evidence Candelario sought to present regarding a prior lawsuit between him and his then-employer. Finally, Candelario argues that the district court erred in failing to give his proposed jury instructions.

Having reviewed the record, and considered the briefs and oral arguments of the parties, we are satisfied that the government presented sufficient evidence to convict Candelario for conspiring to commit wire fraud. Thus, we need not address his challenge to the honest services fraud statute, § 1346, or to the sufficiency of the evidence regarding conspiracy to commit honest services fraud.

We also find no reversible error in the district court's evidentiary rulings or jury instructions. The documents Candelario sought to admit into evidence pertained to a separate employment lawsuit between him and his then-employer, and there was no abuse of discretion in the exclusion of these documents as

irrelevant and cumulative. As to the jury instructions, the district court correctly

found that Candelario's proposed instructions were sufficiently covered by the

Eleventh Circuit Pattern Instructions or inconsistent with other instructions.

Accordingly, Candelario's conviction is

AFFIRMED.