

DENNIS JACOBS, *Circuit Judge*, concurring:

The majority opinion, which I join in full, persuasively explains why co-conspirators can sometimes be deemed victims pursuant to U.S.S.G.

§§ 2B1.1(b)(2)(A)(i) and 3A1.1(b)(1). See Majority Op. at 31–40. This interpretation is supported by precedent, the plain meaning of the Guidelines, and the Application Note to § 2B1.1, to which we owe a qualified deference. See id. at 18 n.5.

The partial dissent challenges this interpretation of the word victim because the co-conspirators here also played an active role in defrauding the insurance companies. But this assignment of victim status is a mere irony, and the law is full of them. Thus, a doctor who trafficked in the organs of persons willing to sell body parts has committed an offense that has real victims. See 42 U.S.C.A. § 274e. Mayhem is an ancient offense; and someone paid to mutilate a reluctant draftee committed a crime with a real victim. See Major Eugene R. Milhizer, *Maiming As A Criminal Offense Under Military Law*, ARMY LAW, 5 May 1991, at 5–13.

The undeniable irony in this case does not defeat our precedent, the plain text of the Guidelines, and § 2B1.1's Application Note.