

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA
Plaintiff

CRIMINAL NO. 21-161 (PAD)

v.

FELIX VERDEJO-SANCHEZ [1]
Defendant

MOTION FOR JUDGMENT OF ACQUITTAL
UNDER RULE 29

TO THE HONORABLE COURT:

COMES NOW defendant **FELIX VERDEJO-SANCHEZ**, through the undersigning attorney and pursuant to Fed. R. Crim. Proc. 29, respectfully requests to this Honorable Court to acquit Mr. Verdejo-Sanchez from all Four (4) counts charged in the Indictment, for the reasons set forth below.

I. FACTUAL AND PROCEDURAL BACKGROUND

1. **MR. FELIX VERDEJO-SANCHEZ** was charged in a Four Count Indictment filed on May 5, 2021. (*See Docket Entry No. 19*).
2. A jury Trial was held, and the Government rested its case yesterday, Monday, July 10, 2023.
3. Mr. Verdejo-Sanchez presents this Motion for Acquittal under Rule 29 of the Federal Rules of Criminal Procedure for all four Counts charged in the Indictment.

II. STANDARD FOR CONVICTION

4. “[T]he [United States] Constitution requires proof of guilt beyond a reasonable doubt” in federal prosecutions. Cool v. United States, 409 U.S. 100, 104 (1972) (citing In re Winship, 397 U.S. 358 (1970)); *See also* Ivan V. v. City of New York, 407 U.S. 203

- (1972); Hurst v. Florida, 136 S. Ct. 616, 621 (2016) (“The Sixth Amendment ... right to ... trial, by an impartial jury, in conjunction with the Due Process Clause, requires that each element of a crime be proved to a jury beyond a reasonable doubt.”).
5. Consequently, the constitutionally required standard for assessing the sufficiency of the prosecution’s evidence is “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt”. Jackson v. Virginia, 443 U.S. 307, 319 (1979) (emphasis omitted). See McDaniel v. Brown, 558 U.S. 120, 131 (2010) (Holding that “reversal for insufficiency of the evidence [under Jackson v. Virginia] is in effect a determination that the government’s case against the defendant was so lacking that the trial court should have entered a judgment of acquittal”); See also *United States v. Troy*, 583 F.3d 20, 24 (1st Cir. 2009).
 6. A “judgment for acquittal ... is an important safeguard to the defendant. It tests the sufficiency of the evidence against defendant and avoids the risk that a jury may capriciously find [her] guilty though there is no legally sufficient evidence of guilt”, like is Mr. Santana-Aviles’s case. 2A Charles A. Wright, Fed. Prac. & Proc. Crim. § 461 (4th ed. 2013).
 7. *Counts One to Four of the Indictment* in this case charge: Count 1: 18 USC 2119(3) and 2; Count 2: 18 USC 1201(a)(1) Kidnapping Resulting in Death, Count 3: 18 USC 924(c)(1)(A)(i) Possession of a Firearm During and in Relation to a Crime of Violence; and Count 4; 18 USC 1841 Killing an unborn child.
 8. For the Jury to find Mr. Verdejo-Sanchez guilty of Count One, the government must have proven beyond a reasonable doubt that Mr. Verdejo-Sanchez “with intent to cause

death or serious bodily harm takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person or presence of another by force and violence or by intimidation, or attempts to do so, shall (1) be fined under this title or imprisoned not more than 15 years or both, (2) if serious bodily injury results, be fined under this title or imprisoned not more than 25 years, or both, and (3) if death results, be fined under this title or imprisoned for any number of years up to life, or both *or sentenced to death*”.

9. The only witness the Government used to try and prove this charge was co-defendant Luis Cadiz-Martinez, who in his testimony stated that on April 29, 2021, alongside Mr. Verdejo-Sanchez, allegedly went to pick up Miss Keishla Rodriguez to discuss the pregnancy test she had recently taken, that she voluntarily got in the car, and they left the Villa Esperanza Public Housing Project with her in Mr. Verdejo’s car. Allegedly, after they had physically harmed her, drugged her and tied her up, they returned to pick up her car to make it disappear. No violence, intimidation and or force was used to obtain the car, and this was never the intention of the alleged parties as they went to see her that morning. Therefore, the elements of the crime of carjacking were not present at the time of the taking of the vehicle.
10. The unauthorized taking of an unattended vehicle, even with the engine on, may constitute car theft, but it certainly does not constitute a carjacking since the vehicle was not taken from the person or presence of another by force and violence or by intimidation, nor did Mr. Verdejo-Sanchez attempt to do so. See *United States v. Castro-Davis*, 612 F.3d 53, 61 (1st Cir. 2010) (taking a vehicle "from" the person or presence of another requires "the victim to have both a degree of physical proximity to

the vehicle and an ability to control . . . access to the vehicle") (italics added; quoting *United States v. Savarese*, 385 F.3d 15, 19-20 (1st Cir. 2004)).

11. "The government may rely on an aiding and abetting theory even if not explicitly charged in the indictment, except on a showing of unfair surprise. *See, e.g., United States v. Palmer*, 203 F.3d 55, 66 (1st Cir. 2000) ("Aiding and abetting is 'an alternative charge in every . . . count, whether explicit or implicit.'" (Quoting *United States v. Sanchez*, 917 F.2d 607, 611 (1st Cir. 1990)))." In this case, neither of the defendant's had the intention to carjack Mr. Rodriguez vehicle.

12. It is not enough that the defendant merely associated with the person committing the crime, or unknowingly or unintentionally did things that were helpful to that person or was present at the scene of the crime. The evidence must show beyond a reasonable doubt that the defendant acted with the knowledge and intention of helping that person commit Carjacking. Nothing in the evidence presented by the Government can prove beyond a reasonable doubt that Mr. Verdejo-Sanchez aided and abetted Mr. Cadiz willfully, intentionally, and knowingly to carjack the car.

13. Count Two of the Indictment charges Kidnapping Resulting in Death:

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away **and holds for ransom or reward or otherwise any person**, except in the case of a minor by the parent thereof, when—

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense;

14. An element of the offense is that the kidnapper holds for ransom or reward or otherwise... In this case, no evidence has been proven regarding this element of the offense. If the Cooperator, Luis Cadiz-Martinez, is believed by the Court or the Jury, the only rational conclusion it can establish is that this element of the offense was not fulfilled by the Government with its multiple witnesses.
15. Count Three charges a violation to Article 18 USC 924(c)(1) Possession of a Firearm During and in Relation to a Crime of Violence. The alleged firearm used in this case was Mr. Verdejos legal weapon that the witness lied about how, when and where Mr. Verdejo gave him the gun to allegedly shoot Ms. Keishla Rodriguez. No evidence was presented that the weapon was possessed intentionally to commit the crime charged.
16. The element of the offense “*during and in relation to a crime of violence*” has not been proved beyond a reasonable doubt in this case.
17. Count 4 of the Indictment charges a violation of 18 USC 1841 Killing of an unborn child.

The statute requires:

(a) (1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in [section 1365](#)) to, a [child, who is in utero](#) at the time the conduct takes place, is guilty of a separate offense under this section.

(2) (A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child’s mother.

(B) An offense under this section does not require proof that—

(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections [1111](#), [1112](#), and [1113](#) of this title for intentionally killing or attempting to kill a human being.

(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

18. Mr. Verdejo-Sanchez is respectfully requesting to this Honorable Court to rule as a matter of law that he should not be convicted because even after crediting all the government's evidence and drawing every reasonable inference from it in favor of the prosecution, no reasonable juror could have found him guilty beyond a reasonable doubt of the charged counts.

19. No evidence was presented to the Jury that would satisfy the elements of the offense of any of the Four Counts charged in the Indictment. Therefore, this Honorable Court must acquit defendant Mr. Verdejo-Sanchez.

20. The government presented the testimony of 31 witnesses; none of which declared that Mr. Verdejo-Sanchez had physically assaulted, kidnapped and/or murder Miss Keishla Rodriguez that might have proven beyond a reasonable doubt Mr. Verdejo-Sanchez guilt. On the contrary, all evidence points towards the cooperator, Mr. Luis Cadiz-Martinez, including his acceptance of responsibility.

21. Under First Circuit precedent, although a general sufficiency-of-the-evidence objection preserves all possible sufficiency arguments, a motion raising only specific sufficiency arguments waives unenumerated arguments. *United States v. Lyons*, 740 F.3d 702, 716

(1st Cir. 2014); *See also United States v. Marston*, 694 F.3d 131, 134 (1st Cir. 2012).

The First Circuit has suggested that a general sufficiency objection accompanied by specific objections preserves all possible sufficiency objections. *See Marston*, 694 F.3d at 135 (finding "good reason in case of doubt" to treat such motions as general, because "[i]t is helpful to the trial judge to have specific concerns explained even where a general motion is made; and to penalize the giving of examples, which might be understood as abandoning all other grounds, discourages defense counsel from doing so and also creates a trap for the unwary defense lawyer").

22. Mr. Verdejo-Sanchez reaffirms and preserves all objections made during Trial and requests that this Honorable Court review them to reconsider it's Trial determinations and acquit defendant of all counts.

WHEREFORE, it is respectfully requested that this Honorable Court GRANT this motion and ACQUIT defendant Felix Verdejo-Sanchez from all four counts charged in the Indictment, with any other order this Court deems appropriate.

I HEREBY CERTIFY that on this same date, a true and exact copy of this document has been filed using the CM/ECF system and that the government and all counsel of record will be served a copy of this Motion.

RESPECTFULLY SUBMITTED In San Juan, Puerto Rico, on July 11, 2022.

Sl. Jason González Delgado

JASON GONZÁLEZ-DELGADO

USDCPR NO. 217814

PO BOX 191365

SAN JUAN, PR 00919-1365

TEL: (787) 536-5306

Email: jasonfed@gmail.com