

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
	)	Case No. 1:00CR00104
	)	
v.	)	<b>OPINION AND ORDER</b>
	)	
<b>SAMUEL STEPHEN EALY,</b>	)	By: James P. Jones
	)	Chief United States District Judge
Defendant.	)	

*Anthony P. Giorno, Assistant United States Attorney, Roanoke, Virginia, for United States of America; Thomas M. Blalock, Roanoke, Virginia, and Thomas R. Scott, Jr., Street Law Firm, LLP, Grundy, Virginia, for Defendant.*

The defendant, convicted by a jury of participation in a triple murder and sentenced to life imprisonment, now moves for a new trial on the ground that his alleged co-conspirators were later acquitted by another jury in their separate trial. For the reasons set forth in this opinion, the motion will be denied.

The defendant, Samuel Stephen Ealy, and a co-defendant, Walter Lefight “Pete” Church, were charged by indictment returned on December 13, 2000, with various federal crimes arising out of the brutal 1989 murders of Robert Davis, his wife Una Davis, and her fourteen-year-old son, Robert Hopewell, in Pocahontas, Virginia. The government’s theory of the case was that Church and Ealy had been hired by a drug kingpin, Charles Gilmore, to kill Robert Davis because Gilmore

feared that Davis, a member of Gilmore's drug ring, might inform on him. The government charged that Church and Ealy planned and executed the murder of Davis at night at his home and then killed Mrs. Davis and her son because they had inadvertently witnessed the murder of Mr. Davis.

Following the murders, Ealy (but not Church) was charged in state court and in 1991 was acquitted by a jury. He denied participation in the murders, and the primary focus of his defense was that Church had killed the Davis family alone.<sup>1</sup>

Investigation of the case remained in limbo until some years later, when a federal prison inmate named Richard Laszczynski contacted federal prosecutors in this district and told them that Church, who was then incarcerated with Laszczynski, had confessed during jail cell conversations that he and Ealy had committed the murders. Following additional investigation, federal charges were brought against both Ealy and Church<sup>2</sup> and the government gave notice that it intended to seek the

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<sup>1</sup> Physical evidence linked Ealy's automobile to the murder scene, but the state trial judge suppressed that evidence. In the later federal case, the evidence was admitted. *See United States v. Ealy*, 163 F. Supp. 2d 633, 638 (W.D. Va. 2001) (denying Motion to Suppress), *aff'd*, 363 F.2d 292, 296 n.1 (4th Cir.), *cert. denied*, 125 S. Ct. 227 (2004).

<sup>2</sup> Specifically, the defendants were charged with conspiracy to murder Robert Davis in furtherance of a continuing criminal enterprise (21 U.S.C.A. § 848(e)(1)(A) (West 1999)) and with killing Mr. and Mrs. Davis and Robert Hopewell in furtherance of a continuing criminal enterprise. The defendants were similarly charged both as principals and as aiders and abettors with killing the victims to prevent them from communicating with federal authorities (18 U.S.C.A. § 1512(a)(1)(C) (West 2000 & Supp. 2004)).

death penalty against both defendants. By agreement of the parties, the two defendants were severed for trial, and Ealy was tried first. After a lengthy trial he was convicted, but the jury spared his life and he was sentenced to life imprisonment. On appeal, Ealy's conviction was affirmed. *United States v. Ealy*, 363 F.3d 292 (4th Cir.), *cert. denied*, 125 S. Ct. 227 (2004).

Following Ealy's conviction, Church was tried, but the jury was unable to reach an unanimous verdict as to his guilt or innocence and a mistrial was declared. During this trial Church testified that at the time of the murders he had been with a girlfriend, Sheri Nichols. Nichols testified on Church's behalf, corroborating his alibi.

Before Church could be retried, the government obtained a superceding indictment, adding Charles Gilmore as a capital defendant. In addition, the government obtained a separate indictment against Sheri Nichols, charging her with committing perjury at Church's first trial. The cases were consolidated for trial and on April 8, 2004, the jury returned its verdict acquitting all defendants of all charges.

Ealy now argues that he is entitled to a new trial under Federal Rule of Criminal Procedure 33(b)(1), allowing a motion for a new trial based on newly discovered evidence to be filed within three years of verdict. The alleged newly discovered evidence is the acquittal of the other defendants. While Ealy concedes

that a defendant may legally be convicted of aiding and abetting another party in the commission of a crime, notwithstanding the acquittal of the other party, *see Standefer v. United States*, 447 U.S. 10, 20 (1980), he contends that his case must be revisited as “a matter of fundamental fairness.” (Def.’s Reply Brief.)

The Motion for a New Trial has been briefed and is ripe for decision.<sup>3</sup>

The fact that a different jury acquitted the other defendants charged in connection with the Davis murders is not of itself new evidence. In fact, the evidence at the different trials was very similar. While the government contended that Ealy and Church acted together at the behest of Gilmore, there was more direct evidence of Ealy’s involvement, including the physical evidence from his automobile and testimony that Ealy procured and later destroyed the possible murder weapon. Indeed, at the later trial of the other defendants, it was asserted in defense that Ealy killed the Davis family as the result of a robbery plot unrelated to Church or Gilmore. Thus, it was not irrational for different juries (indeed, even the same jury had the cases been tried together) to have concluded that the government had proved the guilt of Ealy, but not Church and Gilmore.

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<sup>3</sup> I will dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not significantly aid the decisional process.

Moreover, even had the evidence shown equally the culpability of all those charged, our system of criminal justice, built as it is on the judgment of individual juries, allows inconsistent results. As stated in a different way by the Supreme Court, “[t]his case does no more than manifest the simple, if discomfoting, reality that ‘different juries may reach different results under any criminal statute. That is one of the consequences we accept under our jury system.’” *Standefer*, 447 U.S. at 25 (quoting *Roth v. United States*, 354 U.S. 476, 492 n.30 (1957)).

It is ironic that Ealy was first acquitted in state court by blaming the murders on Church and Church was thereafter acquitted in federal court after blaming the murders on Ealy. Fifteen years after the murders, and four jury trials later, Ealy ends up being the only person held criminally responsible for killing the Davis family.<sup>4</sup> Depending on one’s point of view, the course of the case is a galling example of the vagaries and inconsistencies of our system. On the other hand, it may also be seen as an ultimate triumph of a system that tries hard to make sure that in the end, justice to both victim and the accused is obtained.

For these reasons, it is **ORDERED** that the Motion for a New Trial will be DENIED.

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<sup>4</sup> And after the expenditure of millions of dollars. See *United States v. Church*, No. 1:00CR00104, 2004 WL 2790598, at \*3 (W.D. Va. Nov. 24, 2004) (detailing defense costs paid overall in case under the Criminal Justice Act).

ENTER: January 20, 2005

/s/ JAMES P. JONES  
Chief United States District Judge