

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA)
)
v.) NO. 5:04-CR-077-C
)
MONTE HASIE (04))

ORDER

On this date, the Court considered the following filings:

1. Defendant Monte Hasie’s Motion to Re-urge Previous Rule 29 Motion for Judgment of Acquittal and in the Alternative, Motion for New Trial, filed June 20, 2005;
2. Defendant Monte Hasie’s Motion for Arrest of Judgment, filed June 20, 2005;
3. Government’s Response and Brief in Opposition to Defendant Monte Hasie’s Motion to Re-urge Previous Rule 29 Motion for Judgment of Acquittal, and in the Alternative Motion for New Trial and Motion for Arrest of Judgment, filed June 29, 2005;
4. Defendant Monte Hasie’s Supplemental Motion to Re-urge Previous Rule 29 Motion for Judgment of Acquittal and in the Alternative, Motion for New Trial, filed July 20, 2005;
5. Court’s October 27, 2005 Order requesting additional briefing in response to the Court’s questions;
6. Government’s Response to Court Order Dated October 27, 2005, Requiring Additional Briefing on Hasie’s Post-Trial Motions, filed February 21, 2006; and

7. Defendant Monte Hasie's Answer to the Court's Questions and Brief in Support of Judgment of Acquittal, filed March 1, 2006.

After careful and extensive review and consideration of the arguments as well as the exhibits and record excerpts cited in the briefing, the Court finds Defendant Monte Hasie's Motion and arguments to be meritorious.

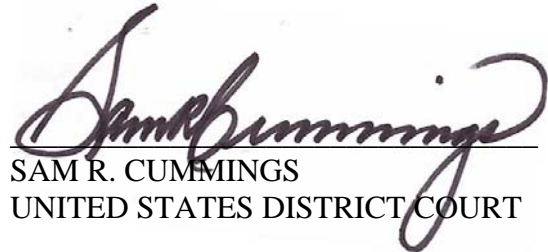
Rule 29(c) of the Federal Rules of Criminal Procedure, in relevant part, provides that "[t]he court on motion of a defendant . . . shall order the entry of judgment of acquittal of one or more offenses charged in the indictment . . . if the evidence is insufficient to sustain a conviction of such offense or offenses." Fed. R. Crim. P. 29(c). The evidence is sufficient if, but only if, "a rational trier of fact could have found that the evidence establishes the essential elements of the offense beyond a reasonable doubt." *United States v. Brugman*, 364 F.3d 613, 615 (5th Cir. 2004). The evidence is reviewed in the light most favorable to the government with all reasonable inferences and credibility choices made in support of the jury verdict. *Id.* If the evidence tends to give nearly equal circumstantial support to either guilt or innocence then reversal is required. *United States v. Gonzales*, 436 F.3d 560, 571 (5th Cir. 2006) (citing *United States v. Moreno*, 185 F.3d 465, 471 (5th Cir. 1999)).

For the reasons argued by Defendant Monte Hasie in his motions for judgment of acquittal, arrest of judgment, and new trial, as well as those contained in his Answer to the Court's Questions and Brief in Support of Judgment of Acquittal, the Court hereby **GRANTS**

the Motion for Judgment of Acquittal. The conviction on all counts shall be reversed and acquittal rendered.¹

SO ORDERED.

Dated this 13th day of March, 2006.



SAM R. CUMMINGS
UNITED STATES DISTRICT COURT

¹The Court conditionally **DENIES** Defendant's Alternative Motion for New Trial. Fed. R. Crim. P. 29(d) (stating that if a trial court enters a judgment of acquittal after a guilty verdict, the court must also conditionally determine whether any motion for new trial should be granted in the event the acquittal is later vacated or reversed and state the reasons for that determination). The reason for such a denial is that should the judgment of acquittal be reversed, the Court will proceed with sentencing under the jury's verdict unless the appellate court directs otherwise. *Id.* at 29(d)(3)(B) (if trial court conditionally denies motion for new trial, appellee may assert that denial was erroneous and trial court must proceed as appellate court directs).