

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-14031
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALPESH PATEL,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:21-cr-00451-WMR-JKL-5

Before LUCK, MARCUS, and WILSON, Circuit Judges.

PER CURIAM:

Alpesh Patel appeals his convictions and 37-month sentence for conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349 (Count One); conspiracy to commit money laundering, in

violation of 18 U.S.C. § 1956(h) (Count Two); and money laundering, in violation of 18 U.S.C. §§ 1957 and 2 (Counts Three and Four). On appeal, Patel argues that: (1) the district court erred in denying his motion for judgment of acquittal because the evidence was insufficient to sustain his convictions; (2) his sentence was procedurally unreasonable because the district court erroneously refused to apply a minor-role reduction under U.S.S.G. § 3B1.2(b); (3) his sentence was procedurally unreasonable because the district court erroneously applied a two-level enhancement for obstruction of justice under U.S.S.G. § 3C1.1; and (4) his sentence was substantively unreasonable. After careful review, we affirm.

I.

Where the defendant properly preserves a motion for judgment of acquittal, we will conduct a de novo review of the sufficiency of the evidence. *United States v. Jiminez*, 564 F.3d 1280, 1284 (11th Cir. 2009). Where a defendant moves for acquittal at the close of the government’s case, the defendant may preserve the claim by renewing the motion for judgment of acquittal at the close of the evidence. *United States v. Bichsel*, 156 F.3d 1148, 1150 (11th Cir. 1998) (per curiam).

The district court’s determination of the defendant’s role in the criminal offense is a finding of fact we review for clear error. *United States v. De Varon*, 175 F.3d 930, 937 (11th Cir. 1999) (en banc); see *United States v. Cabezas-Montano*, 949 F.3d 567, 608 (11th Cir. 2020) (holding that the district court did not clearly err in deny-

ing the defendants minor-role reductions). When reviewing a district court's decision to apply an enhancement under § 3C1.1, we review factual findings for clear error and the district court's application of the Guidelines to those facts de novo. *United States v. Guevara*, 894 F.3d 1301, 1311 (11th Cir. 2018). We review the sentence a district court imposes for "reasonableness," which "merely asks whether the trial court abused its discretion." *United States v. Pugh*, 515 F.3d 1179, 1189 (11th Cir. 2008) (citation modified).

II.

First, we are unpersuaded by Patel's claim that the district court erred in denying his motion for a judgment of acquittal because the evidence produced at trial was insufficient to prove the knowledge element of his offenses. The district court's denial of "motions for judgment of acquittal will be upheld if a reasonable trier of fact could conclude that the evidence establishes the defendant's guilt beyond a reasonable doubt." *United States v. Rodriguez*, 218 F.3d 1243, 1244 (11th Cir. 2000) (per curiam). However, we must view the facts, and draw all reasonable inferences therefrom, in the light most favorable to the government. *United States v. Hansen*, 262 F.3d 1217, 1236 (11th Cir. 2001) (per curiam).

When a reasonable trier of fact could find that the evidence established guilt beyond a reasonable doubt, "[i]t is not necessary that the evidence exclude every reasonable hypothesis of innocence or be wholly inconsistent with every conclusion except that of guilt A jury is free to choose among the constructions of the evidence." *United States v. Calderon*, 127 F.3d 1314, 1324 (11th

Cir. 1997) (citation modified). Thus, we must sustain a verdict where “there is a reasonable basis in the record for it.” *United States v. Farley*, 607 F.3d 1294, 1333 (11th Cir. 2010) (citation modified).

In deciding whether the evidence was sufficient, we do not distinguish between circumstantial and direct evidence. *United States v. Tate*, 586 F.3d 936, 945 (11th Cir. 2009). “Circumstantial evidence can be and frequently is more than sufficient to establish guilt beyond a reasonable doubt.” *United States v. Henderson*, 693 F.2d 1028, 1030 (11th Cir. 1982). “[C]ircumstantial evidence is not testimony to the specific fact being asserted, but testimony to other facts and circumstances from which the jury may infer that the fact being asserted does or does not exist.” *Id.* at 1031. The jury must decide whether to draw the inference between the evidence presented and the fact asserted. *Id.* “Where the government relies on circumstantial evidence, reasonable inferences, and not mere speculation, must support the jury’s verdict.” *United States v. Isnadin*, 742 F.3d 1278, 1303 (11th Cir. 2014) (citation modified).

Where an appellant’s “argument depends upon challenges to the credibility of witnesses, the jury has exclusive province over that determination[,] and the court of appeals may not revisit this question” unless the testimony is “incredible as a matter of law.” *United States v. Chastain*, 198 F.3d 1338, 1351 (11th Cir. 1999). In conducting sufficiency review, we will not consider testimony incredible as a matter of law unless it cannot, on its face, be believed, like where the witness could not have observed certain events or they are contrary to the laws of nature. *United States v. Thompson*,

422 F.3d 1285, 1291 (11th Cir. 2005). We’ve held that a jury is free to infer that a testifying defendant is not telling the truth by his demeanor, and “a statement by a defendant, if disbelieved by the jury, may be considered as substantive evidence of the defendant’s guilt when combined with other evidence.” *United States v. Pon*, 963 F.3d 1207, 1234 (11th Cir. 2020) (citation modified).

To convict a defendant for conspiracy to commit wire fraud under § 1349, the government must prove: “(1) a conspiracy to commit [wire fraud]; (2) knowledge of the conspiracy; and (3) that individual knowingly and voluntarily joined the conspiracy.” *United States v. Gonzalez*, 834 F.3d 1206, 1220 (11th Cir. 2016). To convict a defendant for conspiracy to commit money laundering under § 1956(h), it must prove: “(1) agreement between two or more persons to commit a money-laundering offense; and (2) knowing and voluntary participation in that agreement by the defendant.” *United States v. Broughton*, 689 F.3d 1260, 1280 (11th Cir. 2012). Finally, to convict a defendant for money laundering under § 1957, it must prove that the defendant knowingly engaged or attempted to engage in a monetary transaction in criminally derived property that is of value greater than \$10,000 and is derived from specified unlawful activity. 18 U.S.C. § 1957(a).

Here, Patel’s convictions arose out of a conspiracy to defraud that involved calling victims over the telephone and convincing them to send money to the defendants through various scare tactics. For example, “the person on the telephone purported to be a United States government official and told the victims that they

were suspected of either criminal conduct or were the victims of identity theft and were in danger of losing their life savings.” Patel and co-conspirator Vikas Mehta “provided bank account information for bank accounts they controlled to their co-conspirators in the United States and India” so that defrauded victims could be instructed to wire funds into those accounts.

Mehta -- who pled guilty to money laundering -- testified at Patel’s trial about Patel’s involvement in the scheme. He disclosed that in April 2021, Patel had called him and said he needed money, so Mehta told Patel about a potential opportunity, but explained that the proceeds would result from “fraudulent activity.” He instructed that Patel would open a bank account, the account would receive wire deposits, and Patel would keep a percentage of the deposits. Mehta testified that Patel agreed, and when victims deposited money into Patel’s account, called Seven Points Agency, Patel transferred the funds to Mehta’s account. Richard Jones, the financial crimes team lead at Truist Bank, reported that three incoming wires totaling \$108,609 were deposited into the Seven Points Agency account in the month after it was opened.

For his part, Patel testified that Mehta contacted him in April 2021 because he had some qualified investors who wanted to build condominiums, and in the original plan, Patel agreed to allow Mehta’s clients to send him money, so that they then would apply for financing with a third party. However, once Patel confirmed receipt of the payments from the investors, Mehta changed his mind and told Patel to send the money directly to Mehta because Mehta

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had another lender who could process the financing application faster. Patel maintained that Mehta never told him that the Seven Points Agency deposits were shady or fraudulent in any way, and he genuinely believed that the investments were legitimate.

On appeal, Patel claims that the district court erred in denying his motion for a judgment of acquittal because the evidence produced at trial was insufficient to prove the knowledge element of his offenses. We disagree. More than sufficient evidence supports the jury's findings that Patel possessed the requisite knowledge of the fraudulent scheme to be convicted.

For starters, the knowledge element for Count One, conspiracy to commit wire fraud, required the government to prove beyond a reasonable doubt that Patel knew of the conspiracy to commit wire fraud and that he knowingly and voluntarily joined the conspiracy. *See Gonzalez*, 834 F.3d at 1220. The knowledge element for Count Two, conspiracy to commit money laundering, is similar, requiring the government to prove beyond a reasonable doubt that Patel knowingly and voluntarily participated in an agreement with another person to commit a money-laundering offense. *Broughton*, 689 F.3d at 1280. The evidence supporting the knowledge element for both Counts One and Two is found in the conflicting trial testimony of the defendant Patel and his co-conspirator Mehta. Mehta testified that he told Patel the scheme was fraudulent before Patel agreed to participate, yet Patel testified that he believed the investments he received were legitimate. Indeed,

Mehta said he used the word “fraudulent” when describing the nature of the scheme to Patel. The jury was free to choose among the different constructions of the evidence, and the jury chose to believe Mehta and disbelieve Patel, a credibility determination we will not disturb on appeal. Nothing Mehta testified to was contrary to “the laws of nature,” unbelievable on its face or otherwise incredible as a matter of law. *See Thompson*, 422 F.3d at 1291 (citation modified). Thus, construing the evidence in the light most favorable to the jury’s verdict, sufficient evidence existed for the jury to conclude, beyond a reasonable doubt, that Patel knew of the conspiracy to commit wire fraud and money laundering and that he knowingly and voluntarily joined the conspiracy through the wire transfers he was receiving and sending.

As for Counts Three and Four, substantive money laundering, the knowledge element required that the defendant knowingly engaged in a monetary transaction in criminally derived property. 18 U.S.C. § 1957. As we’ve detailed, Mehta testified that, at the time Patel received the wire deposits and forwarded them to Mehta, Patel knew that those deposits contained proceeds of fraud. Again, the jury was within its rights to take Mehta’s testimony to be true, so sufficient evidence supports Patel’s conviction for two counts of money laundering as well. The district court did not err in denying Patel’s motion for a judgment of acquittal.

III.

We are also unpersuaded by Patel’s claim that his sentence is procedurally unreasonable as to the denial of a minor-role reduction under U.S.S.G. § 3B1.2(b). In reviewing sentences for procedural reasonableness, we “‘ensure that the district court committed no significant procedural error, such as failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence -- including an explanation for any deviation from the Guidelines range.’” *Pugh*, 515 F.3d at 1190 (quoting *Gall v. United States*, 552 U.S. 38, 51 (2007)).

Section 3B1.2 of the Sentencing Guidelines provides for a two-level reduction if a defendant was a minor participant in the criminal activity. U.S.S.G. § 3B1.2(b). A minor participant is someone “who is less culpable than most other participants in the criminal activity, but whose role could not be described as minimal.” *United States v. Valois*, 915 F.3d 717, 731 (11th Cir. 2019) (quoting U.S.S.G. § 3B1.2, comment. (n.5)). The determination of whether to apply a minor-role adjustment is based on the totality of the circumstances. *Id.* at 732. The version of the Sentencing Guidelines in place on the date of sentencing should be applied during appeal, and amendments should only be considered to the extent that they clarify, not alter, the meaning of the guideline. *United States v. Touray*, 151 F.4th 1317, 1332 (11th Cir. 2025) (citation modified).

The district court has “considerable discretion” in determining whether a role reduction is appropriate. *United States v. Boyd*,

291 F.3d 1274, 1277–78 (11th Cir. 2002). As long as the court’s decision is “supported by the record and does not involve a misapplication of a rule of law,” the “choice between two permissible views of the evidence” as to the defendant’s role in the offense will rarely constitute clear error. *De Varon*, 175 F.3d at 945 (citation modified). “[A] district court is not required to make any specific findings other than the ultimate determination of the defendant’s role in the offense.” *Id.* at 940. We will not disturb the court’s denial of a role reduction unless we are “left with a definite and firm conviction that a mistake has been made.” *Valois*, 915 F.3d at 731. The defendant bears the burden of establishing his minor role in the offense by a preponderance of the evidence. *Id.*

Two principles should guide a district court’s consideration of a defendant’s role: (1) his role in the conduct for which he has been held accountable and (2) his role in comparison to the other participants in the conduct. *De Varon*, 175 F.3d at 940. At the first step, a defendant must prove that he played a minor role in the relevant conduct attributed to him in calculating his base offense level. *Id.* at 940–41. “[W]here the relevant conduct attributed to a defendant is identical to [his] actual conduct, [h]e cannot prove that [h]e is entitled to a minor role adjustment simply by pointing to some broader criminal scheme in which [h]e was a minor participant but for which [h]e was not held accountable.” *Id.* at 940.

At the second step, the district court may also measure the defendant’s role against only other identifiable participants in the relevant conduct, which is a fact-intensive inquiry. *Id.* at 944.

Thus, it is only participants who engaged in the relevant conduct attributed to the defendant who are relevant comparators, since the conduct of other participants in a larger conspiracy is irrelevant. *Id.* Importantly, we further clarified that “[t]he fact that a defendant’s role may be less than that of other participants engaged in the relevant conduct may not be dispositive of role in the offense, since it is possible that none are minor or minimal participants.” *Id.*

Here, the district court did not clearly err when it denied Patel a minor-role reduction. Under *De Varon*’s first principle, Patel needed to show that he played a minor role in the relevant conduct attributed to him. Patel claims he was a minor participant because he was held responsible for a smaller monetary loss than other participants, but a defendant is not entitled to a minor-role adjustment by pointing to a broader criminal scheme in which he was a minor participant but for which was not held accountable. The record reflects that the only conduct attributed to Patel was the money laundering that occurred through his business account, and the court correctly noted that Patel played a “critical” role in this conduct when he accepted incoming wire transfers and sent wire transfers at Mehta’s instruction. Further, under *De Varon*’s second principle, “[t]he fact that a defendant’s role may be less than that of other participants engaged in the relevant conduct may not be dispositive of role in the offense, since it is possible that none are minor or minimal participants.” *Id.* at 944. Nothing in this record indicates that Patel played a minor role in the money-laundering scheme for which he was charged, and the district court did not clearly err in denying him a minor-role deduction.

IV.

We likewise find no merit to Patel’s claim that his sentence was procedurally unreasonable because the district court erroneously applied a two-level enhancement for obstruction of justice under U.S.S.G. § 3C1.1. Under § 3C1.1, the defendant’s offense level increases by two if he “willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the . . . prosecution . . . of the instant offense of conviction, and . . . the obstructive conduct related to . . . the defendant’s offense of conviction and any relevant conduct” U.S.S.G. § 3C1.1. To permit meaningful appellate review, sentencing courts must make specific findings of fact when they adjust sentences for obstruction of justice. *Guevara*, 894 F.3d at 1311. However, if the record clearly supports the adjustment by clearly reflecting the basis for it, the court need not make individualized findings regarding obstruction of justice. *Id.* The Guidelines provide a clear mens rea requirement, which states that a defendant must willfully obstruct or attempt to obstruct justice. *Id.*

A defendant obstructs justice when he commits perjury, which is “false testimony concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory.” *United States v. Duperval*, 777 F.3d 1324, 1337 (11th Cir. 2015) (citation modified). Testimony is “material” where, if believed, it “would tend to influence or affect the issue under determination.” U.S.S.G. § 3C1.1, comment. (n.6). Typically, material testimony goes to the issue of a defendant’s

guilt. See *United States v. McKinley*, 732 F.3d 1291, 1297–98 (11th Cir. 2013) (affirming the application of an obstruction enhancement where the defendant’s testimony that he had no involvement in the robbery was material to his guilt and was contradicted by DNA and fingerprint evidence from the scene of the crime).

We accord deference to a district court’s finding that the defendant committed perjury, since it requires “a particularized assessment of the credibility or demeanor of the defendant.” *United States v. Williams*, 340 F.3d 1231, 1241 (11th Cir. 2003). “Although it is preferable that the district court make specific findings by identifying the materially false statements individually, it is sufficient if the court makes a general finding of obstruction encompassing all the factual predicates of perjury.” *Duperval*, 777 F.3d at 1337 (citation modified) (upholding the defendant’s two-level enhancement when the district court found that his testimony was “ludicrous” and “perjurious,” even if it did not use the term “willful”). The factual predicates for a finding of perjury include findings that the testimony was: (1) under oath; (2) false; (3) material; and (4) given with the willful intent to provide false testimony. *United States v. Singh*, 291 F.3d 756, 763 & n.4 (11th Cir. 2002).

Here, in explaining why the obstruction enhancement applied, the district court made clear its finding that Patel’s testimony was intentionally false. Specifically, the court called it “incredulous, . . . illogical, [and] not consistent with anything that [the court] personally know[s] about how loans work.” The court continued: “[W]hat you said about all of that belies what I believe to be was

your knowledge and intent to commit criminal acts in this case.” The court added that Patel was “somebody who would say anything [he] needed to say to avoid being convicted,” and applied the enhancement. This finding that Patel committed perjury is sufficiently specific and sufficient to support the § 3C1.1 enhancement. Indeed, Patel’s claim of ignorance was a material matter because his claimed lack of knowledge of the scheme was his entire theory at trial. U.S.S.G. § 3C1.1, comment. (n.6); *McKinley*, 732 F.3d at 1297–98. Moreover, as we’ve observed, the evidence at trial indicated that he knowingly joined the fraud scheme. Accordingly, the court did not clearly err in finding that Patel gave false testimony and properly applied the § 3C1.1 enhancement.

V.

Finally, we are unconvinced by Patel’s claim that his sentence was substantively unreasonable because it was “greater than necessary” and resulted in a sentencing disparity between him and similarly situated defendants in his case whose conduct caused greater loss but resulted in equal or lesser punishment. When reviewing a sentence for substantive reasonableness, we consider the totality of the circumstances under an abuse-of-discretion standard. *Gall*, 552 U.S. at 51.

The district court abuses its discretion when it: “(1) fails to afford consideration to relevant factors that were due significant weight, (2) gives significant weight to an improper or irrelevant factor, or (3) commits a clear error of judgment in considering the proper factors.” *United States v. Irey*, 612 F.3d 1160, 1189 (11th Cir.

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2010) (en banc). The proper factors for the court to consider are set out in § 3553(a), including the nature and circumstances of the offense, the personal history and characteristics of the defendant, the guideline range, and the need for the sentence imposed to reflect the seriousness of the crime, promote respect for the law, provide just punishment and adequate deterrence, and protect the public. 18 U.S.C. § 3553(a)(1), (a)(2)(A)–(C), (a)(4). In addition, under § 3553(a)(6), the district court must not create unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct, and we have emphasized that “[a] well-founded claim of disparity . . . assumes that apples are being compared to apples.” *United States v. Do-campo*, 573 F.3d 1091, 1101–02 (11th Cir. 2009) (citation modified). The district court should not draw comparisons to cases involving defendants who were convicted of less serious offenses, pleaded guilty, or lacked extensive criminal histories, if those things are not true of the defendant. *United States v. Jayyousi*, 657 F.3d 1085, 1117–18 (11th Cir. 2011).

We must give due deference to the district court to consider and weigh the proper sentencing factors. *United States v. Shabazz*, 887 F.3d 1204, 1224 (11th Cir. 2018). The district court need not give all the factors equal weight and is afforded discretion to attach great weight to one factor over another. *United States v. Rosales-Bruno*, 789 F.3d 1249, 1254 (11th Cir. 2015). However, a sentence that “is grounded solely on one factor” may be unreasonable. *Pugh*, 515 F.3d at 1194. We will vacate a sentence only if we are “left with the definite and firm conviction that the district court committed a

clear error of judgment in weighing the § 3553(a) factors by arriving at a sentence that lies outside the range of reasonable sentences dictated by the facts of the case.” *Irey*, 612 F.3d at 1190.

An indicator of a reasonable sentence is one that is well below the statutory maximum for the crime. *United States v. Dougherty*, 754 F.3d 1353, 1362 (11th Cir. 2014). Moreover, a sentence within the guideline range is generally reasonable. *United States v. Osorto*, 995 F.3d 801, 823 (11th Cir. 2021). The party challenging the sentence bears the burden of establishing that it is unreasonable based on the facts of the case and the § 3553(a) factors. *United States v. Tome*, 611 F.3d 1371, 1378 (11th Cir. 2010).

Here, Patel’s 37-month sentence is substantively reasonable. The sentence falls in the middle of the guideline range and well below the five-year statutory maximum for Counts One and Two and the ten-year statutory maximum for Counts Three and Four. The district court said it considered all of the § 3553(a) factors and the Sentencing Guidelines, emphasizing several of the factors, including the need for both specific and general deterrence, the seriousness of Patel’s offense, and Patel’s criminal history. *See Rosales-Bruno*, 789 F.3d at 1254.

Moreover, the district court did not create an unwarranted sentencing disparity when it imposed Patel’s 37-month sentence. Notably, Patel failed to provide a similarly situated comparator who received a lesser sentence. *See Docampo*, 573 F.3d at 1102; 18 U.S.C. § 3553(a)(6). Patel argues he was punished for exercising his right to a jury trial by receiving a longer sentence, but we’ve

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squarily held that a codefendant who pled guilty is not a proper comparator. *See Jayyousi*, 657 F.3d at 1117–18. In this case, Mehta not only pled guilty but also testified at length at the trial. He is not similarly situated to Patel. As for codefendant Walter Valdivia, he had zero prior criminal convictions -- in contrast to Patel’s relatively serious criminal history that included four convictions for driving under the influence (“DUI”) or driving while intoxicated (“DWI”), resulting in a criminal history category of II -- so he was not a proper comparator. As for codefendant Robert Starling, he was not a proper comparator since he and Patel do not share the same criminal history category and were convicted of different crimes -- Starling had a criminal history category of I and was convicted of one count of conducting monetary transactions over \$10,000 in criminally derived property, whereas Patel had a criminal history category of II and was convicted of four counts, including money laundering and conspiracy. Finally, while codefendant Sarah Starling had a criminal history category of II, she, like Robert Starling, was only convicted of one count of conducting monetary transactions over \$10,000 in criminally derived property, so she is not a proper comparator either.

In short, we can discern no sentencing error.

AFFIRMED.